

# Publish What You Pay Liberia

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## **Position Statement to Dr. Peter Eigen**

**by Liberian Civil Society**

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### **Appreciation and overview**

Dr. Eigen, we extend heartfelt thanks to you and your delegation for taking time to visit Liberia despite your very pressing schedules. We thank you, too, for the attention and support given to the Liberian campaign and the EITI award in Doha, Qatar. We are also very grateful that in Doha our Senior Campaigner, Attorney Alfred L. Brownell, was elected to the EITI International Board.

These developments are a testimony to the level of confidence that the international EITI Community has in the leadership of the Liberia PWYP Liberia Coalition. We take this opportunity to again assure you that we will support and work with Atty. Brownell in strengthening the implementation of EITI and its wider aims, not only in Liberia but also at the international level.

Given its profile as a resource-rich, resource-cursed nation, EITI performance in Liberia is critical to the momentum and credibility of the effort globally for transparent and inclusive governance of natural resources. Liberia's history and ongoing challenges also mean that input at the international level by Liberians on EITI issues might be viewed as being of particular significance.

**In this paper, we set out the progress to date by Liberian civil society on EITI-related issues, some current challenges and worrying examples, and recommendations on the ‘next steps’ for our campaign. We ask your continued attention, consideration, advice and support in this regard.**

### **EITI: the Liberia campaign**

In Liberia itself, the EITI campaign has made some progress. The campaign has generated a wave of current energy and attention which hopefully bodes well for more effective and responsive governance of our national natural resources.

### ***Some Context***

Our engagement with the EITI campaign in Liberia has been informed by long-held and still grave concerns, locally and internationally, over the serious leakages in the extractive sector. The background, of course, is the situation in the early 2000s, which led to the imposition of UN Security Council Sanctions on Liberian timber and diamonds. The lingering challenge was for Liberian civil society to rally to the challenge for sustainable development in line with economic, social and cultural rights. This means leaning crucial support to patterns of economic developments that are conflict-sensitive and durable within the context of improved livelihood for all stakeholders including historically under-represented communities.

### ***Engaging civil society in Liberia***

The formation of PWYP Liberia, by twenty lead civil society organizations, was to encourage collaboration and avoid disjointed advocacy as a way of informing the need for increased consultation with local communities and civil society actors in national debates on the future of community-based resources, public service delivery and the overall achievement of economic, social and cultural rights in the new Liberia.

Of course, this came with some very serious obligations. When we decided to present ourselves as the face of Liberian campaign, we accepted the

responsibility to provide leadership and meaningful choices to our people. We read extensively to understand the multi-campaigns under PWYP/EITI and then took on the task of communicating the campaign to the Government, companies and civil society.

### ***The Liberia EITI campaign: recent developments and achievements***

The following are some achievements of Liberian civil society, including the establishment of EITI Liberia ('LEITI'):

1. Successfully organized a PWYP Liberia Coalition to campaign for Liberia's participation in the EITI;
2. Organized several information workshops for our members, members of the National Legislature, Government Officials, the private sector, development partners, the media, and community members on the developmental relevance of the EITI/PWYP;
3. Published the 'EITI Next Steps' to provide roadmap for the Government of Liberia and its international partners on the steps leading to Liberia's participation in the EITI. Nearly all the points advanced in the 'Next Steps' were implemented by the Liberian Government including the leading two:
  - a.) The Recommendation to include forestry to avoid leaving out any revenue stream that would materially affect an EITI report if excluded. It becomes unfair and unrealistic chasing some mining companies with lesser contributions while excluding sectors capable of producing millions in revenues. Also, given the contribution of forest-sector revenues to the conflict dynamic in the past, and the UN Sanctions regime, it is entirely appropriate that EITI in Liberia covers this sector. ***Liberia is the first country to include the forestry sector in the global EITI campaign***; and
  - b.) The Recommendation to ensure 'disaggregated company-by-company' payments over 'aggregated disclosure' as a way of enabling Liberians better understand the individual contributions of each company making payments in the extractive sector. Presently, many in the global EITI community are yet to formally commit to 'disaggregated disclosure';

4. Got appointed to the MSG of LEITI and hosted two of its monthly meetings at our offices;
5. Helped entrenched LEITI by working with the MSG and the National Government to pass LEITI Act;
6. Helped with the drafting of the country-specific costed Work Plan
7. Co-authored the drafting of the LEITI Act.
8. An EITI report has been published: we are engaged in high level discussions and ongoing efforts to resolve discrepancies associated with the report and have participated in the related validation process.

### Comment

- We see as a great achievement the promulgation of legislation creating the Liberia Extractive Industries Transparency Initiative. The Act adequately strengthens EITI programs and implementation in Liberia, secures the present and future sustainability of the campaign and entrenches compliance of all parties in the extractive sector. A solid formal legal basis is significant ('the letter of the law'): but as noted in the 1<sup>st</sup> point below, socialization of the law among political actors and sector players lies ahead, in order that the 'spirit of the law' (**a culture of compliance and continuous improvement**) is fostered and entrenched.
- Liberian civil society welcome the political will shown by Her Excellency President Ellen Johnson-Sirleaf to implement EITI, along with the efforts of the Chairperson, Hon. Augustine Kpehe Ngafuan, and members of the LEITI Multi-stakeholders Steering Group (MSG). Liberia's international partners are to be thanked for their support to the Liberian campaign.

### **The Liberia campaign: challenges**

1. **Translating formal laws into institutional mindset and practice:** Despite some achievements to date, Liberian civil society is still deeply convinced that the task of transforming the *culture* of natural resources administration and governance into a more accountable and democratic one remains a serious challenge: Liberia's natural resources are still, for the main part, a curse in the sense that they are not benefiting the

citizenry. Citizens are generally aware of the possibilities and problems, and expectations have risen for change, but citizens are able to discern little beyond the rhetoric of reform.

Accordingly, there must be significant departure from past practices as a way of concretizing and making tangible rhetorical commitments in statutes, the Constitution and Presidential pronouncements that the natural resources of Liberia belong to all Liberians and will be used sustainably and for the betterment of all Liberians and their natural environment.

2. **Concession-granting: dashed expectations:** The expectations just mentioned are issues of concern (as well as a source of popular energy to be tapped and channeled in support of demand for better governance). Perhaps the single most serious threat to the viability of the extractive sector in Liberia, in keeping with the euphoria that greeted the EITI campaign, is the *urgent need to arrest the embarrassing trend in increasingly awarding mining, oil, agricultural and forestry concessions without the delivering the related and promised jobs, revenues and 'the new day.'*

This is absolutely important to us because the consistent betrayal of the people's trust has the **potential to roll-back progress and credibility on the EITI campaign** by creating doubts among the citizenry about the developmental relevance of the campaign and undermine expectations to break with the past rooted in unfulfilled dreams. The EITI campaign must not be (and must not be seen to be) just another check-list or window dressing for seeking over-sea development assistance and donor sympathy. It must explicitly be *an integral part of the national development agenda* for reforming governance in natural resources management and one of the platforms for alleviating poverty.

For instance, despite constant expert advice and sufficient counsel by Liberian civil society, the United Nations Panel of Experts, some development partners and several international non-governmental organizations in providing pieces of empirical advice on the status of extractive industries contracts and concessions—more often supported by in-depth research findings—the National Government has always ill-advisedly ignored such inputs in awarding mining, oil, agricultural and forestry concessions, sometimes in ways that stand in sharp contrast to

the spirit of the EITI and more often than not at supersonic speed, rubber-stamped by our National Legislature without providing a real opportunity for public participation. In a nutshell, the absence of dividends on all concessions granted presents a gloomy picture of efforts to use revenues from the extractive sector to revive the struggling national economy. Accordingly, it is sad to note that from promises to promises, the Liberian people have inherited a cascade of expectations yet to be addressed in any significant fashion.

3. **What government says – and what it does:** It is our fear that the Government of Liberia is speaking from a prepared donor script saying exactly what the donor community wants to hear but in reality, there are stark differences to what actually exist on the ground. Our people are sick and tired of this rhetoric. It does not take a rocket scientist to know that when you assign all of the rights of a country's natural resources to multinationals without the associated benefits flowing back to the people that the accountability dynamic shifts. *Government becomes outward-looking instead of responsive to the citizens:* it is fully accountable to the multinationals at the expense of accountability to the citizenry because the multinationals will always guarantee a pot of money which then gets used by the Government to build and strengthen a police state. Liberia has been down this road before and we know what the end result is—tyranny and dictatorship. And so conflict...

Below are few instances of failed promises to deliver jobs, revenues and a 'new day':

- (a) **Mittal Steel Holdings:** The over one (1) billion dollar iron ore investment tightly negotiated twice, in 2005 and 2006, carries failed promises of job creation and boost in revenues to support the struggling Liberian economy. Instead of increasing jobs to the population and exporting iron ore to boost the economy, Mittal has, instead, sharply cut back employment by down-sizing its already limited workforce while also postponing shipment of iron ore, almost indefinitely. Mittal's resort to answers about the global economic crisis need to be considered next to the expectations created by its previous statements, and its long-term reputation as a committed partner of the Liberian national renewal project;

- (b) **China Union Company Limited:** The National Government owes the Liberian people explanations on the status of the US\$2.6 billion iron ore investment in Bong Mines, Bong County. Apart from the unceremonious demolition of homes, churches and business houses, in late July 2009, in the provincial town of Bong Mines, reportedly as activities ahead of the arrival of the Concession, the Government has yet to comment on the US\$40,000,00.00 (forty-million United States Dollars) signature bonus following the signing and ratification of the Concession. Jobs are yet to be created while the anticipated revenue boost from the concession are yet to hit the national coffers or reported to the public. These are serious matters with the potential to undermine goodwill and trust towards the government, with serious consequences for this country;
- (c) **Extension of the Firestone Rubber Concession:** Despite the extension on its original ninety-nine-year concession, the huge promises of jobs and revenues for the state and its people are yet to be seen as workers struggled with the implementation of their collective bargaining agreement with the company as the Government complicitly looks on;
- (d) **Six Timber Sales Contracts and seven large Forest Management Contracts:** Since the lifting of UN Sanctions on the export of Liberian timber, six smaller timber sales contracts and seven forest management logging concessions have been signed and ratified by this current Government, yet the promises of jobs and revenues equally remain a major challenge. Of the six smaller timber sales contracts awarded by the Forestry Development Agency, only one is barely off the ground; of the three earlier Forest management contract awarded, not a single one is yet to set up camp, promised revenues and jobs are illusory and benefits sharing schemes for local communities are only a distance promise. Exacerbating this process, the Government of Liberia decided to award additional four large forest management contracts again promising jobs, revenues and a better day despite empirically verifiable evidence to the contrary. In less than five working days, four major forest contracts covering hundreds of thousands of acres of forest land for a period not less than 25 years each left the desk of the President and returned ratified at supersonic speed. Civil society needs much greater capacity to keep up with monitoring this apparent determination by government to sign up wherever possible.

- (e) **Sime Darby 220,000 hectares oil palm and rubber concession for 63 years:** Sime Darby signed \$800 million United States dollars agricultural (oil palm and rubber) concession agreement with the government of Liberia. The agreement carves out approximately 220,000 hectares of community land in several counties in the Liberia which include Bomi, Grand Cape Mount, Gbarpolu and Bong for both oil palm and rubber plantations. The concession will be held for 63 years by Sime Darby Plantation Liberia Inc. (SDPLI), a wholly-owned subsidiary of Sime Darby Plantation. It was signed in Monrovia on Thursday, April 30th 2009 and ratified in August of 2009. The amount of land grabbing under this agreement as well as the number of years, 63 years, span across at least two generations.
- (f) **AMLIB Concession:** AMLIB, which has a colorful history, has the dubious distinction of violating reporting standards under the LEITI. In the first LEITI report, the company produced faked receipts of payments to the National Government. Material discrepancies emerged in respect of Amlib United involving payments purportedly made by the company to purchase Managers checks from its bankers to pay taxes and fees to the Government but the Government said it did not receive the money. However, as the LEITI was working on appropriate actions to resolve AMLIB discrepancies, including instituting punitive measures on such misrepresentation and fraudulent practice, the company recently negotiated two major gold concessions across the country which is yet to be ratified. Additionally, AMLIB's previous investment history in Kokoyah, etc., leaves much to be desired.

### **The Bigger Picture**

**Our apprehension in the extractive sector extends beyond the current failure to create jobs and revenues as promised. Perhaps there are global economic pressures, but they are not the answer to every query. More disturbing, are the fears and rationale in ceaselessly committing vast natural resources of the Liberian people, in total disregard to their voices and expectations. Such unchecked activities create breeding grounds for future resource-based conflicts.**

## **Recommendations on Next Steps on the Liberian campaign:**

1. **‘Fostering an increasingly informed inclusive national conversation on resources governance’:** The need for all Liberians to reflect, accept, strategize and enforce rights-based development in ways that the economic, social and cultural rights of community members are unconditionally respected;
2. **‘The vital role of an independent media’:** Liberian journalism is a huge untapped resource towards demands for better governance, including educating and informing public debate and exposing governance issues and corruption. The media needs to be pro-actively engaged, to understand EITI, to see itself as having a role in the debate. It needs to start reporting on issues through the lens of global transparency and poverty-reduction efforts. It needs to be fluent in the MDGs, human rights and development, and EITI issues. There are some programmes (such as run by UNDP) towards training and sensitizing journalists and editors (including radio) to report on issues of development, and not simply on political intrigues. We need support in this regard;
3. **‘People-centered approach’:** The need to work and reverse the current trend in participation and ownership by placing people and communities at the center of development and decision making. This would translate wealth from natural resources to the direct benefit of Liberians. The corresponding responsibility is to encourage Liberians to take active interest in closely following expenditures and disbursement of government resources as a way of determining whether the Government of Liberia is devoted to maximizing available resources to meeting its obligations especially vulnerable communities.

For instance, major portions of the revenues from the extractive sector should be shifted to the educational sector so as to make provisions for vulnerable youth, children of widows and orphans to find their way back to schools. Proceeds from this industry should also be used for the construction of community libraries and public schools in order to breach the wide gaps between public and private academic institutions. This we believe will stop the accelerated encroachment of poverty on our 162-year old Republic;

4. **‘Contract transparency’:** The need to emphasize contract transparency by actively involving local communities and civil society. If investments in the extractive sector are to increase revenue and contribute substantially to poverty alleviation, contract transparency is then an effective communication tool or vehicle in achieving these objectives. The signing of contracts should reflect meaningful public participation including the scrupulous inputs of communities hosting such concessions;
5. **‘Balancing development with environment’:** The need to balance investment and environmental management. Social Audits and/or Environmental Impact Assessments (EIAs) must be given top priority, and demonstrably seen as a necessary first step, in awarding contracts in the extractive sector;
6. **‘Portraying EITI as a positive, empowering initiative not a burden’:** The EITI must not be seen as an additional burden on an already impoverished population, but seen as a campaign deeply rooted in restoring confidence-levels that community-based resources are not a curse but a blessing. In this way, the identification and implementation of mitigation plans as well as benefit-retention from extractive activities will have the support of community members;
7. **‘Strengthening parliamentary oversight – and oversight of parliament!’** There is a need to strengthen the formal oversight role of the National Legislature over the LEITI and its capacity to adequately review contracts with an objective to make extraction of our resources people-beneficial. The substantive involvement of the legislature is crucial as it allows legislators to participate in outreaches that communicate the benefits of LEITI and its reports to their constituencies. The links between data contained in LEITI reports and the National Budget are obvious; legislative involvement with the LEITI process can be useful in national budget debates and allocations;
8. **‘Strengthening civil society – and its coordination’:** The need to increase the oversight role of Liberian civil society in outreach on LEITI. Building capacity of civil society to take the lead in communicating LEITI and enforcing reports would be laudable.
9. **‘Maximising the mileage from EITI reports’:** Elevating the status of the Liberian campaign by making creative use of the LEITI report(s) to demand accountability—implementing outcomes of LEITI Reports. Shelving LEITI

reports after publications and reconciliation without taking appropriate actions to continuously improve fiscal management of extractive revenues would undermine the LEITI, and make it irrelevant to the tracking of revenue flows, reduction of poverty and fight against corruption;

10. **‘Beyond reports and publications: creating a culture of demand for good governance on resources’:** LEITI must move beyond mere publications and civil society must play a key role in galvanizing Liberians to follow the money beyond the reports ensuring the Government meets socio-economic and political obligations;

### **Concluding remarks**

- Finally, we wish to highlight that despite the massive pillaging of resources by successive regimes, Liberia remains endowed with vast natural resources. Our history is replete with significant foreign investments in the extractive industries
- However, we note with sadness that though substantial revenue from these investments were collected in the form of taxes, fees and other payments, widespread poverty persists across the country, and particular in mineral-rich communities.
- We are convinced that had we effectively and transparently managed revenue from our resources, with adequate allocations to mineral-rich communities and vulnerable groups Liberia would not have experienced the calamities for the last two decades as we would not be mired in poverty or subjected to conditionalities required in Poverty Reduction Strategies and the Millennium Development Goals.

On behalf of concerned Liberian civil society actors, we present this statement to you, invite your views and ideas and mainly THANK YOU for your consideration

Monrovia, October 2009.