



COMMUNIQUE CALLING ON PARLIAMENT TO USE ITS OVERSIGHT POWERS TO STOP GOVERNMENT FROM VIOLATING LAWS ON OIL REVENUE AND ENSURE TRANSPARENCY

April 30, 2019

Introduction and background

On April 23, 2019, Africa Institute for Energy Governance (AFIEGO) and partner civil society organisations (CSOs) met at AFIEGO's head office in Kampala to discuss the continued misuse and violation of oil revenue laws in Uganda by the executive.

The CSOs also discussed failure by parliament to use its oversight powers to ensure compliance to oil revenue laws for the benefit of the citizens.

The meeting followed government's withdrawal of Shs 200 billion from the Petroleum Fund in March 2019 without parliamentary approval to reportedly fund deficits in the 2018/2019 budget. This is against provisions of the Public Finance Management Act of 2015 which provides for how oil revenues are supposed to be spent.

The main objective of the meeting therefore was to discuss and agree on how civil society organisations (CSOs) can work with relevant stakeholders to pressure government to refund the Shs 200 billion that was withdrawn by government from the Petroleum Fund in March 2019 contrary to the law.

The CSOs also want government to refund the oil funds amounting to Shs 125.3 billion that government withdrew from the Petroleum Fund as shown in the Auditor General's report of 2017/2018 contrary to sections 58 and 59 of the 2015 Public Finance Management Act (PFMA).

Further, the CSOs want the president and his government to implement the 2017 parliamentary recommendation that the Shs 6 billion oil revenues that was illegally given to 42 government officials be refunded.

The CSOs which participated in the meeting included National Association of Professional Environmentalists (NAPE), World Voices Uganda (WVU), Center for Constitutional Governance (CCG), Guild presidents Forum on Oil Governance (GPFOG), Green Organisation Africa, Girl Power Foundation, Kanungu Youth and Women Empowerment Group, Oil Refinery Residents Association (ORRA), Kakindo Orphans and others.

During the meeting, participants noted that since 2011 when the Governor of Bank of Uganda (BOU), Mr Emmanuel Mutebile, informed the public that the President had asked him to use national reserves amounting to \$740 million to buy fighter jets and then refund that money with oil revenues, abuse of oil revenues has persisted.

The CSOs at the meeting observed that continued misuse of oil revenues is part of the big challenge of corruption in the country that will make it impossible for Uganda to exploit oil and guarantee conservation of critical biodiversity and citizens' livelihoods.

Corruption will cripple environmental and governance institutions such as the National Environment Management Authority (NEMA), National Forestry Authority (NFA), Uganda Wildlife Authority (UWA), district land boards and others from doing their work due to lack of sufficient funding –as oil revenues and taxes are stolen- to conserve critical biodiversity, especially during this time when climate change challenges are at their worst.

The CSO leaders further noted that since 2008, government has earned oil revenues -over \$1 billion- from signature bonuses and other oil revenue sources but government cannot account for most of this money.

This explains why citizens especially the oil host communities have continued to suffer numerous violations ranging from illegal displacements, poor compensation, lack of land titles and other human rights abuses at the hands of government.

Institutions such as environment and other natural resources officers in oil districts lack basic resources such as equipment to test and monitor air quality, noise levels, implementation of license conditions and others. These are necessary to ensure that oil activities by companies such as Total E&P (U), CNOOC (U) Ltd and others comply with environment laws, licenses, ESIA conditions and others.

The CSO leaders made the following observations.

Observations

- a. Violation of Public Finance Management Act:** Participants observed that that the withdrawal of the Shs 200 billion and other funds from the Petroleum Fund without parliamentary approval is in violation of the Public Finance Management Act of 2015. They also noted that the absence of clear structures to ensure that oil revenues are used in line with Section 59(3) of the Public Finance Management Act 2015 –which provides that oil revenue will only be used for infrastructure and development purposes- clearly shows lack of government commitment to transparency. It also shows that government has no respect for her own laws that require oil revenues to be used only for development purposes as opposed to consumption.

- b. Lack of commitment to transparency by government:** The participants further expressed concern that the transfer of oil money from the petroleum fund for government to spend without parliamentary approval as required by section 58 of the Public Finance Management Act 2015 is in itself a sign of a government's lack of commitment to transparency and willingness to account to her citizens.
- c. Joining EITI may not bring about transparency:** Further, the meeting observed that while it is a good gesture for the government to apply to join the Extractive Industries Transparency Initiative (EITI) as a sign of commitment to transparency in the collection and use of oil revenues, government's continued actions of spending oil revenues in violation of the law remains a challenge. The CSO leaders noted that without citizen pressure, joining EITI may not lead to transparency. Like the many good laws that have failed to stop corruption, environmental abuses, human rights violations and other challenges in the country due to lack of compliance, EITI will also fail if citizens do not pressure government to comply to it, participants said.
- d. Failure to put in place a framework to guide use of oil revenues from the Consolidated Fund:** In addition, participants noted that since 2015 when the Public Finance Management Act was put in place, government has ignored the need to put in place a framework to guide how oil revenues from the consolidated fund and national budget shall be used for development as opposed to consumption. Instead, government continues to withdraw oil revenues even without parliamentary approval.
- e. Participants further observed that the Public Finance Management Act (PFMA) of 2015 that provides for** oil money to be put in the Consolidated Fund while also providing that oil revenues shall only be invested in infrastructure and development projects creates confusion. At what stage can the government separate oil revenues from the rest of the revenues in the Consolidated Fund to ensure it is not spent on consumption such as creation of districts, paying RDCs and others? How can citizens demand for accountability amidst such contradictory laws, participants asked?
- f. Excessive powers of the minister to manage oil revenues:** They also expressed concern that the 2015 Public Finance Management Act (PFMA) gives excessive powers to the minister under sections 56(3), 64(3), 65(1), 67(2&7) and 68 of the PFMA. These powers include:
- Overall powers on the management of the Petroleum Fund;
 - Powers to make agreements with the central bank on the management of the Petroleum Revenue Investment Reserve;

- Powers to decide whether or not to issue policy guidelines to the central bank on how to manage the Petroleum Revenue Investment Reserve and;
- Powers to appoint members of the Investment Advisory Committee in addition to powers to determine the terms of appointment of the members of the Investment Advisory Committee among others.

These powers clearly leave Ugandans' oil revenues in the hands of politicians without independent oversight. To make matters worse, the law does not impose any penalty on the minister in case he or she makes deliberate mistakes that result into loss of public funds.

In a country with high levels of corruption, it is wrong to place excessive power in the hands of an individual to manage oil revenues.

d). Political influence in enactment of the PFMA: The CSO leaders further observed that it was unfortunate that during enactment of the Public Finance Management Act (PFMA) of 2015, the executive headed by President Museveni forced Parliament to change its position where they had provided for a multi-stakeholder accountability committee. The committee was to be comprised of independent people such as representatives of government, civil society, religious leaders, academia and others with clear terms of reference and enforcement of their decisions as a means to ensure independent oversight over management of the petroleum fund, petroleum revenue investment reserve and other transparency matters.

The above proposal for an independent oversight multi-stakeholder accountability committee was rejected. Instead, in its place, parliament provided for an investment advisory committee whose appointment and terms of reference are a strict reserve of the minister. This is sad and a clear reminder to Ugandans that the current law cannot stop corrupt people from misusing the oil revenues. If the little revenues are being misused before oil production, what will happen during oil production and with increased oil revenues?

e). Lack of law on personal liability: Furthermore, it was observed that Uganda needs a strong law that provides for personal liabilities against those who use their positions to enrich themselves at the expense of the public. They also noted that the investment advisory committee provided for in the current Public Finance Management Act of 2015 can never be useful considering the fact that its members are appointed by the minister without any independent body to guarantee their security of tenure. Participants observed that without independent oversight and security of tenure, the investment advisory committee will be another helpless body to legitimise the corrupt actions of government at the taxpayers' expense.

h). Failure to implement recommendations from COSASE on Shs 6 billion “presidential handshake”: More so, the CSO leaders noted that since the completion and tabling of the parliamentary report on the payment of Shs 6 billion that was illegally withdrawn from the petroleum fund and was paid to government officials, government has failed to implement the recommendations of the said report. Among others, parliament recommended that the Shs 6 billion

be refunded. This is sad considering that majority of citizens especially those from the oil region who have sacrificed to give up their land and other property for oil projects have not been compensated fairly, adequately and promptly. Those government officials who are paid salaries received oil money while those being displaced from their land on which they survive are left landless and property-less clearly shows that the oil curse is already here with us.

Recommendations

In view of the above observations, the CSO leaders made the following recommendations:

1. Parliament should use her oversight powers to pressure the Minister of Finance to table a bill to amend the Public Finance Management Act 2015 to provide for the following:

1a). Establishment of an independent multi-stakeholder accountability committee (IMAC) comprised of representatives from government, civil society, religious institutions and academia to oversee the management of the petroleum fund, the investment reserve fund, appointment of members of the investment advisory committee, the formulation and implementation of the investment policy guidelines and formulation of oil revenue spending framework to ensure oil money is spent on development and not consumption.

1b). The law should specify the terms of reference (ToRs) of the multi-stakeholder accountability committee, provide for how its decisions shall be enforced, the criteria for public voting of the members, remuneration of the members and punishment for those who breach the ToRs.

1c). The amended law should also require that members of the investment advisory committee must be approved by the IMAC to ensure accountability.

1d). The minister should be required to report to the IMAC every after 30 days on all decisions taken regarding the management of oil revenues and processes.

1e). The law should also make it mandatory for government to implement all parliamentary recommendations regarding oil revenues within a period of 6 months from the date of tabling.

1f). The amended law should provide for personal liability for government officials including the minister if his or her actions lead to loss of revenues without reasonable defense.

2. Government should urgently refund the Shs 200 billion and other oil revenues withdrawn from the Petroleum Fund in contravention of the oil revenues laws and transparency best practices.

3. Withdrawals from the Petroleum Fund should be halted until the Public Finance Management Act 2015 is amended as indicated above to ensure transparency for maximum benefits for Ugandans.

4. Government should consider putting in place an EITI law even before completing the process of becoming a member. Without such a law to ensure compliance, EITI may not help the country where the many good laws have not been useful due to lack of compliance. With a good law, EITI will improve transparency.

5. The overall powers to oversee withdrawals from the Petroleum Fund and investment of oil revenues should rest with the IMAC, and not the minister. This will reduce the excesses of the executive which has continued to use such powers to facilitate corruption and misuse of public resources.

6. CSOs should increase their efforts to sensitise the public about available oil revenues and mobilise them to call for the amendment of the Public Finance Management Act of 2015, appointment of investment advisory committee members, voting of the IMAC and others in order to create enough public pressure for transparency.

Signatories:

- Africa Institute for Energy Governance (AFIEGO)
- National Association of Professional Environmentalists (NAPE)
- World Voices Uganda (WVU)
- Center for Constitutional Governance (CCG)
- Guild Presidents' Forum on Oil Governance (GPFOG)
- Girl Power Foundation, Kasese
- Green Organisation Africa (GOA);
- Kanungu Youth and Women Empowerment Group
- Oil Refinery Residents Association (ORRA)
- Kakindo Orphans
- South Western Institute for Policy and Advocacy (SOWIPA);
- Kasese Citizens Coalition to Safeguard Biodiversity against Oil and other threats;
- Katwe Sanitation and Clean Energy Women's Club (Kasese)

