ENHANCING TRANSPARENCY AND ACCOUNTABILITY IN COMMUNITY DEVELOPMENT AND REVENUE SHARING AND MANAGEMENT IN KWALE COUNTY

6th County Level Extractives Sector Forum
Kaskazi Beach Hotel, Ukunda, Kwale County
10th December, 2019
Background

Kenya is endowed with vast deposits of minerals across many of its counties. The minerals include soda ash, fluorspar, titanium, niobium and rare earth elements, gold, coal, iron ore, limestone, manganese, diatomite, gemstones, gypsum and natural carbon dioxide. Renewed interest and investments in exploration, development and production of these minerals are expected to have a significant impact on the country's economy, which has traditionally relied on agriculture, floriculture and tourism. Indeed, a number of global mining companies are already running mining operations in different parts of the country.

Kwale is one of the counties with vast potential for mineral exploitation. According to Kwale County Integrated Development Plan 2018-2022, some of the already discovered minerals in the county include Titanium (rutile, ilmenite, zircon) at Nguluku and Shimba Hills; Gemstones at Kuranze; Rare Earth Elements (niobium, phosphates) at Mrima Hills and Samburu; and Silica Sands at Waa, Tiwi and Ramisi. Others are Zinc, Lead and copper at Mkang’ombe, Mwache, Dumbule and Dzitenge; Baryte at Lunga-lunga; Coal at Maji ya Chumvi; Sandstones at Mariakani; Limestone at Shimoni and Waa; Coral rocks at the coastline and a potential for offshore oil and gas.

However, just like many other parts of the world, the mining sector faces a number of corruption risk factors. First, weaknesses in the anti-corruption legal and judicial system may undermine host governments’ capacity to effectively detect, prevent and sanction corruption. Secondly, high politicization and discretionary power in decision-making processes leave room for favoritism; political capture and interference; conflict of interest; bribery and other corrupt practices. On the company’s side, gaps and discrepancies in internal corporate anti-corruption compliance and due diligence procedures may contribute to weakening detection and prevention efforts. Finally, shortcomings in corporate integrity measures, both in host and home governments and in particular with regard to beneficial ownership disclosure, provide opportunities for corruption to thrive.

Therefore, the one-day forum brought together local communities, civil society, county government, and the private sector from Kwale to discuss the status, opportunities and challenges of achieving greater transparency and accountability in the extractives sector. Specifically, it acquainted stakeholders with the status of transparency and accountability (T&A) in the
extractives sector in Kwale county, including different T&A policies, programmes and initiatives currently being implemented; helped identify and prioritize challenges with regard to T&A in the extractive sector in Kwale; and helped participants to explore opportunities and strategies to address the challenges identified.

Opening Remarks

The forum attracted about 30 participants drawn from representatives from the national government, county governments, oil and gas and mining companies, civil society organizations, and host communities from Kwale County. The meeting commenced at 9.30 am with a word of prayer from Mr. Mohammed Ali from the Kwale Natural Resources Network. Mr. Duncan Okowa welcomed the participants and introduced the objectives of the forum.

While most of the participants expected to understand the role of a County government in a country where the management of the extractives sector is vested in the National government; others sought to voice key issues affecting the industry that never get to the media or even the legislators at both levels of government. The county government was represented by representatives from the departments of Finance, Budgeting and Economic Planning and the environment and Natural Resources. The national Government was represented by the Ministry of Devolution and Arid and Semi-Arid Lands.

The forum noted the increasing interest in mining in Africa by foreign multinationals. Participants also noted that while countries gain profit from the sector, some like Botswana, Norway and Chile have invested these profits within the various sectors of development of their countries while others such as Nigeria have lost the money to corruption. This therefore necessitates the need for Transparency and Accountability in: Licensing and in the allocation and management of budgets for community development projects; opportunities that come from the extractives sector; profits, production volumes; environmental protection reports; Revenue collection and management; production sharing contracts and ownership structures.

Key Challenges

To achieve Transparency and accountability in the extractives sector, there is need to address:

1. Reporting on issues in the Extractives’ Sector
Journalists continue to face security and health issues, political interference and Inhouse policy constraints while reporting about issues within the extractives sector. Additionally, they reported the lack of expertise in reporting on matters extractives. In most cases, they never get to hear the stories of parties when conflicts especially between communities and mining companies occur; thus cannot report objectively. The forum therefore noted the need to increase the capacity of journalists to report on matters extractives.

2. Poor Flow of Information

The importance of access to timely and accurate information in a bid to hold key stakeholders in all forms of development at both national and subnational level accountable came out strongly. The forum noted the poor flow of information, especially regarding policy and legal documents, between the county Government, the national government and the community level. The forum underscored the need for the general public to ask for information from leaders where records of information cannot be accessed directly by the public. Additionally, there is need to strengthen existing structures to enhance flow of information between and amongst the three channels so that policies and laws reflect what is happening on the ground.

3. Private Public Partnerships

The forum noted the lack of and poor relationships between the private sector and the governments at county level, especially within the sphere of extractives. It was noted that agreements are made with the national government and that the county government is involved to a lesser degree. The forum therefore underscored the need to strengthen openness and accountability in both levels of government also between the county government and mining companies that are operating at that level.

4. The Place of the Citizens in Transparency and Accountability

First, the Forum noted that Transparency and Accountability starts with the general public- the time they elect representatives to the government. Moreover, Transparency and Accountability is not given, it is demanded of those in authority since governments at both levels and businesses are not always in business of social protection. Citizens also have power to hold their leaders responsible to foster Transparency and accountability, especially in community development and revenue sharing and management in Kwale county.
Secondly, the forum noted that there has been widespread corruption at county level; youth positions have been taken up at the county level. Additionally, the youth are engaging the government and other key players at a point of ignorance; they are not armed with information as they should. This was attributed to the lack of timely and accurate information within the public arena.

Conclusion

- There is need to ensure compliance in the implementation of laws that promote Transparency and Accountability. The process of mounting pressure on governments to enact such laws can be spearheaded by political representatives and organized groups in Kwale county. These laws are key in helping citizens to hold the county and national governments accountable.
- There is also need for the citizens to be armed with the timely and accurate information as they engage with key stakeholders in the development process. The forum underscored the need to go to the right offices, and work with their political leaders to access such information.
- There is need for the Kwale County Government to work with the civil society and communities to develop a framework for sharing information with the communities.
- There is need for citizens to come out in large numbers to participate in during public participation exercises.
- There is need to foster public-private partnership. The government needs to work closely with the private sector to ensure

Next Steps

- Kwale county government has budgeted approximately Ksh. 15 million in the 2020 annual budget for civil education in the sectors of social services, environment and natural resources, public service, finance and economic planning, the budgeting process, the Land management policy, and Public participation.
- The county government took up the key challenges and promised to have a follow up session to address the issues within the different sectoral committees.
# Annex I: Programme

Enhancing Transparency and Accountability in Community Development and Revenue Sharing and Management in Kwale County  
6th County Level Extractives Sector Forum

Kaskazi Beach Hotel, Ukunda, Kwale County  
10\textsuperscript{th} December, 2019

<table>
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<tr>
<th>Time</th>
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<tr>
<td>8.30-9.15am</td>
<td>Arrival and Registration</td>
<td>ILEG/KCNRN</td>
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<td>9.15-9.30</td>
<td>Official opening and introduction</td>
<td>Duncan Okowa</td>
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| 9.30-10.00am    | **Welcome note**  
Benson Ochieng. Executive Director, ILEG  
Mwanahawa Salimu. Chair, KCNRN |                             |
| 10.00-10.30am   | **Presentation**  
Transparency & Accountability in the Extractives Sector in a Devolved Governance Context.  
Duncan Okowa. Programme Manager – Land, Resources and Equity, ILEG | Mohammed Salim               |
| 10.00-11.00am   | **Panel Discussion**  
Transparency and Accountability in the extractives sector in Kwale County: What progress (Policies, programmes, initiatives) have been made so far? What is working? What is not Working?  
Panellists:  
1) Mohammed Salim. Coordinator, KCNRN  
2) Nuru Mbohah. Chief Officer – Environment and Natural Resources, Kwale County.  
3) Mwanarusi Omar - Base Titanium Limited.  
4) Ahmed Abdulatis Issak- Coast Calcium Limited  
5) Liz Ouma- Ministry of Devolution and Planning  
6) Benson Ochieng- Executive Director, ILEG |                             |
| 11.00-11.30am   | Health Break                                                         | All                          |
| 11.30-1.00pm    | **Plenary Session. Chatting the way Forward**  
What are the outstanding priority challenges with regard to T&A in the extractive sector in Kwale County?  
What are the existing opportunities and practical strategies to address them?  
Who?  
When? | Benson Ochieng               |
| 1.00-2.00pm     | Lunch and Departure                                                  | All                          |
Annex 2: List of Participants

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A total of 25 questionnaires were distributed; out of these, 19 were filled and returned. These results represent 76% of the total number of participants.

Q1. Gender

Of those that responded to the questionnaire, 21% were female while 79% male as shown in the figure below. This means that men dominate the extractives sector in Kwale County. There is need therefore to bring more women aboard the extractives sector since both genders are impacted differently by the sector.

Q2. Age

Of the respondents, 26% were aged between 18 and 35 years while those that were aged 36 years and above represented 74% as shown in figure below. This means that youth are underrepresented in the climate policy scene. There is need for the youth to be effectively engaged and represented in the policy making process and engaged in the climate action process.

Q3. Occupation
Of the respondents, 16% were from the County Government with Representation from the Finance, Budgeting and Economic Planning and Environment and Natural Resources; 47% from the civil society; 5% from National government; 16% from the community as shown in the figure below. The meeting was dominated by representatives from the civil society, the community and the county government; these are some of the major target group for the coaching sessions. The academia, which forms an important part of the forum was not represented. However, there is also need to increase the number of representatives from the national government and the academia for effective horizontal and vertical developments with regard to climate action.

Q4. People with Disabilities

100% of the participants identified and not having any disabilities. This means that people with disabilities were not represented in the forum. There is need to involve them in the subsequent forums because they are impacted differently by the extractives sector.

Q.5
Statement 1: The ESF helped me to understand the concept of Transparency and Accountability (T&A) especially in the context of the extractives’ sector.

The chart below demonstrates that majority of the participants were able to understand the concept of Transparency and Accountability (T&A) especially in the context of the extractives’ sector. This means that the objective to create awareness on the Transparency and accountability in the extractives sector was effectively achieved.

Statement 2: The ESF helped me to understand the status of Transparency and Accountability (T&A) in the extractives sector in Kwale county.

The chart below demonstrates that participants the forum contributed to their knowledge and understanding of the status of Transparency and Accountability (T&A) in the extractives sector in Kwale county. However, 5% stated that the forum did not meet their needs regarding understanding the status of Transparency and Accountability (T&A) in the extractives sector in Kwale county.
Statement 3: The ESF showcased the different T&A policies, programmes and initiatives currently being implemented

Majority of the participants were able to identify the various T&A policies, programmes and initiatives currently being implemented both within the county and at national level. However, some would still not pick them out. There is need therefore to improve on the methods of delivery - mix the audio with the visual - so that all participants can benefit from the forum.

Statement 4: The ESF helped me identify the T&A challenges that plague the extractive sector in Kwale County

It is evident from the chart below that all participants were able to identify the T&A challenges that plague the extractive sector in Kwale County.
Statement 5: The ESF helped identify opportunities and propose strategies to help my county to address identified challenges

Majority of the participants gained skills and knowledge to identify opportunities and propose strategies to help my county to address identified challenges. However, some of them-10% - were unable to identify an opportunities and could not propose any strategies either.

Statement 6: I expect to use the information gained from this ESF to contribute towards enhancing Transparency and Accountability in the extractive sector in my county/community/place of work

Majority of the respondents stated that they would use the information gained from the ESF to contribute towards enhancing Transparency and Accountability in the extractive sector in their county/community/places of work. Some disagreed while some remained neutral.
Statement 7: After the workshop, I plan to contact workshop peers to further discuss and share on how best we can help strengthen Transparency and Accountability in the extractives sector.

Majority of participants reported that they would contact workshop peers to further discuss and share on how best they could help strengthen Transparency and Accountability in the extractives sector, especially in Kwale county. This will have a ripple effect and the objective of the forum of reaching as many people at the community level will be achieved.

Q6. Improving Future County Level ESFs

- Invite competent panellists- panellists, especially from the private sector, who can authoritatively speak on behalf of their company
- Allocate more time for the sessions; this will allow panellists to answer questions effectively
- Increase the number of those that are directly impacted by the extractives sector
- Increase the number of county level extractives forums
- Increase the number of small scale and artisanal miners in the ESFs
- Include topics such as women leadership in the extractives sector
- Come up with resolutions and action plans after the forums
- Partner with the county government to further take these meetings to the community at village level quarterly

Q7. Any other Information

- Widely disseminate documents- policies and laws- that talk about Transparency and Accountability in the Extractive sector