

# THE ROLE AND APPROACH OF CSOS DURING THE MINING LEGISLATION PROCESS, CHALLENGES AND KEY LESSONS LEARNED



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# Introduction

- ✓ Passing of Mining Act 2010 in mid April was the climax of long chain of activities targeting reforms of the Mining Sector dating back to the year 2000.
- ✓ There were several committees looking into the sector between 2000-2008 including Mang'anya advisory committee, Mboma committee, Kipokola Committee, Masha Committee and later Bomani Committee.
- ✓ Bomani Committee in 2008 not only confirmed that Tanzania does not benefit enough from Mining, but made far reaching recommendations for overhaul of the fiscal regimes as well as strengthening governance in the mining sector.
- ✓ The Parliamentary Committee made its recommendations on the report without major deviation, handing it to the Ministry of Energy and Minerals for drafting of mining policy and laws.
- ✓ There has been quiet times between 2008-2009 raising speculations what was happening behind the scenes, amidst Canada Mission in Tanzania and Chamber of Mines pushing for shelving off the Bomani recommendations.
- ✓ In Dec 2009 and Jan 2010 Ministry did its first public consultation for Mineral Stakeholders and Parliamentarians.

# CSOs engagement

- The role of CSOs in the Mining Act 2010 started in way in 2007 through consultation with Bomani Committee.
- Noting the capacity building work done by RWI/Policy Forum/NCA targeting CSOs,Media and Parliamentarians which increased preparedness.
- There was also ever present analysis and critiques on issues around the sector governance in the Media.
- There was a lot of anxiety and power play behind the scenes as CSOs and Media tried to get the draft bill.
- The news of the Presidential issue of the certificate of Urgency came to light late March 2010.

# What did CSOs respond?

- CSOs consultation in the early April 2010 under the Policy Forum, Norwegian Church and Revenue Watch Institute partnership.
- HakiMadini, Legal and Human Rights Centre, Policy Forum Secretariat, Fordia, Anglican Church were earmarked to lead the civil society-Parliamentary engagement.
- Legal and Human Rights Centre and Channel Ten hosted 3 CSOs representatives (Advocate Kiwanga, Kaiza Babelwa and Amani Mhinda) for a live program done on 13<sup>th</sup> April 2010.  
Hon Zitto Kabwe also participated in this live program.
- Small Scale miners representatives from Arusha, Morogoro and Geita were also supported to attend.
- CSOs converged in Dodoma on 16<sup>th</sup> and 17<sup>th</sup> April 2010 prepared for a long hours of engagement.

# How??

- The CSOs representatives started to bond with the Parliamentarians sharing the same concerns. An early intelligence team spend most of the Friday and Saturday ears on the ground ,assessing and gauging the weighty issue and possible entry points.
- An open hand policy and readiness to listen was agreed as a major approach more especially because we had already stepped on the toes of the Parliamentarians in the last Constituency Development Fund debate.
- We met our allies first mostly MPs we had worked with before as well as Opposition leaders office where we were lucky to meet Zitto Kabwe and technical team.
- We also targeted MPs from the Mining areas as well as most vocal strategic MPs
- Friendly media was also enlisted into the tilting the opinion.

# What next?

- The CSOs team realised the wide knowledge gaps within the key players despite shared interest. We then hurriedly prepared an amendment schedule (partly due to challenge by Hon MPs Zitto, Sendeka and Engineer Stella)
- A comprehensive comparative schedule of amendment was presented on 18<sup>th</sup> April to the Parliamentary Committee on Mining at Pius Msekwa hall.
- Small Scale miners and Trade Union were supported to analyse and present their own analysis.
- The same document was shared to Opposition sectariat, strategic CCM MPs targeting Party Caucus meeting, key members of Parliamentary Committees, Ministry of Energy and Minerals, technical persons within the Parliament and legal draughts team.
- We followed with live TV and radio interviews for a 4 days in a row as way of keeping debate alive and focused.

# Issues of concern to CSOs

- Lack of oversight functions of Mining Advisory and excessive powers given to the Minister and Commissioner
- Absence of fairness in dispute settlement
  - Lack of due process of the law
- No maximum limit set for the special mining licence
- Mineral Development Agreement was set for the lifespan of the mine or special mining license whichever period is lesser
- Mineral Development Agreement Vs Mining Contracts review
- Royalty and local institutional Capacity to administer
- Environmental issues and small scale miners/community issues

# Process Issues

- The Mining bill was sent over to travelling CSO members over email and some hard copies gotten from Dodoma.
- The CSOs representatives met in Dodoma the morning of 17th April for sharing individual analysis and charting course of action.
- The group agreed on the contents and packaging of the issues through compromise though due to huge no of gaps realized in the bill.
- A separate CSOs group was working in Dar, Arusha and UK going through the draft bill at the same time. I hereby acknowledge the key roles played by Silas Olang and Moses Kulaba of Agenda to coordinate this feed mechanism.
- Allies and Possible opposition was identified and quantified in the meeting.

# Key Strategies

- Face to face consultation-Door to Door approach
- Use of printed analysis/schedule of ammendment.
- Complementarity within CSOs-who does what best factor!!
- Efficient back room staff support (Dar/Arusha/UK/US)analysis teams
- Referencing to Ghana,Sierra leone,Sri Lanka and Botswana laws
- Ears on the ground,listening on the ongoing behind scenes
- Live media interviews involving CSOs and MPs
- Focused ground coordination, consultation and decision making
- Pressure of Communities/small scale miners to their members of Parliament

# Challenges



- Short time to respond between Presidential signing of the Certificate of Urgency and the actual debate
  - Lack of access to the draft bill in time
  - The geographical distance between actors Vs Dodoma
  - Little time to internalise the draft
  - Suspicion and mistrust between CSOs and MPS.
  - Capacity issues-financial,technical and human resource.

# Achievements

- We have a new Mining law that covers most of Tanzanian People concerns debated over the years.
- Most of the CSOs alternative proposals were taken on board more or less.
- Consensus across the Political Parties-whether opposition or government
- There was great appreciation from MPs and Government of the input we made. This is a good precedent for future engagement within then the CSOs and Parliament.
- There are some issues still unresolved e.g the excessive powers of the Minister and his subjects, dispute resolution mechanism and creation of Mining Committee.

# Lessons learnt

- Policy engagement is a give and take situation-if you are not ready to concede in some situation you can never progress.
- Understanding the issues and complexity is key to effect advocacy-Research and information sourcing
- Documenting and sharing arguments/alternatives
- Strategic partnership based on complimentarity works(CSOs/CSOs, CSOs/MPs and Media/CSOs
- Flexibility in Advocacy strategies-act of vulnerability and naivety
- Flexible partner support is key in this kind of engagement.
- Last but not least-effective and decisive leadership is important





Asante sana