CSOs Task Governments on Transparency

By: Kolawole Banwo

The Civil Society Legislative Advocacy Centre (CISLAC) has led a Delegation of Civil Society groups working on transparency and accountability in the extractive sector and media persons to Togo in an interactive and experience sharing visit.

The five-day interactive session, which aimed to promote transparency and accountability provided an opportunity for a brainstorming collaboration among various stakeholders in extractive industries, parliaments, civil society, NGOs, Togo EITI Technical Secretariat, the media, and the Publish What You Pay (PWYP) led by the Senior Program officer in CISLAC and a representative of the regional WACSOF.

The meetings provided a platform for a brief presentation of Nigeria’s EITI and enhanced collaboration between Civil Society Organizations in the extractive sector and the related parliamentarians to establish adequate legal frameworks, sufficient oversight to sensitise individuals towards transparency and accountability in the mining sector.

The event revealed that both public and private sectors have possessed necessary financial resources and decision-making mandates to ensure the workability of the extractive sector; while civil society is mandated to obtain factual information for evidence based advocacy, education and popular mobilization of citizens.

Following the visit to the WACEM (West Africa Cement) in Tabligbo, it was discovered that the company does not produce cement, but clinker from limestone. WACEM reiterated that it has honored its commitments towards the established EITI framework, as it had paid no fewer than three billion CFA advance dividends to the State in 2011 for the construction of Tsevié-Tabligbo-Aneho road, which is yet to be constructed.

It was observed that civil society and the media have vital role to play in drawing attention of government on mismanagement this situation and advocating for judicious utilisation of resources to ensure that the mining communities benefit from natural resources revenues.

In order to achieve overall transparency and accountability in the extractive industries, the participants tasked the regional parliaments on capacity enhancement and sufficient framework for interaction with civil society, adequate regulation and sustainable implementation of EITI in Togo.

They urged government on intensified effort towards immediate reconstruction of the road section Tsévié–Tabligbo-Aneho taking account of the advance dividends paid by WACEM; full implement of the Act 5 May 2011, defining social responsibilities of mining companies; ensure transparency and accountability in the award of contracts, mining licenses and concessions to mining companies; prompt establishment of the process establishing adequate frameworks for measuring and ascertaining actual quantities of mineral extracted and used by mining companies; investment in stakeholders capacity building in the EITI process in Togo to ensure proper oversight and monitor the implementation of the
EITI standards; judicious use of the revenues received bearing in mind that the resources are nonrenewable.

Also, Civil Society Organisations are encouraged to raise advocacy for transparency and accountability in the extractive sector among the Togolese; develop research, advocacy and networking skills to constructively engage in the EITI process; undertake evidence based advocacy that sensitizes and mobilizes citizens to demand for accountability in the extractive sector; active participation in the information dissemination and audit reports; liaise with the media and other stakeholders in the academia, professional bodies to provide credible and objective support of the EITI implementation in Togo.

Therefore, Executive Director, CISLAC Auwal Ibrahim Musa (Rafsanjani) has commend the Togolese government for providing the delegates with a conducive environment; and Oxfam Novib and CSOs for their tireless efforts at prompt endorsement of EITI process to ensure transparency, accountability and effective management of natural resources.

IMMUNITY AS A POTENTIAL AND REAL THREAT TO EFFORTS AT COMBATTING CORRUPTION

Statement to the UNCAC, IRG, CSOs Briefing at the UN Centre Vienna by Babatunde Oluajo, National Secretary, Zero Corruption Coalition (ZCC), Nigeria

The Zero Corruption Coalition is a coalition of over one hundred Civil Society Organizations working on issues of anti-corruption, transparency and accountability. ZCC is a member organisation of the UNCAC CSO Coalition and is a member of the Coordination Committee of the Coalition.

In 2009, when fifteen countries volunteered to test run the Self-Assessment Checklist on the United Nations Convention against Corruption (UNCAC) developed by the United Nations Office on Drugs and Crime (UNODC) under the direction of the Conference of States Parties to the United Nations Convention against Corruption, the ZCC produced a Nigeria country shadow report.

The ZCC has a history of engagement with relevant national institutions working to realise the full implementation UNCAC in-country including the Inter-Agency Task Team that worked in developing a national anti-corruption strategy for Nigeria, the National Advisory Council of Designated Non-Financial Institutions of the Special Control Unit Against Money Laundering (SCUML) and other anti-corruption agencies.

In addition, Zero Corruption Coalition (ZCC) towards supporting the government at its efforts at enforcement and criminalisation of the offences of corruption with the support of the UNODC, undertook, a review of the compliance of relevant domestic laws regulating the conduct and operations of private sector entities with the provisions of articles 12, 21, 22 and 39 of the UNCAC.

The ZCC is currently leading a CSO effort at ensuring a participatory UNCAC review of the country by preparing a CSO report to be used as a basis for engaging the review process.
2) I am here to talk about immunities that exist for some public officials with respect to the investigation, prosecution and adjudication of corruption. This topic is covered by UNCAC Article 30(2). The useful thematic report prepared by UNODC for this week’s IRG meeting says that there are issues in this area in several states parties reviewed. The UNCAC Coalition has raised this issue in our letter of 16 May, 2013 to the IRG.

3) There are arguments in favour of immunities. The problem we are concerned about is that in a number of important cases they have been used to block holding corrupt actors to account even though there was a great deal of evidence. We have cases where in a number of countries, immunity has been used to clearly shield indicted public officials and even seen clear cases of the power to grant pardons being abused in granting pardon to corrupt public officials found guilty of corruption in clear breach of the intendment of the immunity provisions.

4) The issue of immunities has also been referenced not only in UNCAC but also in the context of regional conventions and has been discussed as an obstacle. Article 7(5) of the African Union Convention on Preventing and Combating Corruption provides that - Subject to the provisions of domestic legislation, any immunity granted to public officials shall not be an obstacle to the investigation of allegations against and the prosecution of such officials. In addition, in 2005 the Commonwealth Working Group on Asset Repatriation recommends that Commonwealth Heads of State/Government, ministers and other public officials should not have immunity from prosecution for alleged criminal activity. The working group recommended that Heads of Government should commit themselves to take active steps to ensure the removal of these immunities.

5) Thus immunities should be as limited as possible if not eliminated and should not block criminal investigations into corruption.

6) The UNCAC Coalition and my own organisation ZCC in our letter of 16 May 2013 to the IRG have recommended that UNODC should convene an expert meeting to discuss recommendations for implementing Article 30(2). It should also prepare a report on immunities under international law. We hope that you will give consideration to this proposal.