



Report from Roundtable on:

Civil Society-Private Sector Engagement in the Kenyan Oil Sector

Heron Portico Hotel, Nairobi, Kenya

June 5, 2015

Synopsis

This document provides an overview of the discussion that took place at a roundtable on civil society-private sector engagement in the Kenyan oil and gas sector, on June 5, 2015 in Nairobi. Generally, there was widespread agreement that engagement between the private sector and civil society could be substantially improved, in ways that could benefit both actors. In particular, there was significant conversation around the limited availability of information, the role of weak governance, and the general lack of trust between relevant stakeholders. The group suggested steps for moving forward, including a mapping of current civil society initiatives related to the oil sector, and a survey to determine participant ranking of key substantive areas. It was agreed that a second session will be hosted in the coming months.

I. Introduction

The Roundtable on Civil Society-Private Sector Engagement in the Kenyan Oil Sector took place June 5th at the Heron Portico Hotel in Nairobi, Kenya. It was attended by approximately 32 participants representing two oil companies and twenty civil society organizations.

The World Resources Institute and the Institute for Law and Environmental Governance welcomed participants and gave introductory remarks. They explained that the intention of the meeting was to look at engagement between civil society and oil companies in Kenya, and explore whether – and if so how – such engagement could be improved. The conversation would follow ‘Chatham House Rule,’ to support an open dialogue. As a result, particular names of participants are not listed in this report.

II. Current Engagements

The first session sought to explore the current relationship between the private sector and civil society, including successes and challenges.

Access to Information

Participants felt that the Kenyan public at large has limited understanding of the oil sector and its impacts. For civil society, this is due in large part to the difficulty of accessing information. For example, people lack information on:

- Current and future land and water usage and other environmental impacts;
- The contents of agreements between the government and private sector;
- Matters relating to labor and employment;
- Plans for related infrastructure (e.g. roads, pipelines) and their likely impact.

There was a feeling among civil society that a lack of information creates speculation, rumors and distrust.

When asked where they get their information about the oil industry, several civil society members answered that they get it from community members in the affected area. Participants also noted though that communities, while knowledgeable of their own circumstances, do not have technical information about oil company operations.

Significant discussion arose in regards to the secrecy surrounding production sharing agreements (PSAs). Many in civil society felt that it is frustrating and unjust that these are not publicly available. The private sector actors stated that they are open to sharing the agreements if the government so consents. On a related note, participants mentioned the Extractive Industries Transparency Initiative (EITI). There was a suggestion that both civil society and the oil companies may benefit from forming an unofficial EITI forum.

There was also some concern expressed around the challenge of accessing environmental impact assessments created by the companies, even though their disclosure is required by law. A participant also commented that some of the impact assessments that have been viewed by civil society have had some obvious inaccuracies. There was a comment that the National Environment Management Authority (NEMA) is weak and unable to ensure accountability to national environmental laws.

Finally, some also expressed concern that the people hired by the oil companies to act as representatives on the ground did not provide accurate information. The question arose as to who holds these people to account.

Relationship between Oil Companies and Civil Society

Participants made several comments regarding the lack of trust between civil society and the private sector. This was considered by many as a big impediment to effective communication and action. Participants felt that there is room for civil society to better understand the needs of the private sector and for the private sector understand the needs and functions of civil society. The view was expressed that engagement between oil companies and civil society needs to happen consistently, not just in a crisis.

There was a suggestion from some to focus on areas where interests of the different parties converged. For example, both parties have an interest in getting legislation passed (though there may be some disagreement on what should be in the legislation). The oil companies are generally dealing with challenges that are not specific to the company, including poor governance, illiteracy and low education levels etc. Participants discussed that there could be mutual benefit in jointly tackling some of these challenge, and pushing government to do the same. Participants called for a particular focus on the 'big picture' issues that are not often explored in day-to-day operations.

The Role of the Government

Participants engaged in vigorous discussion on the relationship between the national government, oil companies, and other stakeholders.

For example, participants discussed the fact that the original agreements to explore for oil were signed between the oil companies and national government. While this is in compliance with Kenyan law, many in civil society noted that Kenyan government frequently does not effectively represent the Kenyan public. They therefore felt like this sowed early seeds for lack of trust.

Most participants recognized the lack of effective governance at the local level. There was some debate, however, on what this lack of governance meant for the oil industry. On the one hand, some noted that oil companies should not have to do the job of the government (by providing schools, clinics, policing, roads etc.). On the other hand, note was made of the fact that oil companies should (and do) realize that this is the context within which they've decided to invest, and cannot put all responsibility on government. The facilitator noted that civil society appeared concerned that oil companies take advantage of the lack of effective government.

III. Civil Society – Private Sector Engagement in the Extractive Industries

The presentation focused on ways that civil society and the private sector have engaged elsewhere in the world including:

- Mediation/Facilitation
- Advisory Panels
- Monitoring
- Community Forums/Scorecards

See presentation slides in Annex 1.

IV. Moving Forward

The second roundtable session of the meeting focused on options for moving forward. Participants agreed that further efforts are warranted to improve engagement between civil society and the private actors engaged in the oil sector in Kenya.

Principles

Participants suggested the following principles:

- Honesty – actors need to engage honestly with one another.
 - One participant commented: When we're talking about honesty, we need to be able to be honest about what information we can share and what we can't. So honesty and information sharing are different.
- Access to information – the private sector should work to ensure that relevant information is made available if possible.
- Capacity – different people are at different levels of understanding, including within the civil society community. Efforts need to be made to ensure that civil society has the capacity to engage effectively.

Substance

Participants also put forward list of substantive topics for future discussion, including:

- Employment and training
- Local content, including procurement and business development

- Community empowerment, including:
 - Community ability to engage with various stakeholders, and
 - Creation of community investment plans
- Environmental issues, caused by:
 - The oil industry, and
 - Other activities (such as the Gibe Dam)
- Infrastructure associated with the oil industry (such as pipelines and roads)
- Transparency, including EITI
- Governance, including devolution
- Revenue sharing
- Land use
- Cultural heritage
- Supply-chain management
- Broader, long-term impacts in Turkana
- Legislation/regulation
- Company standards

Level of Convening

Participants agreed to start the conversation at the national level, while recognizing that there are several levels of potential engagement including community, regional and international.

Map

Participants called for a mapping of current civil society activities, including existing coalitions/platforms and inviting the coalitions/platforms to give an update on their work at the next meeting.

Representation

Everyone agreed that the civil society organizations do not seek to represent community members in, e.g., Turkana County. Rather, they seek to help empower these communities.

Survey

Organizers agreed to send out a questionnaire to allow participants to vote on the substantive areas they would prioritize for discussion and provide other input, and provide an update on the answers to this questionnaire at the next meeting.

Annex I: Presentation



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CIVIL SOCIETY & PRIVATE SECTOR IN EXTRACTIVE INDUSTRIES

Nairobi, June 2015

GAJA LARSEN

CIVIL SOCIETY ORGANIZATIONS...



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OVERVIEW

1. Facilitation/mediation
2. Advisory Panels
3. Monitoring
4. Forums

FACILITATION/MEDIATION

What: NGO acts as neutral facilitator to help bridge gap between affected communities and companies.



FACILITATION/MEDIATION: EXAMPLE

New Nigeria Foundation:

- Neutral facilitator in negotiations between Chevron and communities in Nigeria.
- Conducted trainings for both Chevron and community representatives.



NEW NIGERIA FOUNDATION

Promoting sustainable community development
through public-private partnerships

FACILITATION/MEDIATION: OPPORTUNITIES AND CHALLENGES

Opportunity:

- Improve communication between key actors

Challenge:

- Choice of facilitator
- Facilitator as hindrance

ADVISORY PANEL

What: Provide input on sustainability reports and other significant company actions related to environmental or social impacts.

ADVISORY PANEL: EXAMPLES

Examples:

- Exxon's External Citizenship Advisory Panel
- Neste Oil's Stakeholder Advisory Panel
- Alaska Regional Citizens Advisory Councils

ADVISORY PANEL: OPPORTUNITIES AND CHALLENGES

Opportunity:

- Structured engagement
- Transparent process

Challenge:

- Choosing panel members
- Panel impact
- Resources

MONITORING

What: NGOs monitor implementation and Impacts.

- Environmental
- Social
- Financial



MONITORING: EXAMPLES




Air and Water Monitoring
Webuye, Kenya



Oil Spill Monitoring
Niger Delta

Photo: Global Community Monitor; bbc

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MONITORING: OPPORTUNITIES & CHALLENGES

Opportunity:

- Support accountability
- Build trust

Challenge:

- Cost/technical capacity
- Some things easier to measure than others


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FORUMS

What: Regular meeting between companies and key stakeholders.



Photo: ImagineAustin

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FORUMS: EXAMPLE

Eagle Mine Community Forums and Scorecard:

1. Community Forums
2. Community Scorecards
3. Improvement Plans



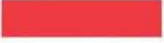


	Exceeds Expectations
	Meets Expectations
	Below Expectations
	Need More Information



Photo: Eagle Mine

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FORUMS: OPPORTUNITIES & CHALLENGES

Opportunity:

- Regular dialogue
- Understand expectations and perceptions

Challenge:

- Participation and representation
- Perceptions of legitimacy

QUESTIONS

How to:

- Deal with issues of representation?
- Ensure independence?
- Ensure trust in process?
- Manage financing?
- Build on existing processes?

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THANK YOU.

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