Parliamentary Advocacy in the Extractive Industries

An Illustrative Guide for Civil Society
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Policy Forum

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About this guide

This guide was produced as part of Policy Forum’s documentation of its parliamentary advocacy and engaging on legislation in the area of mining in Tanzania. In partnership with Revenue Watch Institute, we undertook to improve the capacity of Civil Society Organisations, media and legislators to oversee the Executive’s management of Tanzania’s extractive resources. The Civil Society Organisations under the capacity building programme went on to play a pivotal role in the process of influencing the country’s Mining Act of 2010.

The purpose of this guide, hence, is to enhance the parliamentary advocacy strategies of civil society organisations including those intending to use lobbying, campaigning and media interventions to influence legislation in the extractive sectors. It is also intended for those interested in learning from the experiences of civil society organisations in Tanzania who engaged in the processes of enacting their country’s new mining law in 2010. It is a case study approach but has practical tools for learning including suggestions for group exercises in a training setting.

Policy Forum (PF) is a network of over 100 civil society organizations (CSOs) that seeks to strengthen NGO involvement in critical policy processes in Tanzania. The main focus is to make policies work for people, especially for the poor, and for policy processes to be opened up and be made more transparent, democratic, participatory and accountable.

Acknowledgements

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Any comments, questions or suggestions are welcome and should be addressed to: Policy Forum
P. O. Box 38486, Dar es Salaam, Tanzania
Tel: +255 22 2772611, Fax: +255 22 2701433, Mob: +255 782 317434
E-Mail:info@policyforum.or.tz, Website:www.policyforum.or.tz
# Table of Contents


About this guide ................................................................................... iii

Acknowledgements ............................................................................... iii

Introducing the parliamentary advocacy guide........................................... 1

The Story ............................................................................................. 2

Context ............................................................................................... 2

A fast track procedure ........................................................................... 3

Need for a fast reaction ........................................................................... 3

Awareness raising through media ............................................................ 4

Improving the Bill ................................................................................. 4

Weaknesses of the Bill ........................................................................... 5

Achievements ....................................................................................... 6

Success factors ..................................................................................... 6

Developing a parliamentary advocacy strategy: The necessary foundations…. 7

Know the topic ...................................................................................... 7

A coalition is crucial ............................................................................... 8

Think of using the media ........................................................................ 9

Persuading the legislature ...................................................................... 9

Don’t stop there! ................................................................................... 12

Mining advocacy resources .................................................................... 13
Introducing The Parliamentary Advocacy Guide

Tanzania, like many other African countries, is a resource-rich country endowed with a number of minerals which include diamonds, gold, cobalt, copper, nickel, platinum group metals, silver and the unique gemstone, Tanzanite. Despite this, extractives have not contributed enough to the improvement of lives of the poor, particularly those in local communities where the mines exist since the sector was liberalised in the early 1990s. This, coupled with secrecy in mining contracts and revenues, resulted in many Tanzanians believing that the current mining sector environment provides a disproportional share of the benefits of exploitation to international companies.

The year 2000s saw gradual mounting of public and parliamentary pressure which ultimately led to the Government directing a commission headed by Justice Mark Bomani, (commonly referred to as ‘the Bomani Commission’), to review commercial mining contracts and making recommendations that would enable the country to reach a win-win understanding with investors in the mining sector. The Bomani Commission Report led to the Tanzania government promising a change in mining policy and law. In 2009 the mining policy was finalized and the new Mining Act was enacted in 2010. To tackle the problem of transparency regarding revenues from mining, Tanzania also joined the Extractive Industries Transparency Initiative (EITI) in 2009 and the first EITI report was launched in February 2011.

Apart from the Bomani process ushering in these significant steps, it also led to the emergence of parliamentary champions that continue to push for transparency and reforms in the sector. This renewed assertiveness of Parliamentarians is now being matched by the mobilization of civil society. Faith-based groups such as the platform comprising of the Interfaith Committee of Bakwata (Islamic Council of Tanzania), the Catholic Episcopal Conference and the Council of Protestant Churches have led mining communities to demand justice in mining. The Tanzania Publish What You Pay Campaign (PWYP) coalition was also established in June 2009. The Policy Forum network, a coalition of over 100 civil society organisations, has also worked with parliamentarians in efforts to bring together reformers in the mining sector in Tanzania.

All these developments took place against the backdrop of a public that is growing and becoming aware on the importance of holding its government and elected representatives to account for their management of public finances.

This illustrative guide charts the role of Tanzanian civil society in the enactment of the Mining Act of 2010 and has been developed to provide some useful suggestions for those interested in undertaking parliamentary advocacy around issues of the extractive industry in their country. It is based on experiences of civil society organisations working in Tanzania but we believe there are ample recommendations that may fit your context and inspire you to consider the approaches.

We hope the story we depict herein will motivate you to action whether you are involved in parliamentary advocacy in the extractive sector or work in other domains focusing on engaging with parliamentarians and legislation such as budget process, health, education and the environment. We try to break down the issues in simple terms and provide practical guidance and tips on how to develop a parliamentary advocacy strategy to influence legislation reform. Our hope is that you will use this guide to borrow some of the tips to impact on your parliamentary advocacy work aimed at fighting the problems that impede on the development of your country.¹

¹ http://eiti.org/Tanzania. This initiative sets a global standard for transparency in oil, gas and mining. It is an effort to make natural resources benefit all; it is a coalition of governments, companies and civil society; and a standard for companies to publish what they pay and for governments to disclose what they receive. Learn more: http://eiti.org/
The Story

Summary
Focused and strategic mobilization of specific groups can play an influential role in advocacy. Bringing together groups already equipped with the basic knowledge, intellectual resources, and training on a particular advocacy issue is an effective way of affecting policy and legislative processes.

Policy Forum’s engagement in the 2010 mining legislative process is a clear example that a coalition does not have to be large in number. If it involves the right people and selects the appropriate vehicles to communicate its core messages, it can genuinely generate positive changes in the society.

Context
As a response to criticisms that there was discrepancy between the extractive sector’s financial success in Tanzania and its uncertain benefit to citizen’s lives, in 2008 the government began reviewing its mining policy. It started discussions involving major stakeholders aimed at introducing a different formula that would bring more benefits for the country and its citizens.

The commitment to change the mining policy and law, however, was stalled and the foreseen legislative changes planned to be presented to parliament in February 2009 were not made. Drafts were only presented to (a limited group of) stakeholders in December 2009 and January 2010.

It was also not clear when the draft version of the bill would be presented to a larger audience. This process was not transparent and civil society felt sidelined and excluded from the process.

Dar es Salaam — THE civil society yesterday joined Agriculture, Food Security and Co-operatives Minister, Steven Wasira in criticizing the 2010 Mining Bill as flawed, saying it does not encourage transparency in the industry...

Policy Forum said in a statement that the Bill classifies much of the information including mining companies’ books of accounts and their payments to government.

“...Because Tanzania is a candidate country to be included in the Extractive Industries Transparency Initiative (EITI), the new law should have included a specific reference to this”...

The CSO umbrella organisation which monitors government policy said the country made it clear that it is committed to transparency in the mining sector, when it applied to join the EITI and the new Mining Act should indicate such an obligation.

Policy Forum was among stakeholders which (sic) submitted a detailed analysis of the new Mining Bill of 2010 to the Parliamentary Energy and Minerals Committee at a public hearing held last weekend in Dodoma.

“In a nutshell and according to our scrutiny, the new bill does not go far enough to meet the recommendations of the presidential Bomani Mining Sector Review Commission that reviewed the mining sector two years ago,” Policy Forum argued. 19/04/2010.
A fast track procedure

On April 13, 2010 the Committee for Energy and Minerals confirmed with RWI that the minister for Energy and Minerals would present the bill under a Certificate of Urgency on April 16 and subsequently a public hearing was scheduled for the following day. Cognizant of the pressure from the CSOs through media to review the very tight schedule, the public hearing was rescheduled to April 18 to allow some more time for preparation and participation. However the bill was still not publicly available. With controversies around this particular bill a certificate of urgency would naturally provoke further public controversy. Despite calls by civil society to use the standard procedure, the minister invoked the certificate of urgency and compressed the review and approval process to less than 10 days.

Need for a fast reaction

Policy Forum opted to convene a group of leading CSOs participating in the RWI capacity building program including the prominent Interfaith Committee. In spite of the limited time available, the group mobilized fast and came up with a two-pronged intervention strategy:
Awareness raising through media

The process for drafting the press statement on April 13/14 began with a joint civil society initiative during the January 2010 PF/RWI workshop. Agenda Participation, a PF member and participant in the workshop, developed and posted 40 TV announcements, requesting for effective public engagement in the debate and a normal approval process for the bill. TV adverts, addressing legislators to be vigilant while debating the bill were also posted. This became a positive and very powerful message to the legislators. Two hotline numbers for mobile phones were opened to collect views from the general public. Public comments collected over the two days were passed on to parliament during the public hearing.

On April 13, Policy Forum and other civil society organizations issued a press release on the bill.

The Legal and Human Rights Centre (LHRC) organized a press conference on April 14, highlighting the flaws in the process for the bill, including the questionable use of the certificate of urgency. This event was followed by a TV dialogue on the famous program “PAMBANUA” (literally “Analyse”). Three of the four guest speakers were alumni of the RWI capacity building program. Ministry officials invited for the debate did not turn up.

Improving the Bill

This task, in close partnership with parliament was particularly challenging since a copy of the bill was only received on April 15, (from the Energy and Minerals committee) just before the public hearing. RWI legal analysts acted quickly to review the document and prepare a technical opinion. Three additional analyses of the bill were undertaken by Agenda Participation 2000, Legal and Human Rights Centre and HakiMadini. RWI’s exhaustive technical analysis was shared with more than 20 CSOs gathered in Dodoma² and submitted to the Energy and Minerals Committee. At a working session in Dodoma, the four analyses were compared and consolidated into one common stand to be presented during the public hearing.

² Capital of Tanzania, where Parliament sits

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<th>Process Timeline</th>
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<tr>
<td><strong>February 2009</strong></td>
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<tr>
<td>• Scheduled legislative changes in a new law</td>
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<tr>
<td><strong>December 2009/ January 2010</strong></td>
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<tr>
<td>• Draft presented to “limited group” of stakeholders.</td>
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<tr>
<td><strong>April 2010</strong></td>
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<tr>
<td>• April 13: Confirmation that Bill will be presented under certificate of Urgency</td>
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<tr>
<td>• April 15: Bill made public</td>
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<td>• April 16: Issuing certificate of urgency</td>
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<td>• Rescheduled public hearing from April 17 to April 18</td>
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<th>Strategies Timeline</th>
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<tr>
<td><strong>January 2010</strong></td>
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<tr>
<td>• PF/RWI Workshop</td>
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<tr>
<td><strong>March 8, April 10, 2010</strong></td>
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<tr>
<td>• 40 TV announcements by Agenda Participation 2000</td>
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<td>• Hotline number for citizens</td>
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<tr>
<td><strong>April 13, 2010</strong></td>
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<tr>
<td>• Press release by PF and CSO</td>
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<tr>
<td>• Press conference by LHRC and TV programme</td>
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<tr>
<td><strong>April 15, 2010</strong></td>
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<tr>
<td>• Receipt of Bill and action by RWI</td>
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The Energy and Minerals committee invited the public on April 17 for the public hearing on April 18. The Energy and Mineral Committee’s public hearing took place as scheduled in parliament.

In the process, RWI also facilitated informal sharing of information and dialogue between civil society and the committee, helping to lay the foundations for an ongoing constructive forum for these critical stakeholders.

CSOs emerged as the most organized stakeholder group. They submitted a united statement to the committee, which was presented by the Executive Director of HakiMadini, Mr. Amani Mustapha with contributions from several others.

Weaknesses of the Bill

The Minister for Energy and Minerals, Hon. William Ngeleja, introduced six key features of the bill (see on the left).

The unified statement of the CSOs however pointed at various weaknesses:

- Lack of provisions for small-scale miners and gemstone mining,
- Missing links between the 2009 mining policy and the new bill
- Omission of Primary Prospective License clause (making it illegal for locals to search and explore minerals)
- A mining license granted to an applicant shall be for the estimated life of the ore body or such period as the applicant may request.
- Omission to review the performance benchmarks and lack of sanctions for non-compliance
- Confidentiality clauses vs the implementation of EITI
- Excessive powers of the Minister to determine the agenda regarding mining developments that are of national interest
Achievements

The above mentioned weaknesses were fully integrated in the new version of the bill. CSOs also introduced several recommendations which are as well taken on board in the new versions. This includes: principle agreement on the establishment of a Mineral Development Fund (Sovereign Wealth Fund) to address the finite character of mineral resources, MPs (like Hon. Zitto Kabwe) were strongly in support of such fund and the introduction of a specific law on Extractive Industries Transparency Initiative (EITI). Furthermore, the revised law will state that a Primary mining license has a validity of 5 years, renewable for another 5 years. The position of small-scale miners have been clarified and secured.

Success factors

The fact that the civil society prepared itself since January 2010 and was supported by capacity building efforts by the Policy Forum and RWI resulted in having various groups already equipped with the basic knowledge, intellectual resources, and training on a particular advocacy issue. These organizations could also be swiftly mobilized at crucial stages in the process. Access to the technical knowhow from RWI made it possible to have in a very short period (2 days) a thorough assessment of the proposed Bill.

Support from the media helped to diffuse the message to the larger audience, and especially the live radio and television programs helped in achieving awareness creation. Working in coalition with members of parliament was very successful and the unexpected support from a cabinet Minister made it easier to have the recommendations accepted and integrated in the new bill.
Developing a parliamentary advocacy strategy: the necessary foundations

From our experience in engaging in reforming the 2010 Mining Bill, we can list four key factors that are crucial to a successful advocacy campaign:

Know the topic

So you feel strongly about a problem concerning development or social justice and would like to play a role in addressing it but you sense that you do not have the required skills to deal with the inherent complex issues. What do you do? Many development and social problems by their very nature are complex but in our experience, they can be untangled. The fiscal aspects of the extractive industries, for example, may appear too technical for the ordinary advocacy group to tackle but like everything else, they can be learned.

Nonetheless, it must be stressed that there is no going around the necessity of understanding the basics and where to get the intellectual resources that will assist you in building your knowledge intricate issues like those involving the management of extractive sectors. Knowledge and information will form the basis of your evidence-supported analytical work which can then be used for advocacy. Weak analysis makes it easy for advocacy groups to be dismissed by government or multi-national companies as irrelevant.

But how do you get this capacity? There are certainly many international and regional organisations that can offer support (some of which are listed in the advocacy resources on page 18). Policy Forum began by partnering with Revenue Watch Institute with the objectives of:

- Equipping our members, other interested CSO representatives, media and legislators with the baseline knowledge, intellectual resources, and training to effectively oversee the executive’s management of the extractive sectors.
- Offering CSOs, media professionals and legislators models of success in transforming natural resource wealth into economic success.

Capacity-building activities undertaken:

1. Raising Awareness and Building Capacity on the Extractive Industry Governance:

2. Providing Technical Expertise and Success Models during the Review of the New Mining Legislation.

3. Increasing Legislators’ Understanding of Gas Exploitation, Revenue and Oversight Implications in Tanzania and prospects for oil production.

4. Cross cutting interventions

- Participation of selected parliamentary staff and selected CSOs to RWI Summer School on Extractive Industries
- Small grant facility for evidence gathering activities
- Raising the profile of Extractive Industries during the election campaign
- International meetings of similar projects for cross-learning
• Promoting alliances between legislators and CSOs and other RWI-supported centre of excellence in extractives.
• Promoting exchanges between CSOs, media professionals and legislators from Tanzania and those of other countries to create a flow of information and ideas about improving accountable governance in the extractive sector.
• Helping CSOs to undertake investigations and gather information to support their parliamentary debates.

It is the knowledge from these capacity-building activities that helped us engage in the legislative process during the enactment of the bill.

A coalition is crucial

Big or small, an effective coalition is important. Within a group, members complement one another in terms of expertise and experiences, increasing the pool of knowledge. Each member also has their interactions and relationships with persons or organisations outside the group that they can use to gather more resources and increase the alliance.

In our group, we had a lawyer who is a son of a small-scale miner and well-connected to the small-scale mining groups with good knowledge of grassroots communities. We also had individuals with communication skills, local government knowledge, familiarity with poverty-reduction issues, experience in multi-national companies and human rights.

It is universally agreed that for a coalition to succeed there must be a common goal. Ours could not have been clearer to us ahead of this intervention: a new mining law that increases the benefits of extractive resources of oil, gas and minerals to Tanzanians. Although it is sometimes advisable that coalitions should have a clear structure of leadership to avoid potential conflicts, ours, for the purpose of the mining bill intervention, was loosely based on the partnership already created under the training scheme.
Think of using the media

Civil Society organisations cannot shy away from media work if they desire to gain the attention of decision-makers like parliamentarians and policy-makers, increase public awareness of an issue and break the dominance that governments and the private sector have as information sources.

In this intervention, although the public were generally unhappy about the way the mining regime was set up in what they perceived as favourable to mining companies, they were not aware of the process to legislate a new mining law. Our media work during this time helped build public awareness on not only the process, but contents of the bill itself and create a political climate that pressured the government and parliamentarians to make the right choices for the people.

When government officials and parliamentarians sleep and wake up to news, commentaries and citizen complaints bearing the same and consistent message of what is wrong with a bill, they would want to react by taking decisions that they feel will safeguard their image in the eyes of the public.

Persuading the legislature

In order to improve policies, legislation and critical government oversight on matters relating to the extractive industries, civil society groups need to engage with parliamentarians. However, it must be noted that although CSOs and parliamentarians’ work are closely intertwined, there are moments whereby antagonism may arise. These moments are usual and often come arise depending on the issue.

In Tanzania, for instance, Policy Forum was in opposition towards the establishment of the Constituency Development Catalyst Fund (CDCF) in 2008, an additional means of financing (sourced from domestic revenue) for community-driven development that is managed at the constituency level by members of parliament. Policy Forum felt it was not within the mandate of members of parliament (whose main tasks are oversight and law-making) to implement development projects as this would blur the lines between the role of the executive and that of the legislature and hence actively campaigned against its creation. As a result, members of parliament were unhappy with civil society and some swore not to work with Policy Forum in the future. The CDCF bill, nonetheless, was presented to and passed by parliament in 2009.
From this backdrop, Policy Forum approached the mining bill advocacy in 2010 with caution fearful of the fractious relationship it had with parliamentarians. The anxiety proved unfounded for two reasons. Firstly, the MPs already had their CDCF bill passed and therefore no longer felt the fund was threatened. Secondly, mining was a huge issue amongst the electorate at the time and 2010 was a general election year. Hence MPs wanted to be on the right side of the argument and in tune with public opinion.

So how do you start advocacy aimed at members of parliament? One thing for sure is do not approach them randomly as this is not efficient and will take up a lot of your precious time. Map out the champions for your cause in parliament. You may have read or heard of MPs who have spoken positively about an issue you support or a colleague knowledgeable in the parliamentary affairs may have gave you good leads. Once you have identified a core group of MPs, you can arrange for an appointment with them through their aides or the office of parliament ensuring you send your topic in advance as it well help save time.

In our example, we identified one champion and arranged to meet him ahead of the public hearing. He gave us valuable insights including how to package the information. One thing that also came out as productive out of this meeting is that it pays to invest time understanding all sides of the issue. MPs spend a considerable time hearing opposing arguments of an issue so advocacy groups have to be ready to respond to questions persuasively.
What do we know about revenues from oil, gas and mining?

Government revenues from the oil, gas and mining (extractive) industries are too often hidden by a veil of secrecy which allows corruption and mismanagement to thrive.

For ordinary citizens to benefit and countries to grow, information must be disclosed about how much money is being made and where it is going. Such transparency of revenues is vital for legislators to ensure they are used for the benefit of their constituents and country as a whole.

What is the EITI and how can it help you?

The Extractive Industries Transparency Initiative (EITI) sets a global standard for revenue transparency in the oil, gas and mining sectors. The EITI requires that in member countries:

- Companies publish what they pay to governments.
- Government publishes what it receives from companies.
- An independent administrator compares this information.
- Data on revenues and discrepancies must be published in EITI reports.

- The process is managed by a multi-stakeholder committee that must include members from government, companies and civil society.

Tanzania has just joined the EITI. The EITI is therefore an important tool that legislators can use to verify revenues received by the government from companies for the exploitation of the country’s extractive resources. This information is vital for understanding what is being generated by extraction and ensuring it is appropriately allocated in the budget process.

How can you lead the push?

The EITI is a global initiative that affords implementing countries international reputation and recognition. A legislator taking an active role in the EITI can position themselves as a leading voice on good governance and transparency nationally and globally.
Don’t stop there!

After you have made your inputs and they have been incorporated in the final law, is it time to celebrate then choose the next battle? Not quite. Here are other things to consider after and intervention:

- Follow up on promises made! During public hearings, as government officials respond to questions or comments made about draft legislation, they tend to make promises (that are recorded as hansards – official parliamentary records). During the public hearing, we questioned why the draft mining bill had no reference to the Extractive Industry Transparency Initiative (EITI). The government responded that it would be a separate law to be drafted in the future. Soon after the mining law was assented, we began an advocacy campaign to promote transparency and citizen engagement in the mining sector. This included the launching of television and radio spots during the 2010 election campaigns.

- Maintain the relationships you have built during the intervention. Do not simply call a MP when you seek their help. If you intend to continue with parliamentary advocacy you will undoubtedly need their help in the future for another cause.

- Begin to think of ways you can document your intervention story. Ideally, documentation should be part of that intervention (as you implement). However, if it is something you overlook at the time of implementation, embark on the narrative journey immediately after!

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1Hansard - printed transcripts of parliamentary debates in Westminster systems of government. It is named after Thomas Curson Hansard.
Mining advocacy resources

Organisations working on extractive industries advocacy

Worldwide

The Revenue Watch Institute is a non-profit policy institute and grantmaking organization that promotes the effective, transparent and accountable management of oil, gas and mineral resources for the public good. Through capacity building, technical assistance, research and advocacy, they help countries realize the development benefits of their natural resource wealth. Visit: http://www.revenuewatch.org

Publish What You Pay (PWYP) is a global network of civil society organisations that are united in their call for oil, gas and mining revenues to form the basis for development and improve the lives of ordinary citizens in resource-rich countries. PWYP undertakes public campaigns and policy advocacy to achieve disclosure of information about extractive industry revenues and contracts. Visit: http://www.publishwhatyoupay.org

Africa

Policy Forum is a network of NGOs incorporated as a non-profit company under the Companies Act of 2002. They are growing membership currently includes over 100 non-governmental organizations registered in Tanzania. They are drawn together by their specific interest in influencing policy processes to enhance poverty reduction, equity and democratization. For more information visit: http://www.policyforum-tz.org

Africa Institute for Energy Governance (AFIEGO) was registered by the government Florida Criminal Records of the Republic of Uganda in 2004 under the Non Governmental Organization Registration Act. With this registration, the organization is legally permitted to carry out all the activities for which it was formed as per its Constitution. Visit http://www.afiego-ug.org

Norwegian Church Aid (NCA) struggles together with people and organisations across the world to eradicate poverty and injustice. NCA provides emergency assistance in disasters and work for long-term development in local communities. Visit, http://www.kirkensnodhjelp.no/en/

PWYP Ghana has long been an active player in the implementation of EITI in Ghana, including the ongoing completion of Validation. PWYP-Ghana been calling for national legislation on EITI, believing this will ease access to contracts, as well as to information on extractive sector revenue generation and use. Following some initial reluctance on this matter, the Multi-stakeholder Steering Committee has now conceded to the need for EITI legislation in Ghana. Visit http://pwyp-ghana.org

The Integrated Social Development Centre (ISODEC) is an indigenous non-governmental organization committed to the promotion of human rights (especially social and economic rights) and social justice for all, especially those suffering marginalisation, injustice and powerlessness. Visit: http://www.isodec.org.gh

The National Advocacy Coalition on Extractives (NACE) initially started as The Diamond Area Community Development Fund (DACDF) coalition which was borne out of a couple of initiatives more especially the works of NMJD’s Just Mining Campaign etc. The aim of the coalition was to monitor and ensure the effective administering of the funds and said activities being initiated in the diamond communities. Visit: http://www.nacesl.org/
The Parliamentary Centre in Ghana Since its re-establishment in 1992, the Parliament of Ghana has been working hard to improve its capacity to contribute to better governance in Ghana. A special Committee on Poverty Reduction is now formed, with the mandate of considering and reporting to Parliament on the content, focus and adequacy or otherwise of the GPRS. Visit: http://www.parlcent.ca/africa/ghana_desc_e.php

Tax Justice Network-Africa (TJN-A) is a Pan-African initiative established in 2007 and a member of the global Tax Justice Network. TJN-A seeks to promote socially just, democratic and progressive taxation systems in Africa, advocating for pro-poor tax regimes and the strengthening of tax regimes to promote domestic resource mobilization. Visit: http://www.taxjusticeafrica.net/

Tanzania Publish What You Pay is a representative of Southern African civil society organisations that are members of the Publish What You Pay (PWYP) global coalition, which campaigns for the transparent and accountable management of oil, gas and mining revenues. Visit: http://www.publishwhatyoupay.org/category/countries/tanzania

HakiMadini is a community based non-profit organization established and registered in 2001 under society ordinance. It started operations in the late 1990s as an activism group for artisanal mineworkers. It has developed over time as a strong representative body for small scale mining communities in Northern Tanzanian. Visit: http://hakimadini.org/about-us/