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FINAL REPORT OF THE FIRST REGIONAL FORUM “TOWARDS TRANSPARENCY, GENDER SENSITIVITY AND ACCOUNTABILITY: EXTRACTIVE INDUSTRY DEVELOPMENTS IN EAST AFRICA”

Supporting Inclusive Resource Developments in East Africa (SIRD)

**Thursday 30 November – Friday 1 December,
Arusha – United Republic of Tanzania**



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1. The East African Law Society in partnership with the Canadian Bar Association and Global Affairs Canada organised the first ever Regional Forum on the theme: **“Towards Transparency, Gender Sensitivity And Accountability: Extractive Industry Developments In East Africa”**, from 30 November to 1 December, 2017, in Arusha, United Republic of Tanzania.
2. The Regional Forum is the inaugural event of the SIRD project, a project that brings together participants from East African law societies, and a range of national, regional and international stakeholders, including representatives from women’s groups, governments, private sector, community agencies, academic institutions and Non Governmental Organisations, (NGOs).
3. The overall objectives of the Regional Forum were to provide participants with opportunities to;
 - ❖ Exchange knowledge and share experiences on best practices related to gender sensitivity, transparency and accountability in the extractive sector;
 - ❖ Identify key challenges and opportunities to maximize benefits and reduce harms, in particular to women and girls affected by the extractive industry in East Africa;
 - ❖ Analyse the governance structures of the extractive industry in East Africa, and provide recommendations for the formulation of effective gender sensitive legal and policy reform and,
 - ❖ Build partnerships and develop networks for increased coordination among regional and international stakeholders.
4. The Regional Forum was attended by 64 participants each day, from East Africa and Canada. This included inter alia representatives of different civil society organizations, the East African Community, academic institutions – universities, Non Governmental Organizations, national law societies, both East Africa and Canada, private companies, the media, private legal practitioners, resource persons and all well-wishers.
5. The opening ceremony of the Regional Forum that started at 9:30 AM was graced with the presence of Mr. Hannington Amol – CEO, East African Law Society, Ms. Jennifer Johnson – Acting Director, International Initiatives Canadian Bar Association, Ms.



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Hellen Oriaro – Development Officer – Pan-Africa Regional Forum – Global Affairs Canada, and Ms. Florence Ochago – East African Community Principal Legal Officer for Counsel to the Community (EAC-CTC), who delivered the keynote address and other high profile dignitaries.

6. In his welcoming statements, Mr. Amani Mhinda, Executive Director HakiMadini and Member of TEITI Multi-Stakeholder Group (Mater of Ceremony), welcomed and thanked every participant for massively getting involved in what he referred to as “a noble cause”, and further challenged participants to keep alive and be willing to learn more from the two day scheduled forum. He further called up participants to go out as gospel preacher – willing to spread the gospel learned and heard from a two day help forum.
7. In his brief remarks, Mr. Isaac Okello – President – Law Society of Kenya and Chair of the East Africa Law Society Professional Development Committee on behalf of the East Africa Law Society, welcomed all dignitaries from the East Africa Law Society and the Canadian Bar Association for initiating the idea of establishing an inaugural regional forum that is aimed at creating general awareness on pressing issues of transparency, gender sensitivity and accountability, which in his view stress the key factors to a well developed society – East Africa.
8. In her remarks, Ms. Hellen Oriaro – Development Officer – Pan-Africa Regional Forum – Global Affairs Canada thanked the East African Law Society and the Canadian Bar Association for working in and with joint forces to organize the forum, a venture she noted would elevate the general view of the status of women and girls in not only East Africa but also globally. Whereas she highlighted different key topics that include, gender equality human dignity, growth that works for everyone, environment and climate change, inclusive governance and peace and security, her main emphasis was premised on the, “growth that works for everyone and inclusive governance”. In this aspect, she reiterated the very importance of the forum, in a sense that it breeds the promotion of better governance, especially in managing resources with accountability and transparency at the very forefront.
9. In her concluding remarks while paving way for the future, Hellen Oriaro, gave hope for the participants that the forum being one of its kind, would bring about and indeed paves way for major and significant insights within the areas of transparency, gender sensitivity and accountability in the extractive sector.

10. In her opening remarks, Ms. Jennifer Johnson, speaking on behalf of the Canadian Bar Association, applauded all participants who had turned up in enormous numbers as a show of strength that indeed the Regional Forum was long overdue. She highlighted that the Canadian Bar Association is a national association mandated to seek improvements in the administration of justice. This in her statement is coupled with seeking to develop the capacity of legal institutions, support human rights – and particularly the rights of women, children and vulnerable minorities. She however drew the dichotomy between the two separate projects of SIRD and SAJCEA, emphasising that the former is the project that focuses on women empowerment in the extractive industry where transparency, accountability and gender sensitivity are pursued while including women.
11. In light of this distinction, she noted that the contribution agreement of the SIRD project was signed in January 2017 and later approved to commence implementation in November 2017 for a 5 year project term, commencing from January 20, 2017 to March 31, 2022. In view of the SIRD project, she reiterated that the said project works in partnership with four law societies of Kenya, Tanganyika, Uganda and East Africa Law Society (EALS) in Arusha – United Republic of Tanzania.
12. In her concluding remarks, she reiterated the relentless commitment in working with the East African Law Society and other East African national law societies to ensure that the expected outcomes of the SIRD project are indeed achieved to the highest degree of success. She hoped that the project in future would increase sustainable economic growth for East Africans, in particular women and vulnerable groups, affected by extractive industries, enlarge engagement of East African law societies to advocate for law reform to reflect the principles of transparency, gender sensitivity and accountability in the extractive industries, and expand community participation, particularly women, in consultations, dialogue, negotiations, advocacy and other initiatives to advance their rights related to the extractive industries.
13. She further concluded that the project would still increase engagement of East African law societies to advocate for law reform to reflect the principles of transparency, gender sensitivity and accountability in the extractive industries, by increasing capacity of law society legal professionals to engage in national law reform for increased transparency, gender sensitivity and accountability in the governance of extractive industries and improve the ability of the East Africa Law Society to coordinate with regional

stakeholders and engage in gender-sensitive advocacy and reform with respect to governance of the extractive industry at the regional level.

14. She finally anticipated that SIRD would expand community participation, particularly women, in consultations, dialogue, negotiations, advocacy and other initiatives to advance their rights related to the extractive industries, through increased public awareness of their rights, in particular women and vulnerable groups, with respect to extractive industry activities together with improved access for communities, especially women, impacted by extractive industries to community and legal services.
15. While delivering her keynote address, Ms. Florence Ochago – Principal Legal Officer – East African Community thanked all participants and showed her and the East African Community the resolve made in support of the extractive industry particularly where women are included in the decision making mechanisms. She reaffirmed her faith in the subject that indeed the extractive industry development is very vital as it gives shape to the economic growth and development of the region. In her address, she further averred that the extractive industry is beneficial and indeed a weapon to alleviate poverty, and a driver to employment creation – a challenge that has hampered the region.
16. In her concluding remarks, she challenged governments to regulate laws and policies that aim at protecting and promoting extractive industry, where especially women are employed in the said industry. While referring to Botswana where 20% of employment accrues from the extractive industry and 70% of the economy, she reiterated the need to enforce the East African Community Treaty, more importantly to contextualize the said commitments. She also called up governments to realize gender sensitivity in the extractive industry as well as human rights, which is key for the well-being of all people in the region. She further inferred that the extractive industry in East Africa bears a blight future as a large part of it in the region remains unexploited. This, she says, would create a room for actors to shape the direction of the industry and asses the likely impact before expanding on the resource extraction.
17. In the said inaugural Regional Forum, presentations were delivered on the following Sessions;
 - i. **Session 1: Gender and Extractives: Increasing the Participation and Inclusion of Women**
 - a) Developing Effective Gender Policy in the Extractive Sector

- b) Women and Extractives in East Africa – Challenges and Opportunities
- ii. **Session 2: Community Engagement: Increasing Benefits and Reducing Harms**
 - a) Engagement with Aboriginal Communities in Canada
 - b) Consultation and Inclusion of Women in Extractive Communities
 - c) Women’s Economic Empowerment – Opportunities in the Extractive Sector
- iii. **Session 3: Protecting the Environment: Legislation, Monitoring and Sanctions**
 - a) Impact of Environmental Harms on Communities
 - b) Impact of Environmental Harms on Women and Girls
 - c) Environmental Regulation and Challenges in East Africa
 - d) Building an Effective and Gender – Sensitive Environmental Management Regime
- iv. **Session 4: Managing Investor and Community Relations**
 - a) Conflict Resolution Models in Canada
 - b) Conflict Resolutions Methods in East Africa
 - c) Corporate Social Responsibility (Best Practices)
- v. **Session 5: Tanzania: Transparency in the Extractive Industry**
 - a) EITI in Tanzania: Achievements, Lessons and Challenges
 - b) New Policy, Legal and Institutional Framework for the Extractive Industry in Tanzania
- vi. **Session 6: Kenya: Recent Lessons on Gender Equality and Conflict Management in the Extractive Industry Sector**
 - a) Bridging the Gender Gap – Leveraging on Legislation and Policy Reform to Promote Inclusivity in the Extractive Industry Sector in Kenya
 - b) Mainstreaming Local Content in the Extractive Industry Sector Concessionary Agreement
- vii. **Session 7: Uganda: Accountability and Gender Equality in the Extractive Industry Sector; Lessons on Regulatory Framework and Land Acquisition**
 - a) Compulsory Land Acquisition: Impact on Women and Affected Communities
 - b) Forging Transparent, Gender Sensitive and Accountable Legal Frameworks in Extractive Industries: Key Lessons from Uganda
- viii. **Session 8: Balancing State, Investor and Community Interests**
 - a) Regional Extractive Projects – Impacts and Opportunities
 - b) Transparency and Accountability in the Extractive Sector
- ix. **Closing:**
 - a) Open Forum: The Way Forward

18. After two days of comprehensive, extensive and constructive deliberations, the participants discussed and agreed as follows;

I. On Gender and Extractives: Increasing the Participation and Inclusion of Women - Prof. Jennifer Koshan – University of Calgary - Canada
a. Developing Effective Gender Policy in the Extractive Sector

19. It was averred that there are national, regional and international guarantees with policies that grant effect to gender policy in the extractive sector, for example, Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, African Charter on Human and People's Rights among others.

20. Participants were also informed of key issues in the extractive sector and gender which included among others; land rights and impact of loss of land to women, environmental concerns impacting health, women's family, community roles, lack of consultation, collaboration with / participation of women, lack of compensation / economic benefits; economic harms, lack of employment and education / training opportunities for women, health, safety and security concerns, e.g. gender-based violence by migrant workers / others, increased risk of HIV/AIDS, pregnancy, OHS issues, etc, access to justice issues, for example, enforcing rights and multiplication of existing gender inequality gaps, with women bearing risks and missing opportunities disproportionately within families, communities; cumulative and intersectional impacts.

21. In averting these plights, participants recognized and welcomed the emerging good practices in the field of extractive industry which hugely premise on strong domestic legislative frameworks, government programmes, Including laws on gender based violence against women (GBVAW), social / economic / property rights, participation / FPIC rights, environmental laws, sectoral regulation with gender equity plus safety requirements, gender-based policy lens, expertise, consultation for all decision making, including gender impact / human rights due diligence assessments, plans, make business case for gender equity in extractive sector, for example, by addressing gender equity in project negotiation, design, implementation, appropriate mechanisms / policies / frameworks for gender issues, education / training on gender issues for the public, extractive industries, workers, government regulators, police, etc, access to justice – resources, enforcing legal rights, including support for and partnerships with CSOs,

women's organizations, programmes, policies to increase women's economic empowerment, capacity (including education, training, loans), entrepreneur/ Leadership, participation in governance, focus on women, families, communities and relations with extractive industries, local economic development / diversification, provision of adequate, culturally relevant social services and supports, sharing of knowledge, technical expertise on emerging good practices for gender equality and many more.

b. Women and Extractives in East Africa – Challenges and Opportunities

- 22.** It was recognised that in many African societies including East African countries, women were/are considered unfit for certain kind of jobs especially these (in the extractive sector), which are considered to generate income and thus to earn a deserved wealth. It was however underscored while citing Tanzania as an example in the region that some women are now coming forward and have started to break this myth of being characterized as social and economic underdogs and many of them have so far successfully established themselves as small scale miners. The number of women involved in mining industry has been growing over the past decades. It is assumed that to date, 25% of more than 3.5 million people engaged in mining sector (both formal and informal) are women.
- 23.** Participants further appreciated the current pressing issues of women in the extractive sector, especially in the mining sector. Some of these plights include poor infrastructure, environmental hazards, lack of gender sensitization, gender discrimination coupled with sexual exploitation, lack of networking and coordination, lack of information, marketing, lack of modern equipment, limited use of appropriate and advanced technology, sources of finances, and lack of adequate capital.
- 24.** On the other hand, participants brainstormed and foresaw unexploited opportunities for women in the extractive sector within the East African region. These opportunities range from social, cultural and economic and they include *inter alia*; recognition by the regional governments that women are facing economic and socio-cultural barriers which restrict their effective involvement in the extractive industry; government policy of sensitizing youth and women to form joint lucrative ventures in order to benefit from various government schemes. It is in this vein that Associations in for example Tanzania such as WIMA and TAWOMA were challenged to revive and ensure that all their branches in the countrywide are active, industrialization policy; construction of various industries and big projects such as Standard Gauge Railways, Rail way Isaka-

Bujumbura. Railway Isaka- Kigali, Oil Pipeline Tanga-Uganda, etc., constitute a rich market opportunity for building minerals within the East African region.

25. It was finally recommended and unanimously agreed that national governments of East African Community should, as facilitators and promoters, collaborate with potential financial institutions especially banks, lay down workable measures in order to facilitate women in the extractive industry to access credits without undue complications or technicalities, reshape the current socio-cultural environment which oppresses women by replacing it with modern norms, centres for small scale women miners' advancement should be established with a view of encouraging and facilitating employment and involvement of women in not only mining development activities but also other lucrative fields of the extractive industry, deliberate moves should be made to save women in extractive industry from sexual harassment (both mental and physical) and establish gender desks (for paralegal, legal aids, counseling clinics).

II. On community engagements: Increasing Benefits and Reducing Harms – Dr. Rosemarie Mwaipopo – Lecturer – University of Dar es Salaam – Tanzania
a) Engagement with Aboriginal Communities in Canada

26. It was observed that Section 35 of the Constitution (Canada), enshrines the rights of indigenous communities. These rights are provided, protected and promoted. This was in furtherance to the United Nations Declaration on the Rights of the Indigenous Peoples. It was further noted that these engagements differ from project to project and community to community. It was observed that many factors attribute to this distinction, including; differences with or in government structures, the differences in rights held for instance the right to hunt and right to fish. It was also acknowledged that there is need for communities, companies and other stakeholders to work together, in creating trust relationship, which is the very essence of the advocated engagement.
27. It was finally recommended that there was urgent need for these communities to be engaged as participants and not victims, need for parties and different stakeholders working together to build a lasting bond and relationship with aboriginal communities. It was then hoped that from a legislative point of view, engagements with these communities would ultimately be successful, particularly when resource developments will be used for the development of the future generations- preferably the North-West territories. This would be facilitated by the published annual report that would be reviewed every ten years. This would also facilitate the good working relationship

between the government of Canada and the government of North-West territories especially in resource exploitation and allocation.

b) Consultation and Inclusion of Women in Extractive Communities

28. It was noted that there are many gemstones in the East African region, and therefore, there was a call for public awareness of different species of these gemstones. In this regard, women were encouraged to take part in this call for public awareness. It was uniquely assessed that women have more exposure and awareness of these gemstones than their counterparts – men. This knowledge hinge on women’s love for jewelries and gems. As was noted, this could be used as a mechanism to make market for these gems.
29. It was also noted that there are no men-led initiatives whose mission statement is to develop women in the area of extractive industry. This was a challenge left to all male participants who were challenged to consider doing so.

c) Women’s Economic Empowerment – Opportunities in the Extractive Sector

30. It was observed that women’s role should not only be participation but also be included in decision making at all levels in the extractive industry. In this regarded it was highlighted that as studies have revealed that women employees tend to generate larger returns than their male counter-parts. In light of this, women were now invited and called upon to make investments in education, health, shelter, to name just a few and take their stand in the extractive industry so as to reduce the existing gap of men versus women in this sector.
31. It was also shared that different authorities are established in the East African region, citing Tanzania as an example that create conducive environment and legal framework for women not only in the mining industry, but also in the energy sector. It was for instance discussed that regional governments have established laws and policies in the same line of extractive industry, whose focus is to include women in the same sector. In light of this, it was recognized that most of the constitutions of regional countries recognizes women and disregard discrimination in areas of work, economic schemes and other socio-economic issues against women. In view of such a recognition, it was considered that such a recognition would pave an open door for women to be rooted in the extractive industry and be ready to compete with their counterparts –men.

III. *On Protecting the Environment: Legislation, Monitoring and Sanctions* – Mr. Benson Ochieng Owuor – Institute for Law and Environmental Governance – Kenya

a) *Impact of Environmental Harm on Communities*

32. Using key case studies from Kenya, Uganda and Tanzania – Fluorspar in Keno Valley, Gemstones in Kasigau, Titanium in Kwale and Gold in Kakamega and Migori – Kenya, Kilembe Copper and Namayingo Gold Mines – Uganda and Bulyanhulu, North Mara and Geita Gold Mines – Tanzania, respectively, it was observed and recommended that there is need to enforce some principles that reduce impact of environmental harm on different communities in and around extractive industry plants.
33. These are some of the principles that participants highlighted and they include the following; that first, all actions must be guided or should be in compliance with international and human rights law and principles; ensure empowerment (especially through knowledge and information) to enable people to participate in decision-making and seek judicial and quasi-judicial remedies; guarantee avenues for meaningful participation in decision-making; ensure accountability of agencies to the people and the law; and ensure fairness/equity in the conduct of public affairs.

b) *Impact of Environmental Harms on Women and Girls*

34. It was noted that women and girls are affected by environmental harms. Some of these have resulted into women and girls being discriminated against and some being sexually harassed. It was recommended that different stakeholders should work together to protect women and girls who work in the extractive industry – so secure their well-being.

c) *Disabilities as a Result of Environmental Harms in Mining Areas*

35. It was visibly noted that first, there is a key challenge of limited number of people with disabilities working in the extractive industry. It was also observed that this small number is attributed to the infamous myth in the mining industry of murdering albinos. These plights notwithstanding, it was proposed that transformation for legal frameworks should be made that include people with disabilities to work in the extractive industry and further these legal frameworks should be gender sensitive. It was further recommended

that there is need to transform land laws, forms of ownership and land use, which will cater for extractive industry.

d) Environmental Regulation Challenges in East Africa

36. It was noted that environmental regulation challenges lie in implementation of policies, monitoring of these established policies, inability to develop innovative programmes to address issues, poor and weak governance. It was however recommended that these challenges can be averted through public interest environmental litigation. Law reforms and review in this subject could also solve the existing gaps in the field.

e) Building an Effective and Gender – Sensitive Environmental Management Regime

37. It was observed that an effective environmental regime assumes a willing and effective government ready and able to implement policies and programs designed to protect the environment. In this regard, it was further noted that gender relations, determined by social, economic and political structures, result in inequality that leads to increased vulnerability for women to environmental hazards.

38. In light of the above setbacks, it was reasoned that there should be revision of laws and administrative practices to ensure women's equal rights and access to economic resources, provide women with access to savings and credit mechanisms and institutions, promote women's economic rights and independence, including access to employment and appropriate working conditions and control over economic resources, facilitate women's equal access to resources, employment, markets and trade, provide business services, training and access to markets, information and technology, particularly to low-income women, strengthen women's economic capacity and commercial networks, and eliminate all forms of employment discrimination, and promote harmonization of work and family responsibilities for women and men.

IV. *Managing Investor and Community Relations*

a) Conflict Resolution Models in Canada – Mr. Duncan McPherson – Bennett Jones, Canada and Mr. Jeremy Shelford – Ratcliffe and Company LLP – Canada

39. It was observed that there are different types of conflicts in Canada – land access issues, dispute between resource companies, issues such as pollution, aboriginal constitutional rights disputes and disputes between contractors which are specifically dealt on contractual basis. It was further noted that disputes are resolved through courts or quasi-judicial tribunals. Similarly, it was further averred that most disputes are settled in tribunals, the rationale being that these legally established administrative tribunals are not political, are instead independent and impartial.
40. It was also observed that there are other alternative dispute resolution (ADR) mechanisms. These mechanisms were set-up in response to the desire of AER stakeholders, which includes companies, government agencies, first nations groups, special interest groups and the broader public, to be more directly involved in resolving energy-related disputes. These ADR mechanisms help balance the interests of all stakeholders in relation to the economic development of the province's energy resources by resolving disputes through mutually agreed upon solutions.
41. In general, it was stated that most disputes are dealt with, through agreements, through *quasi-judicial* processes, through negotiations, through administrative tribunals, through mediation and finally through court process.

*b) Conflict Resolution Methods in East Africa – Mr. Hannington Amol – CEO
– East African Law Society*

42. It was registered that sources of conflict in East Africa hail from; access to land by investor, (both domestic and foreign), pollution, land degradation and evading licenses. In view of the apparent conflict in the region, it was observed that there are ways of dealing with such conflicts. These include; litigation (Court Process) – civil societies, governments, companies and individuals run to court for appropriate and legal redresses; environmental and land courts, environmental tribunals, transnational justice, (the East African Court of Justice), the African Commission on Human and Peoples' Rights; the African Court on Human and Peoples' Rights; mediation (which is still new, but very helpful); structure and boardroom resolution; military intervention, for instance for the case of Ethiopia; visibility studies, where local communities get involved at the start of the project and their concerns are taken into account; public community and royalties. It was addressed that all the above mechanisms, have been adopted and are thus effective in seeking remedies to resolve any arising and pending conflict.

- c) *Corporate Social Responsibility (Best Practices) – Mr. Fred Jansen – Botswana Chamber of Mines – Towards Sustainable Mining Principles – Mining Association of Canada, Mr. Monace Ndoroma – Community Liaison Manager at Geita Gold Mining and AngloGold Ashanti – Tanzania and Ms. Asmahaney Saad – Former Head Legal China National Offshore Oil Corporation – Uganda*

43. In order to be a responsible corporate practitioner, it is vital to fully appreciate the needs of the society and its sustainability. This, as it was discussed form roots of a better policy for corporate social responsibility. It was further noted that an effective corporate social responsibility requires establishment of good relations with different stakeholders and know best on how to work well with them.
44. In a comprehensive discussion, it was also established that an effective corporate social responsibility requires that people or the community within or surrounding the establishment should have and maintain unlimited establishment sites access in order to ensure that matters that require immediate attention can be identified, reported and attended to accordingly. It was further discussed that corporate social responsibility is vital in curing down social and economic challenges that hamper communities in the region. In this regard, it was noted that areas of economic empowerment (especially agriculture), education, health, social infrastructure among others should highly be supported by companies.

V. *On Transparency in the Extractive Industry: Tanzania*

- a) *New Policy, Legal and Institutional Framework for the Extractive Industry in Tanzania – Mr. Said Kalunde Mashaka – Director of Legal Services – Ministry of Minerals – Tanzania*

45. In view of Tanzania's Mining and energy industry, it was noted that Tanzania's policy framework for mining is in respect to; improve the economic environment in order to attract and sustain local and international private investment; promote economic integration between the mineral sector and other sectors; strengthen the legal and regulatory framework and enhance the capacity for monitoring and enforcement; strengthen the institutional capacity for effective administration and monitoring; participate strategically in viable mining projects and establish an enabling environment for Tanzanians to participate in ownership of medium and large-scale mines; support and promote development of small scale mining; facilitate, support and promote increased

participation of Tanzanians in gemstone mining; strengthen involvement and participation of local communities in mining projects; promote and facilitate value addition activities within the country to increase income and employment opportunities; promote research development and training; develop a local base for technical capacity; promote safety and maintain hygiene conditions and protect the environment in mining areas; and encourage and promote women participation in mining activities and strengthen enforcement of laws and regulations against child labour in mining activities.

46. With respect to energy, it was noted that the country's policy framework aims at; creating a conducive environment for private capital investment; expediting access to modern energy services; developing energy resources to meet domestic energy demand; promoting energy alternatives to enhance diversification of energy mix; enhancing energy efficiency and conservation; optimizing benefits to the Government and the people of Tanzania through strategic participation, interventions and equitable benefit sharing; ensuring prudent management of petroleum resources and accrued revenue for the lasting benefits to the society; promoting usage of locally produced goods and services in the petroleum industry; strengthening institutional, legal and regulatory frameworks and developing human resource to ensure development of a sustainable energy sector; and promoting compliance with environmental, health and safety standards in the Energy Sector.

47. In light of the above policies in two sectors (mining and energy), it was recommend that the government of Tanzania should aim at; strengthening Regulatory framework in the mining sector; payment of all Royalty and Taxes from Mining companies; promoting local mineral processing facilities [smelting and refining]; follow-up on payment of royalty in foreign currency; improving on penalties under the Mining Act; reviewing and renegotiating mining agreements; government share in strategic mining investments; establishment of the National Shipping Agencies Corporation [NASAC]; Statutory Proclamation of Permanent Sovereign over Natural Resources; eliminating discretionary powers of the minister and commissioner; local content and corporate social responsibility.

VI. *On Recent Lessons on Gender Equality and Conflict Management in the Extractive Sector: Kenya*

a) *Bridging the Gap – Leveraging on Legislation and Policy Reform to Promote Inclusively in the Extractive Industry Sector in Kenya – Dr. Melba Wasuna – Director – Extractives Industry Centre Kenya*

48. It was discussed that in order for Kenya to fully realize the full potential and equal benefits of natural resource extraction, there was need to ensure that gender perspectives inform the country's petroleum policies and regulatory frameworks. This was to be complemented by assessing the extent to which the country's relevant legal and policy frameworks address gender issues throughout the petroleum value chain towards ensuring that such issues are more than a "tick the box" exercise but are instead adequately mainstreamed and sufficiently catered for.
49. It was further noted that such measures would be complemented by international and regional laws and policies on gender, constitutional, legislative and policy frameworks on gender and gender specific laws and policies. It was further considered that gender mainstreaming is a pertinent issue in the petroleum industry. In this regard, it was later established that some of the laws and legislation in the country do not provide for gender issues in the petroleum industry. It was thus recommended that any laws or bills in the country should reflect gender balance as well as regional and ethnic diversity of the people of Kenya. It was further recommended that such laws or policies should deal with challenges faced by women in the energy sector. For this cause, it was discussed that, it will be imperative to mainstream gender issues in policy formulation and in energy planning, production and use and undertake public education and awareness creation on the cultural structures.
50. While concluding this part, it was stated that although the Constitution of Kenya, 2010, creates equal opportunities for all Kenyans to flourish in all aspects of life. However, the legal framework governing the petroleum industry as it stands currently was not robust in as far as providing women with equal access to and control of assets. Many of the legislations that would safeguard or advance women's rights and interests so as make a tangible impact towards gender equality are still in draft form i.e. the Petroleum (Exploration, Development and Production) Bill, 2015, Local Content Bill, 2016, Natural Resources (Benefits Sharing) Bill, 2014 and the Energy Bill, 2015. Even so, the proposed petroleum laws, though a great improvement from the existing legislation, should explicitly be engendered to ensure involvement of women in decision making processes, employment, training, entrepreneurial opportunities and enjoyment of benefits accruing from the petroleum industry.

b) Mainstreaming Local Content in Extractive Industry Sector Concessionary Agreement – Mr. Martin Ayisi – Advocate – Consultant at Ministry of Mining and Legal Expert on Mining, Oil, and Gas Legislation in Africa.

51. It was discussed that mainstreaming local content in the extractive industry includes capital goods, engineering processes, human capital, project finance; and support services necessary throughout the value chain and the life of the project. In view of this, it was further noted that the policy, legal and institutional framework of any extractive industry would preferably focus on; specific sector policy, petroleum/mining law, regulations in the mining/petroleum agreements, including, (local employment & skills development; procurement of goods and services; equity participation [state participation more widespread in oil and gas]; value addition/beneficiation; and project finance, and institutional framework-regulatory body/a special body set up to oversee local content.
52. A few challenges that face mainstreaming local content in the extractive industry were highlighted as well. These included among others, Poor linkages between LC and NDPs, Countries rely on skills development provided by industry which is company specific rather than a national industry-wide skill development plan, Shortage of mid-high level skilled labour, and Inevitable rise in technology.
53. Among the lessons learned, the following were noted. These lessons are, driven by skills and capacity development, knowledge-transfer based JVs rather than financial JVs, state led (Petrotrin and NGC) support for local enterprises, integrated Oil and Gas industry with numerous supply chain opportunities, emphasis on capacity building – technical qualifications and certifications, collaboration -industry and academia, successful local companies incubating many smaller ones by subcontracting and skill transfer.

VII. On accountability and Gender Equality in the Extractive Industry Sector; Lessons on Regulatory Framework and Land Acquisition: Uganda

a) Compulsory Land Acquisition: Impact on Women and Affected Communities – Ms. Rita Hope Aciro – ED Uganda Women’s Network

54. It was observed that land is a vital resource in Uganda since over 90% of Uganda’s population is dependent almost exclusively on agriculture for their livelihood. Regardless of this infallible fact, it was established that, in the wake of compulsory land acquisitions for infrastructural projects, many lives are under threat. It was also noted that affected persons are not only evicted from the land on which they rely on for food, but

they are also denied adequate compensation or resettlement and their complaints are often ignored by government. As noted through various discussions, and unfortunately still, the effects of compulsory land acquisitions on women are especially enormous but go beyond women themselves, impacting entire communities and larger development goals.

55. In defining compulsory land acquisition, it was discussed and agreed that the joint term refers to the power of government to acquire private rights in land for a public purpose, without the willing consent of its owner or occupant. Further, while reaffirming that women and children are the key victims of forced land acquisition, it was noted that these forced acquisitions have resulted into, death of many people, displacements of thousands of people, no compensations have been made to name just a few. As indicated, it was averred that most of the districts affected are Amuru and Mubende districts. It was further established that the state has prioritized the rights of investors over its larger citizenry, leading to violation of property rights of the most vulnerable persons (especially women) and communities without protection. In light of this, it was observed that the affected communities rarely have a say, and women are least likely to be consulted even though they are often the most seriously affected.
56. After a lengthy discussion, it was recommended and agreed that; the government of Uganda should work together with CSOs to ensure that the people likely to be affected by projects are sensitized before projects are set off to ensure a participatory and transparent process of acquisition, the government should effectively plan and budget for acquisition processes before the project starts. This was recommended because it ensures availability of funds to compensate the affected people in a timely and appropriate manner, amend current laws on land acquisition by ensuring that they provide for a humane and transparent process for land acquisition with least disturbance to communities whose land has been acquired, proposed to be acquired or are affected by such acquisition, revision of the compensations and resettlement policies including, compensation plans need to be clearly handled and adequately done for the benefit of affected communities so that people lead better lives, make adequate provisions for affected persons for their rehabilitation and resettlement and for ensuring that the cumulative outcome of compulsory acquisition should be that affected persons become partners in development leading to an improvement in their post-acquisition social and economic status.
57. It was further recommended that there was need to strengthen awareness programmes on the land laws and policies by simplifying existing procedures and requirements to different local languages and user friendly formats for affected communities. It was

further recommended that the Uganda Investment Authority should adopt guidelines and approaches that regulate large scale land acquisitions to ensure protection of the tenure systems and take into consideration the women's land rights in investment, Review public policies that fuel land grabs, and replace them with policies that prioritise sustainable land use and the needs of women and other small-scale food producers, and Establish a Land Acquisition and Compensation Disputes Tribunal to handle disputes arising from inadequate compensation, delay in compensation and acquisitions that fall outside the scope of the law. This would enable the affected people majority of whom are poor and vulnerable to access justice that is affordable and reliable for redress in cases of grievances.

b) Forging Transparent, Gender Sensitive and Accountable Legal Frameworks in Extractive Industries: Key Lessons from Uganda – Ms. Flavia Nalubega Ssamula – Action Aid Uganda

58. It was observed that Uganda's legal frameworks on extractive industry base on the 1995 Constitution, the National Oil and Gas Policy 2008, the Upstream law; the Petroleum Exploration, Development and Exploration regulation, 1993, Midstream Law; Petroleum Refining, Conversion, Transmission and Storage Act, 2013, Petroleum Supply Act, 2003, Petroleum Act, 2012, Draft National Content Policy for the Petroleum Subsector in Uganda, the Public Finance Management Act, 2015, Mining Policy, 2001(Under review from 2016), Mining Act of Uganda 2003 and the Gender Policy, 2007

59. In light of the above, it was observed that the Gender Policy, 2007 is revised every 10 years and this was a good opportunity to include the extractives sector gender demands. This was so because the policy provides for two focal persons in each department of Ministry of energy. It was recommended that there was need to have a sector specific gender policy for extractives sector, under this Gender Policy 2007. It was also recommended that women representatives should be involved in the governance and management of the extractive sector undertakings right from the grassroots through the districts, national and regional plus international levels. It was discussed that the resource curse can turn into a blessing; Let us use the voices closest to us to demand for transparency, accountability and gender focused laws for the extractives sector.

VIII. On Balancing State, Investor and Community Interests

a) Regional Extractive Projects – Impact and Opportunities

60. It was discussed that there are diverse opportunities in regional extractive projects. These projects were for instance manifested in the bilateral investment agreements between Uganda and Tanzania. Citing an example, it was discussed that these negotiations between the two countries were interesting as they catered for all interests of states, investors and the communities. These investor for example included TOTAL, SINOC, TALOC to name just a few. It was also averred that in bilateral investment agreements, states will take the lead in or be part and parcel of the investment projects.

b) Transparency and Accountability in the Extractive Industry Sector

61. While discussing this topic, it was reiterated that there are a number of laws and strong organizational frameworks whose focus is to regulate and maintain transparency and accountability in the extractive industry. These laws and policy/organizational frameworks range from, national, regional and international levels. The two terms “transparency” and “accountability” were in the discussion viewed as “same” or to mean the same thing.

IX. Closing

a) Way forward

62. Following the successful event of this first regional forum, it is essentially anticipated that the said forum would be organized and carried out each year. It is evidentially registered that the forum was indeed a milestone in shaping solutions for women in the extractive sector in East African and globally as well. This being the case, efforts to establish deeper roots for this forum are earnestly desired to make sure that it achieves its clear and beneficial goals. Grassroot organizing should be made to all persons in the region about the forum and how the forum benefits women and girls. It is also hoped that other regional and international organizations based in the region should also be actively involved in the forum, and their participation will enhance its effectiveness and efficiency.

63. In a nutshell, it is the sole responsibility of all participating organizations, and all persons there is to see to it that the objectives of this forum are achieved. It should be a challenge for all participants to be agents of change in the extractive sector – especially in areas of transparency, accountability and gender sensitivity.

64. Finally, all participants recognized and appreciated all participating organizations in the forum, and still advocated for a more cooperation with regional governments in implementing all recommendations made in the successfully held forum.

65. List of participants for the Regional Forum:

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66. Regional Forum Programme

DAY 1: THURSDAY, 30 NOVEMBER

8:15-9:00 Registration

9:00-9:10 Welcoming Remarks

[Mr. Hannington Amol – CEO, East Africa Law Society](#)

9:10-9:25 Opening Remarks

[Ms. Jennifer Johnson - Acting Director, International Initiatives Canadian Bar Association.](#)

9:25-9:45 Keynote Address



Ms. Florence Ochago – EAC Principal Legal Officer for Counsel to the Community (EAC-CTC)

Session 1: Gender & Extractives: Increasing the Participation & Inclusion of Women

9:45-10:00 Presentation: Developing Effective Gender Policy in the Extractive Sector

Speaker: Prof. Jennifer Koshan, University of Calgary - Canada

10:00-10:40 Panel: Women & Extractives in East Africa - Challenges & Opportunities

Panelists:

Ms. Lucy Githaiga – Chair to the Board – Association of Women in Energy & Extractives in Kenya (AWEIK)

Ms. Martha Bitwale - Founder / Former Chairperson of Tanzania Women Miners Association and Founder/ Consultant of Women in Mining Association.

Ms. Winnie Ngabiirwe – Executive Director Global Rights Alert, Uganda

Ms. Jovitha Mlay - Programs Manager Extractive Industries, Oxfam Tanzania

Mr. Simon Peter Shayo – Vice President Sustainability, AngloGold Shanti

Moderator: Ms. Kelly McLaughlin, Government of the Northwest Territories - Canada

10:40-11:00 Discussion/Q&A

11:00-11:20 *Group Photo & Coffee Break*

Session 2: Community Engagement: Increasing Benefits and Reducing Harms

11:20-11:55 Panel: Engagement with Aboriginal Communities in Canada

Panelists:



Global Affairs Canada
Affaires mondiales Canada



THE CANADIAN
BAR ASSOCIATION
L'ASSOCIATION DU
BARREAU CANADIEN

Ms. Kelly McLaughlin - Government of the Northwest Territories

Mr. Paul Manning - Manning Environmental Law

Mr. Duncan McPherson -Bennett Jones

Mr. Jeremy Shelford - Ratcliffe & Company LLP

Moderator: Prof. Jennifer Koshan - University of Calgary

11:55-12:10 Presentation: Consultation & Inclusion of Women in Extractive Communities

Dr. Rosemarie Mwaipopo - Lecturer, University of Dar Es Salaam -Tanzania

12:10-12:45 Panel: Women's Economic Empowerment - Opportunities in the Extractive Sector

Panelists:

Ms. Sumayya Hassan Athumani – Advocate & Former CEO National Oil Corporation - Kenya (NOCK)

Ms. Shamsa Mohamed Diwani - Chairperson, Mineral Value Addition Organization- Tanzania

Mr. James Muhindo - National Coordinator, Civil Society Coalition Oil & Gas - Uganda

Moderator: Ms. Lynn Gitu – Program Leader, Partnership Africa Canada - Uganda

12:45-13:00 Discussion/Q&A

13:00-14:00 *Lunch Break*

Session 3: Protecting the Environment: Legislation, Monitoring & Sanctions



14:00-14:15 Presentation: Impact of Environmental Harms on Communities

Mr. Benson Ochieng Owuor – Institute for Law & Environmental Governance, Kenya

14:15-14:25 Presentation: Impact of Environmental Harms on Women & Girls

Ms. Martha Bitwale - Founder / Former Chairperson of Tanzania Women Miners Association and Founder/ Consultant of Women in Mining Association.

14:25-14:55 Panel: Environmental Regulation Challenges in East Africa

Mr. Gerphas Opondo - Executive Director – Environmental Compliance Institute, formerly Senior Legal Officer NEMA - Kenya

Dr. Menan H. Jangu – Northern Zone Coordinator, National Environment Management Council – Tanzania

Mr. Onesmus Mugenyi - Deputy Executive Director ACODE –Uganda

Moderator: Dr. Rugemeleza Nshala - Lawyers Environmental Action Team – Tanzania

14:55-15:10 Presentation: Building an Effective and Gender - Sensitive Environmental Management Regime

Mr. Paul Manning - Manning Environmental Law - Canada

15:10-15:30 Discussion/Q&A

15:30-15:45 *Coffee Break*

Session 4: Managing Investor and Community Relations

15:45-16:00 Presentation: Conflict Resolution Models in Canada



Mr. Duncan McPherson - Bennett Jones, Canada

Mr. Jeremy Shelford, Ratcliffe & Company LLP, Canada

16:00-16:15 Presentation: Conflict Resolutions Methods in East Africa

Mr. Hannington Amol CEO EALS

16:15-16:50 Presentations: Corporate Social Responsibility (Best Practices)

Mr. Fred Jansen, Botswana Chamber of Mines - *Towards Sustainable Mining Principles*, Mining Association of Canada

Mr. Manace Ndoroma - Community Liaison Manager at Geita Gold Mining & AngloGold Ashanti, Tanzania

Ms. Asmahaney Saad - Former Head Legal China National Offshore Oil Corporation (CNOOC), Uganda

16:50-17:00 Discussion/Q&A

17:00-17:15 *Close of Day*

18:30-20:00 Welcome Reception

DAY 2: FRIDAY, 01 DECEMBER

8:30-9:00 Registration

9:00-9:15 Recap of Day 1

Session 5: Tanzania: Transparency in the Extractive Industry

9:15-9:35 Presentation: New Policy, Legal and Institutional Framework for the EI in Tanzania

Mr. Said Kalunde Mashaka - Director of Legal Services, Ministry of



Minerals Tanzania

9:55- 10:15 Presentation: EITI in Tanzania: Achievements, Lessons & Challenges

Mr. Amani Mhinda, Executive Director HakiMadini & Member of TEITI
Multi-stakeholder Group

9:55-10:15 Discussion/Q&A

Session 6: Kenya: Recent Lessons on Gender Equity and Conflict Management in the EI Sector

10:15-10:35 Presentation: Bridging the Gender Gap – Leveraging on Legislation and Policy Reform to Promote Inclusivity in the EI Sector in Kenya

Dr. Melba Wasuna – Director, Extractives Industry Centre Kenya

10:35-10:55 Presentation: Mainstreaming Local Content in EI Sector Concessionary Agreement

Mr. Martin Ayisi – Advocate, Consultant at Ministry of Mining & Lead Expert on Mining, Oil and Gas Legislation in Africa.

10:55-11:15 Discussion/Q&A

11:15-11:30 *Coffee Break*

Session 7: Uganda: Accountability and Gender Equity in the EI Sector; Lessons on Regulatory Framework and Land Acquisition

11:30-11:50 Presentation: Compulsory Land Acquisition: Impact on Women and affected communities.

Ms. Rita Hope Aciro – ED Uganda Women’s Network (UWONET)

11:50-12:10 Presentation: Forging transparent, gender sensitive and accountable legal frameworks in extractive industries: Key Lessons from Uganda



Ms. Flavia Nalubega Ssamula (Action Aid Uganda)

12:10-12:30 Discussion/Q&A

12:30-13:30 *Lunch Break*

Session 8: Balancing State, Investor and Community Interests

13:30-14:10 Roundtable Discussion: Regional Extractive Projects – Impacts & Opportunities

Participants:

Mr. David Acheru - Land Rights Coordinator – Kenya Land Alliance, Kenya

Mr. Bwesigye Don Binyiwa - ED African Centre for Energy & Mineral Policy, East Africa)

Ms. Jane Nalunga - ED Southern & Eastern Africa Trade Information & Negotiations Institute – SEATINI

Mr. Isaac Kabuye – Petroleum Authority, Uganda

Mr. David Nzaligo – Chief Legal Counsel at Geita Gold Mining & AngloGold Ashanti

Moderator: Mr. Silas Olang - Natural Resource Governance Institute Tanzania

Followed by Q&A

14:10-14:50 Roundtable Discussion: Transparency & Accountability in the Extractive Sector

Participants:



Mr. Duncan McPherson, Bennett Jones – Canada

Mr. Samuel Kimeu – Executive Director – Transparency
International - Kenya

Ms. Rachel Chagonja – Coordinator HakiRasilimali (Coalition of
CSOs Advocating for Natural Resource Justice - Tanzania

Mr. Peter Wandera – Executive Director - Transparency
International- Uganda

Ms. Allana Kembabazi - Programs Manager, Initiatives for Social
& Economic Rights (ISER), Uganda

Moderator: Mr. Arnold Kwesiga - Coordinator of Uganda Consortium
on Corporate Accountability (UCCA)

Followed by Q&A

14:50-15:00 *Coffee Break*

Session 9: CLOSING

15:00-15:30 Open Forum

Way Forward

Moderator: Ms. Monica Gichuhi – Advisor on Policy, Strategy
& Institutional Reforms to Cabinet Secretary, Ministry of Mining – Kenya

15:30-16:00 *Closing Remarks*

16:00 Close