

The Role of information in the Promotion of Public Participation Agenda in the Extractive Industries in Tanzania

By

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Various NGOS, CSOs and development partners have been advocating for participation of people in the natural resource governance. The government of Tanzania has secured such crucial right of the Tanzanian's to exercise their right to self determination individually or collectively through representatives. Moreover, participation of the people in the decision making forum cannot be achieved unless participants have been provided with adequate information on the subject matter. This means that provision of information concerning policies, laws, regulations, agreements and plans is vital towards promotion of the right to public participation. With this understanding, I take this opportunity to inform the general public and other stakeholders on the role of information in the promotion of public participation agenda in the extractive industries in Tanzania. The discussion briefly analyzes how the laws of Tanzania protect the people's right to access to information and measures to make it a reality.

Essentially, information plays an important role in the peoples' exercise of the right to self determination. A lot of scholars and prominent persons have articulated the role of information in various ways. Koffi Annan, the former Secretary General of the United Nations once said that 'knowledge is power. Information is liberating. Education is the premise of progress in every society, in every family.' Newton Lee the Professor of Information Technology in the US said that 'information is power. Disinformation is abuse of power.' On the other hand, Jacob Appelbaum an American independent journalist, computer security teacher and artist observed that 'information is power. If you have information about the whole planet then you have power over the whole planet.' Further, Mao Tse Tung put it as 'no investigation no right to speak' equivalent to Chris Mauki who puts it as 'no research, no data no right to speak.' These few quotes denote that information is the basis for decision making. Without true and valid information, one cannot reasonably have significant contribution in any decision making forum. This means that you cannot discuss issue of participation of people in the decision making process without addressing aspects of peoples' access to information.

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The government of Tanzania has made various legal reforms to guarantee people of Tanzania access to information related to natural resource agreements, arrangements or plans. First, it enacted the Access to Information Act 2016 which imposes obligation to every information holders (public institutions or departments) to publish information in their official websites. This is why most government institutions provide through their websites information concerning policies, legislations, plans, management structure, office bearers and their official contacts, including mobile numbers and email addresses. This makes search for information to be easier and accessible to everyone. Secondly, every information holder is required to provide information to any person who makes request in the prescribed form. An answer to an application must be given within prescribed time and if such information is either a privileged information or not within his or her custody, then the holder of information must inform the applicant accordingly stating reasons thereof. Interestingly, if the applicant is aggrieved by the decision of the information holder at a particular institution, he or she may lodge an appeal to the head of department and finally to the Minister of Legal Affairs or the High Court of Tanzania, as the case may be. This is quite a good step towards promoting peoples' access to justice, an attribute that will be addressed in the next article.

Nevertheless, information holders cannot disclose every to the public. There are situations where information may be denied for lawful cause including national security, morality, and public policy, reputation of other people, trade secret and administration of justice. Although some stakeholders argue that such provisions restrict right to information especially natural resource agreements, I wish to refresh their memories that such exclusionary provisions are acceptable under article 30 of the Constitution of the United Republic of Tanzania, 1977 and various international human rights instruments binding on Tanzania such as ICCPR, ICESCR and ACHPR. Therefore, CSOs and NGOs should seek for relevant information from specific public institutions and inform the people accordingly.

Apart from the above law, the Natural Wealth and Resources (Permanent Sovereignty) Act 2017 and its related regulations , and the Natural Wealth and Resources (Review and Renegotiation of Unconscionable Terms) Act 2017 and its regulations impose a duty on the government to disclose all renegotiated natural resource agreements or arrangements to the National Assembly and the Stakeholders including NGOs. This means that Members of Parliament as representatives of the people have an opportunity to see and examine natural resource contracts. Similarly, people through CSOs or NGOs have an equal chance to see and examine natural resource contracts through the stakeholders meeting convened by the responsible sector ministry. Further, representatives from CSOs and mining companies who constitute the TEITA Committee have chance to see and examine natural resource agreements or arrangements. Interestingly, the TEITA Committee has legal mandate to even determine whether or not certain contracts are confidential or not. On the other hand, the Local Content Regulations require mining companies to disclose local content and corporate social responsibility plans to the people's representatives at the local government level. Similarly, such plans must also be disclosed to the Local Content

Committee and the regulators (The Tanzania Mining Commission and EWURA/PURA) for approval.

Basically, the above description represents few laws that the government of Tanzania. There is quite good number of legislations and regulations which mandates disclosure of information to the people upon request by the applicant. This means that the government of Tanzania has taken legal measures to ensure maximum disclosure of information to both the state-owned organs and non state actors. Even though these laws have gaps, I commend the government efforts to ensure inclusive natural resource governance through citizen participation and access to information. I call upon CSOs and other stakeholders to ensure that people are aware of the laws, policies and plans that have been adopted by the government. Various reports published by different stakeholders have shown that majority of Tanzanians including local government leaders are not aware of the laws and policies governing mining and petroleum sectors. It is time that all stakeholders take adequate raising awareness programs in order to equip people with requisite information for effective participation in the development agenda. Remember information is power, and ignorance of the law has never been a defence.