

POLICY BRIEF

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Re-thinking Gender Equality in the Extractive Sector in Kenya

A case study of Gender Dimensions and Implications on Coal Mining in Mui Basin, Kitui County

Background

The recent large-scale discovery of valuable extractive resources - oil, gas and minerals - in Eastern and Southern Africa presents great potential for shared economic growth and could drastically reduce poverty levels in these countries. Kenya has made several mineral discoveries such as titanium ores along the coast, significant coal concentration deposits in the Mui basin, large oil deposits in the tertiary Rift basin and gas in the offshore wells of the Lamu basin. These discoveries have resulted in international oil companies signing product-sharing agreements with the Kenyan government to carry out oil exploration. The Government has also issued 175 exclusive/special prospecting licenses and 10 mining leases. The Government further acknowledges that the Kwale mineral sands deposits mining project is the biggest in Kenya with a potential of producing rutile, zircon and titanium concentrates, (GOK, 2013). With these discoveries, the mining sector has registered increase in gross output of around 38 percent, while incomes earned in this sector increased by 51 percent between 2009 - 2013.

Gender issues in the extractive industries sector

The oil, gas and mineral value chains have important opportunities and considerations for women's engagement, which are currently not being fully realized. Throughout the chain of exploration, contracting and licensing, operations and extraction, value addition, tax and royalty collection, and revenue distribution and management, women and men face different needs and opportunities. For example, in the initial stages of impact assessment and consultation during exploration, efforts must be made to capture women's concerns and include them when disseminating the findings. This means that the timings, location and information provided should take into consideration the literacy levels and technical knowledge of women, as well as their ability to attend the meetings (with regard to location, working hours and gender group hierarchies). Similarly, when

vocational and skill development trainings are offered to EI communities, issues relating to gender inequalities and the diverse skill sets of men and women must be integrated into the training design.

As it stands, women are at a disadvantage due to their exclusion from the value chain and their limited capacity to take advantage of productive opportunities within it. This is due to inadequate legal frameworks, policies and programmes that consider their needs and protect their rights; limited access to resources; limited political voice; and disproportionate power relations between the genders in households and communities. The impacts and opportunities for women in the EI sector should be considered for both large and small-scale operations.

The case of Coal Mining in Mui Basin

The study was carried out in the four mining zones of Mui Basin namely: Block A (Zombe), Block B (Mutito), Block C (Mui) and Block D (Karung'a) areas. A mixed method approach involving quantitative and qualitative data collection was used. Specifically, the study employed Desk Reviews, Household Surveys, Key Informant Interviews and Focus Group Discussions.

The findings indicate that most of the respondents (89.2%) neither heard of consultations nor participated in any compared to a paltry 11.8% having participated in the local meetings organized by civil society organizations (CSOs), political rallies and the local chiefs' 'barazas'. Further analysis reveals that men's participation in project consultation was high at 76.3% relative to that of women at 23.7%. The skewed engagement of males in the consultations was due to their perceived role as the household heads who are to attend the village meetings. This is compounded by prevalent perception that mining is largely a masculine occupation, however, on whether the extraction phases could provide equal opportunities across gender, 50.2% believed that males and females would be given same opportunities while another 48.9% felt otherwise indicating minimal statistical disparities.

Females expressed reservations about receiving their equitable share in incidences where the husband had died while the land is still jointly held by the deceased's brothers. Women felt that men would squander the money on alcohol and commercial sex workers and leave the families stranded. Men on their part felt it was wrong to give money to women, who in the first place, do not own the land.

The study established that environmental detriments of the mining will disproportionately disrupt women's daily activities compared to that of men. Should there be incidences of water pollution without alternative sources drilled nearby, then women might be forced to walk long distance in search of safe water for their household use. Socially, women worried about alcoholism that may result from the booming economy occasioned by compensation. This could lead to more gender based violence in the homes. Further inquiry on the gender dimensions of the negative impacts revealed that 10.1% of the sample thought men would be more affected while 89.9% felt that women would be largely affected.

The study concludes that women are largely excluded from participating in the exploratory stages of the sector and ultimately obtaining benefits upon extraction due to: women's marginalization at the consultative phases, cultural barriers and attitudes that 'masculinize' mining, lack of information on policy and legislations around mining, lack of strong women advocacy groups in Mui Basin and a general patriarchal system that favor male dominance in the public sphere where mining is situated.

It is clear that integration of gender equality into the EI sector is a pressing matter. There is currently little or no integration of gender issues into National and County Government policies and regulatory frameworks within the sector. There is a need for policies that address the social, cultural, economic and political barriers women and young girls face in the EI sector, as well as the opportunities that the sector avails them. To facilitate this, both women and men need to be involved in the identification of issues to be addressed in planning and managing natural resource revenues, at all levels. The aim is to mitigate potential conflicts that might be occasioned by the current regime of gender neutral legislative approaches.

Some of the best international policy practices, their relevance to the Kenyan contexts, and possible applications that might mitigate conflicts in the extractive sector while also ensuring equitable gender benefits are highlighted below:

Key recommendations

- **Awareness raising on mining activities:** County and National Governments should domesticate and actualize the universal principle on free prior and informed consent (FPIC) where women and men in Mui are informed of their rights, concessions rules, benefits and negative impacts to facilitate a buy-in of the proposed mining activities. This will be significant around land compensation, resettlement and livelihood rebuilding debates when accompanied by Equator Principles i.e. a risk management framework, adopted by financial institutions for determining, assessing and managing environmental and social risk in projects and is primarily intended to provide a minimum standard for due diligence to support responsible risk decision-making. This should find a legal standing in the Constitution of Kenya 2010 Article 35 on freedom of access to information and continental consensus by the African Commission on Human and People's Rights, which adopted a resolution on the need for a human rights-based approach to natural resource governance to which Kenya is a signatory.
- **Displacement and livelihood resettlement:** Gender-sensitive Displacement and Resettlement needs to be carried out. This should be based on the differential experiences of women and men around the organisation of their livelihoods including social activities. The Equator Principles on assessing the social and environmental risks of such processes should be employed by the County Government and also reflected in the national county mining laws and regulations. The aim is to ensure that citizens have more say in the resettlement process while at the same time their social activities and values that are disrupted by the mining activities are factored into the resettlement plans.

- **Maximizing community benefits from the mining sector value chain:** Local content legislation has to be put in place to regulate sourcing of skills, skills transfer, and in procurement of local goods and services. Issues of employment and skills transfer must embrace gender-aware undertaking by the mining companies and the County Governments should oversee observation of applicable labour laws within the mining firms. This kind of legal provision can be contained in the Mining Bill but might also be effected through an executive order as a mechanism of ensuring that local communities maximise on mining benefits. *Ghana Petroleum Regulation of 2013 on Local Content and local participation number 2204* can provide the best case scenerio to borrow from.
- **Creation of strategic women’s mining advocacy bodies:** The aim is to raise awareness among women and men to enable women’s representation and participation in the development of regulatory frameworks and policymaking processes in the EI sector. The established and trained women organizations will become part of the local institutional arrangement to engage with the County, National Governments and the mining companies on issues that affect women across the value chain of the Extractive Industry. Structural organizations, mandates and engagement strategies can be drawn from well established women mining associations such as Southern African Development Community Women in Mining Trust and the South African, Tanzanian and Zambian women miners associations - SAWIMA, TAWOMA and AZWM, respectively, that have focused attention on the key issues facing women in mining.
- **Establishment of gender-aware community development platform:** The accrued revenue on the proceeds of mining of which 5% is given back to the community is a significant avenue for empowerment. To avoid bias in needs identification, prioritization and managment of the fund, a gender-aware advisory team should be put in place under the suprvision of County government to ensure that the objectives and use of such resource reflects the population dynamics and needs of the Mui people. *The Sierra Leone Mines and Mineral Act (2009)* and the Diamond Area Community Fund can provide best practices in place for ensuring community benefits from the allocated financial resources.
- **Gender-aware monitoring and evaluation:** These should be continuous focus on how EI projects affect women, economically, as well as socially within the mining zones. This information should be extended to the domains of employment at skilled and unskilled levels, household participation in the extractive sector and the subsequent gender relations emerging from the impact of mining on the community and/or household members. Institutions like CGD need to come up with tools and guidelines to advance gender equality and women’s empowerment in the EI sector including indicators amenable to performance assessment.

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