A rightly lauded cornerstone of the Extractive Industries Transparency Initiative has been its tripartite nature, as companies, governments and civil society work together towards its implementation. Indeed, EITI has in many countries created a valuable space for civil society to contribute to the management of natural resources. One of the key mechanisms through which this tripartite nature – and civil society’s involvement – is exercised is through the national level multi-stakeholder groups, responsible for the EITI implementation at national level. But do these MSGs operate in a way that allows for genuine participation from each stakeholder? Are they credible, transparent, collaborative and effective? A study requested by PWYP but independently carried out by the Institute for Multi Stakeholder Initiative Integrity revealed some disconcerting trends – their assessment concludes that there are significant failures of internal governance in many MSGs. Such internal governance failures have in cases resulted in paralysis of MSGs, a less effective and genuine participation of civil society and could harm the credibility of the initiative itself.

The EITI, founded in 2002, aims to promote better governance of natural resources through the publication of the revenues generated by extraction and – since the adoption of the EITI standard in 2013 – other important extractive data including production volumes and sub-national budget transfers.

Over six months, MSI Integrity conducted the most comprehensive evaluation of national-level MSG governance practices in the EITI to date. The first part of the assessment consisted of desk-based research of MSG governance documentation of all EITI implementing countries (41 in February 2014). The second, an assessment of MSG governance practices in 15 countries. MSI Integrity assessed five MSGs during in-country visits (Azerbaijan, Tanzania, DRC, Cameroon and the Philippines) and ten others remotely: Albania, Colombia, Guatemala, Nigeria, Norway, Papua New Guinea, Senegal, the Solomon Islands, the United States and Yemen.
The need for clear rules

Constitutions, manifestos and governance documents provide people with a reference of what lies at the heart of a project. Without them, it is difficult to agree on common goals, move forward in cases of disagreement or address violations.

These rules are all the more important when dealing with a body of various stakeholders working on the sensitive issue of natural resource management. The EITI Standard, with regards to governance rules and documentation, is not strenuous – it requires that the national MSGs agree to a public terms of reference and have fundamental internal governance rules in place.

Yet MSI Integrity’s assessment found that not one single EITI implementing country met all the requirements set out in the EITI Standard regarding internal governance procedure. Moreover, and perhaps even more damningly, a quarter of national MSGs did not have their governance materials publicly available. Less than half (41%) of MSGs had outlined how members should be nominated or replaced and only 59% had rules setting a limit on mandate terms for representatives. The report further stated that the requirements set by the EITI of the MSG are not strenuous enough to guarantee strong internal governance.

The EITI Standard requires that MSGs provide fundamental governance rules, for instance on the roles and responsibilities of the MSG to its decision making process. This graphic shows the extent to which countries met this requirement and the percentage of required governance rules that they provide – for more details read the full report.

“Although Cameroon has been an EITI compliant country since October 2013, it is undeniable that the implementation of the initiative in Cameroon suffers from the poor functioning of the MSG. We regularly see a last minute rush in the conceiving, production and publication of EITI reports. This rush is the result of long periods of “unjustified hibernations” by the committee. Information which could have been communicated in a timely fashion is not, which limits the actions of the MSG which, in many cases, lacks the necessary time to reflect properly on certain questions. It’s because the committee gave itself very few rules. It is governed by a decree of 2005, the very vague terms of which are not only not respected but do not allow the committee to function effectively.”

Eric Bisil, PWYP Cameroon
What should be done about it?

Given that the potential for EITI to be effective and credible in many countries is being hampered by the lack of transparency in MSGs and their failure to establish clear and comprehensive internal governance and decision-making processes, we call for significant changes to be made.

This is a good time to strengthen the internal governance of MSGs – not only should they have revised the terms of reference to align with the 2013 EITI standard, but better EITI governance will help countries unlock the true potential of EITI. We are confident that all parties are willing to work towards protecting the cornerstone of EITI with its multi-stakeholder nature.

**PWYP calls for the Board** to ensure that the validation process looks at compliance (or lack of) with all aspects of the EITI standard, including those related to MSG governance. The EITI Board should also strengthen the requirements of MSGs beyond the provision of basic documentation to include disclosure of all appropriate documentation online. Furthermore, the Board should require strong governance of itself as well as MSGs – this includes requiring transparent and publicly available nominations processes for all constituencies, creating a grievance mechanism and setting term limits. There is the opportunity to make these changes before the next EITI Global Conference in 2016.

**PWYP calls on national-level MSGs** to ensure that their internal governance processes and documentation not only comply with but go beyond the requirements of the EITI Standard and establish a formal and accessible process for dispute resolution.

Civil society on MSGs: The need for genuine representation and effective participation

One of the key accomplishments of EITI has not only been the creation of a space for civil society on an issue where its involvement was taboo but the establishment of a forum where its opinion carries weight. However, what use is a seat at the table if it isn't a genuine member of civil society that is sat there? What use is a platform, if you do not – or cannot – harness your voice so that it carries?

If civil society is truly to benefit from the EITI its participation must be genuine and effective. In several countries – Albania, Guatemala and Yemen to name but a few – MSI Integrity found that governments had intervened in the selection of CS representatives. This might be done directly, with governments selecting CS representatives without consulting civil society, or indirectly, with governments defining which groups qualify as civil society.

PWYP furthermore believes that civil society should not include members of legislative bodies or “for-profit” consultants, something which has been the case in countries including Cameroon or the United Kingdom. Other issues with representation included the lack of gender diversity (the majority of MSGs were less than 25% female) and a lack of representatives from communities directly affected by extraction.

It is crucial for CS constituencies to agree to the qualification criteria for MSG representatives and develop these themselves in a transparent fashion – MSI Integrity developed a guidance note on civil society participation that may be helpful.

The report also highlights how the costs of participating in the EITI can be a barrier to civil society engagement as well as a threat to its independence. Failing to reimburse travel and other costs for CS representatives on the MSG can make it impossible for them to participate in meetings. On the other hand, high per diems (in Cameroon per diems reached $600 per meeting) or benefits given to CS representatives involved in the MSG can also create conflicts of interest that damage the perceived and actual independence and legitimacy of representatives.
“In the Philippines, when we selected our representatives to the MSG, we organised a series of local consultations in the regions. We wanted to reach out to communities affected by extraction in particular. Those consultations allowed us to create a wide network of interested CSOs across the country with whom we collectively established eligibility criteria and a fair selection process. As a result, our MSG representatives are strong and credible candidates who are supported but also held accountable by a coordinated civil society network. This has allowed us to successfully push for a civil society driven agenda during MSG discussions.”

Cielo Magno, Coordinator of Bantay Kita (The Philippines)

In light of the above, PWYP calls for

- A change to how per diems and reimbursements are organised. MSG members should be reimbursed for direct expenses incurred in the attendance of MSG meetings, but anything beyond that – and anything excessive – should be prohibited. Instead, we recommend that civil society is supported for a wide range of EITI related activities, of which MSG participation is only one part. This would change the damaging perception that sometimes emerges that the MSG is a money maker.

- Formal eligibility criteria for who can be defined in global terms as a CS representative, to prevent the dilution of the constituency. This should be developed by the International EITI Board. Civil society for its part should revise existing CS nomination and selection processes to ensure they are designed to select effective, legitimate, and independent representatives to the MSG.

- Civil society on MSGs to create their own codes of conduct, to help towards establishing a cohesive mandate for civil society. As well as creating a framework for collaboration between CS engaged in the EITI, this code of conduct would include conflict of interest policies and set term limits.

The EITI has realised important change and, particularly with the adoption of revisions to the current EITI standard, could go further still. Yet internal governance failures at the MSG level risk harming the initiative and blocking progress on the ground. Improving the internal governance of the MSG – the key feature through which the multistakeholder nature of EITI is exercised – will ensure that EITI’s true potential is realised.

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