



Zambia

Citizens' groups use revenue disclosures to advocate for local service funding



Fees charged to mining companies for land use are a significant source of income for local authorities in Zambia. The Zambian PWYP coalition discovered that a legal loophole had been enabling some mining companies to avoid paying land-use fees. These lost revenues affect the authorities' ability to provide services to local communities. The coalition made the discovery while analysing mining company payments to local and national governments, disclosed through the Zambian Extractive Industries Transparency Initiative (EITI) reports.

The coalition collaborated with local authorities to challenge the loss of substantial revenues, providing them with evidence of the extent of losses and arranging meetings with the national government on the issue. Under pressure from local authorities, the national government amended the law, enabling local authorities to charge land-use fees. Citizen groups are now monitoring the application of this amendment and tracking use of the funds raised, down to community level.



Introduction

Since 2002, the Publish What You Pay (PWYP) network has been campaigning for companies to declare the payments they make to governments to improve citizen oversight of natural resource extraction. As a result of civil society advocacy, payment disclosure is now mandatory in many countries, and is required by members of the Extractives Industries Transparency Initiative (EITI). However, payment data alone is insufficient to ensure better accountability and outcomes from extraction for citizens. In their advocacy programmes, community-based organisations and local NGOs within PWYP coalitions are using payment disclosures by oil and mining companies to scrutinise the benefits and costs of extractive projects.

Analysing payment disclosures in Zambia or citizen benefit

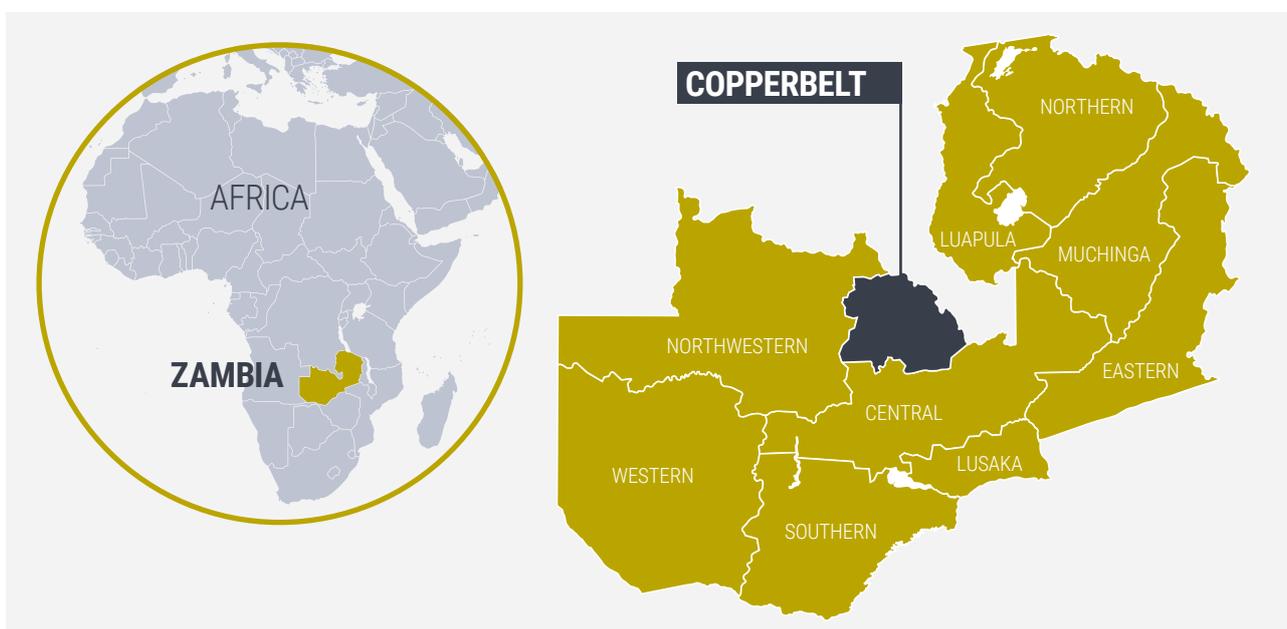
In 2017, as part of its advocacy programme to ensure that citizens benefit from resource revenues, PWYP Zambia convened NGOs,

community-based organisations and community influencers in the Copper Belt to review [Zambia's newly published EITI report for 2014-2015](#).

The PWYP coalition coordinates scrutiny of government and company compliance with EITI requirements, and facilitates discussion about the meaning and implications of the data from the perspective of benefits to citizens. The coalition in Zambia had evolved its work from focusing on how to make sure EITI requirements were being implemented at local level, towards a more active advocacy approach based on what civil society wanted from the EITI process. The agreed approach was to focus on the need to increase local revenues, going beyond the ambition of implementing EITI requirements to simply generate the required data.

Building a case by asking questions

The coalition had learned not to be put off by the challenges of interpreting financial disclosure figures. It took baby steps, asking direct questions to build up a picture of why payments were not being made. In their analysis of the EITI





report, civil society representatives queried why local authorities appeared in some instances not to be receiving local taxes levied on the use of land by mining companies – one of the main sources of revenue from mining projects for local authorities.

In districts such as Lufwanyama, only one company appeared to be making these payments consistently, while the area included the three largest mines in Zambia and one of the largest emerald mines in the world.



Civil society estimated that in Lufwanyama district alone, where the council had identified 170 operational mining companies with an annual land-tax liability of **8.5 million kwacha** (around US\$630,000), only **K1.2 million** (US\$88,000) was being received (**14%**). The remaining **K7.3 million (86%)** were not being collected because of a lack of title deeds.¹

From the perspective of local communities and district councils, these sums are significant. Extrapolated across Zambia's mining sector,

1. Lufwanyama Town Council (2019), District Treasurer's presentation to the stakeholders meeting to discuss extractive industry revenue (from mining and timber) in Lufwanyama district.

they are substantial. Civil society felt that local-level advocacy was needed to address this, alongside national-level advocacy to ensure that mining projects were being taxed effectively and for citizens' benefit.

Seeking answers – and accountability

In April 2019, PWYP Zambia convened a meeting with local authorities and companies to understand what payments were being made, what the revenues were being used for, and why tax revenues seemed to be lower in many cases than expected. Less than 10 of the hundreds of company licence holders attended the initial meeting. They argued that they were not mandated to make the payments by law and did not break any rules. By asking local authorities questions about disclosed payments, civil society members identified three key issues. They uncovered the existence of barter arrangements in which companies were providing in-kind services as a contribution to tax liabilities. They also gained further knowledge about corporate social responsibility (CSR) projects that were not always aligned with local authority development plans, and they identified a loophole in the law that meant that local authorities were not claiming certain land-use taxes. The law enabled local authorities to charge tax where mining companies owned the land, but not where these companies were leasing it.



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Creating a powerful advocacy alliance to secure legal changes

Given the importance of land taxes to local authority funding, civil society identified closing the loophole as an advocacy priority, which would help increase revenues to local authorities and subsequent funding for local services. While local authorities were aware that they were not receiving certain land tax payments, the impetus for change came from civil society. By illustrating the extent of revenues losses and proposing a route to remedy this through legislative reform, civil society worked collaboratively with local authorities to create the will to lobby for legislative change.

The PWYP Zambia coalition mounted an advocacy campaign to change the law, linking the call for closing the loophole to its ongoing campaigns for extractive justice. It released press statements calling for a change in the law, backed by its analysis of the extent of lost payments. The coalition used this analysis

to persuade local authorities to prioritise the issue and to become an active partner in lobbying for an amendment to the Property Rating Act. PWYP Zambia created platforms for local authorities to advocate directly to the government for the need for a change in the law, based on PWYP's analysis of lost revenues. The coalition invited the Ministry of Local Government and Housing, responsible for the Property Rating Law, to presentations on the issue at the Zambia Alternative Mining Indabas in 2017 and 2018, alongside representatives from local authorities. Local officials lobbied Zambia's ministries effectively, and in 2018 the Ministry of Finance and Budgets recognised the need for review of the Property Rating Act, to allow local authorities to generate further revenue. The government subsequently enabled amendment of the Act, allowing local authorities to charge levies for leased land and capital such as mining equipment, in line with levies on other businesses. Civil society identified its mobilisation of local authorities as critical to securing amendment of the law.



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Making change sustainable

Local authorities asked PWYP Zambia to continue to convene meetings with companies and civil society. Lufwanyama Municipal Council suggested that these be held as often as twice a month, to ensure that developmental projects in Lufwanyama are aligned to the District Development Plan. In taking the unusual step of asking civil society to convene such meetings, local authorities showed a strong level of trust and respect for activists. At one meeting, the authority informed companies of the changes in the law and the new levies that would be charged. Local authorities also used these meetings to secure commitments from local traditional leaders and companies that future CSR projects should be aligned and agreed with local authority plans. Traditional leaders were concerned to know about how companies were being taxed by the local authority and where resources would be used, especially as there were no specific laws for compensation to traditional communities and no direct mechanism to share revenue with traditional authorities.

Zambian civil society is monitoring how much has been levied and collected in land tax by local authorities and what this is being used for. It also continues to push for transparency in barter negotiations and agreements, to increase local accountability, so citizens have a more exact picture of how benefits from mining projects are being distributed and what the trade-offs are. Within the national EITI multi-stakeholder group, civil society representatives are negotiating for inclusion of barter agreements in Zambia's agreed disclosures, given their significance to local accountability. This continues to be discussed within the group.

Continuing challenges

One obstacle to the sustainability of the progress made through advocacy is pushback from companies. In some cases, companies have challenged the new charges by referring to other laws that limit the remit of local authorities in levying taxes. While civil society is confident that these pushbacks can be successfully addressed through working with local authorities, they remain a challenge.



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Key learning

Civil society identified key lessons from the campaign:

■ Evidence-based approach

The coalition found that taking an evidence-based approach and communicating the clear benefits to partners helped it create a shared agenda with local authorities that ultimately contributed to effective lobbying of the national government.

■ An inclusive and well-coordinated coalition

Effective facilitation by the PWYP Zambia Secretariat meant that community-based organisations and NGO coalition members could work together to identify and discuss missing payments, trends and possible avenues for redress. Community-based organisations and community influencers strengthened the coalition's ability to ask relevant questions. They could see that mines were active, for example, while also noticing that no royalties or tax was being paid to government, and could therefore ask authoritative questions about revenues and their use, while acting as advocates for their communities.

■ National and locally relevant strategies

The coalition was strengthened by having parallel advocacy strategies concerning national and local tax issues, as advocates could include messages about local concerns into the channels and platforms they had created to convey their messages nationally.

■ Taking an advocacy approach to the EITI

The coalition was effective in that it had evolved from focusing on how to make sure EITI requirements were being implemented at local level, towards having a more active advocacy approach based on what civil society wanted from the process. The agreed approach focused on the need to increase local revenues. Civil society members of the EITI multi-stakeholder group felt accountable to community groups in making sense of the data and communicating this, so local people could make effective use of the information.





■ Interpreting data – learning by doing

The coalition had learned not to be put off by the challenges of interpreting financial disclosure figures. It took small steps, persisting in asking direct questions to build up a picture of why payments were not being made. Coalition members found it useful to ask for other supporting documents, such as company and local authority financial statements, background agreements, barter agreements and contracts, to make sense of payments.

■ Sharing learning

Other coalitions can learn from or be inspired by this work. After communicating its approach to the PWYP network, PWYP Zambia received a request from PWYP Malawi to share learning about the analysis of their first EITI report in May 2017. Malawi subsequently adopted the idea of developing a citizens' EITI report.

■ Gaps in resources

Civil society advocates felt they could strengthen their approach by having a stronger overview of the legal framework, so they could anticipate legal pushbacks and address them in advance. Having partnerships with organisations that could help provide an overview of the legal framework could benefit similar work in the future. ■

This story of change is told from the perspective of the civil society coordinator involved. It serves as a starting point for capturing progress and reflecting on advocacy with the intention of learning. Stories of change can be strengthened and built on through formal post-action reviews conducted with participants, by adding evidence of civil society contributions and other stakeholders' perspectives.

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