

CHAPTER III

CIVIL SOCIETY ENGAGEMENT



Chapter III. Civil Society Engagement¹

I. Introduction

Central to the Extractive Industries Transparency Initiative model is the collaboration among government, civil society, and industry to improve resource governance in participating countries. The EITI, similar to other multi-stakeholder initiatives, aims to improve public governance through disclosure of information and civic involvement. The involvement of civil society organizations (CSOs) is thus crucial to the EITI process.

CSOs help in shaping the implementation of the EITI Standard. They are involved in EITI governance at both local and global levels through national multi-stakeholder groups (MSGs) and the EITI board. The EITI Association has around 100 civil society members, with established guidelines for becoming members and nominating representatives to the EITI Board. In EITI-implementing countries, civil society has the right to nominate representatives to the national multi-stakeholder group through an open, inclusive, and independent process.²

The EITI Standard provides guidelines on civil society engagement in extractives through EITI Requirement 1.3. Requirement 1.3 of the 2019 EITI Standard requires civil society's full, active, and effective engagement in the EITI process. EITI considers civil society participation critical in achieving its objectives. EITI Principle 4 emphasizes the significance of transparent reporting of government finances, which can aid in informed public discourse and support the adoption of practical and feasible strategies for sustainable development. When civil society fully, actively, and effectively participates in the EITI process, it ensures that the transparency resulting from EITI leads to greater accountability.³

Bantay Kita's shadow report on the Philippines' civic space

The EITI Validation⁴ for the Philippines began on April 1, 2021, after a public call for stakeholder views was made on March 4, 2021. In response to this call, Bantay Kita, a civil society coalition and an active member of the Philippine Extractive Industries Transparency Initiative (PH-EITI), submitted its report on the country's civic space developments during the period under review in the Validation to the EITI Validation team on March 31, 2021. The EITI Validation team primarily used information from the Bantay Kita report to assess PH-EITI's compliance with requirement 1.3. The report, titled "A Rising Tide: A Shadow Report on Civic Space in the Philippines," is available for viewing and download on the official PH-EITI website (<https://pheiti.dof.gov.ph/resources/>).

The Bantay Kita report used the EITI Validation Framework on Civil Society Engagement to assess the country's civic space from January 2017 to March 2021. The report notes that while it is national in scope, it used only four sites and a group of national CSOs to provide

¹ Mary Nicole M. Hilario, Lead Writer (PH-EITI Deputy National Coordinator).

² "Civil society organizations," EITI, accessed 9 Oct 2023, <https://eiti.org/civil-society-organisations>.

³ "Protocol: Participation of civil society," EITI, accessed 9 Oct 2023, <https://eiti.org/documents/protocol-participation-civil-society>.

⁴ Validation is the EITI's quality assurance mechanism used to ensure that EITI-implementing countries are effectively meeting the provisions set by the EITI Standard.

a representative view of the national situation from the perspective of various civil society actors. The report asserts that institutional capture and the weaponization of the law resulted in a shrinking civic space in the country. The recent passing of Republic Act (RA) No. 11479,⁵ known as the “Anti-Terrorism Act of 2020,” is found to be particularly alarming as it is feared to constrain rights to free expression, peaceful assembly, and association with others. Moreover, regulations limiting and stigmatizing civil society make operating efficiently challenging for CSOs involved in natural resource governance and EITI.⁶

Concerning trends characterizing the country’s civic space alleged by the Bantay Kita study include:⁷

- The chilling effect of the legal and regulatory policies introduced by the Duterte administration, including the Anti-Terrorism Act (ATA), restricting civic space.
- A general feeling of hesitation and fear to voice their opinions, demonstrate, or hold events due to the perception that the government is monitoring CSO members more closely.
- Experiences of intimidation, harassment, and violent dispersal, often at the hands of government authorities.
- A general belief that the media is subject to some form of censorship.
- The recognition of a need to improve how EITI is communicated within the civic space.
- Due to decreased collaborative platforms, joint efforts between civil society organizations and the government are becoming less common.
- A general sentiment is that data and information are either inaccessible or lacking.

2021 EITI Assessment of the Philippines on EITI Requirement 1.3

In response to stakeholder concerns regarding an enabling environment for civil society engagement in the EITI, the EITI Validation team evaluated the country’s compliance with the EITI Protocol for civil society participation.⁸ The assessment drew heavily from the information provided by the Bantay Kita report. Below is a summary of the assessment results for each dimension of the EITI Protocol.

- **Expression**
Civil society actors engaged in the EITI have reported facing threats and restrictions on free expression related to extractive governance issues. While the Validation team noted that it was impossible to establish whether these resulted from activities related to the EITI, they still found cause for concern that those who oppose mining projects are being red-tagged.⁹ It was also noted that the media

⁵ An Act to Prevent, Prohibit and Penalize Terrorism, Thereby Repealing Republic Act No. 9372, Otherwise Known as the “Human Security Act of 2007,” Republic Act No. 11479 (3 July 2020) (Phil.), <https://www.officialgazette.gov.ph/2020/07/03/republic-act-no-11479/>.

⁶ Bantay Kita, *A Rising Tide: Shadow Report on Civic Space in the Philippines* (Bantay Kita, April 2021), <https://pheiti.dof.gov.ph/resources/>.

⁷ Bantay Kita, *A Rising Tide*.

⁸ EITI International Secretariat, *Validation of the Philippines: Final assessment of progress in implementing the EITI Standard* (EITI, 1 July 2021), <https://eiti.org/documents/philippines-2021-validation-report>.

⁹ The Commission on Human Rights (CHR) uses the definition of the International Peace Observers Network (IPON) of red-tagging: “an act of State actors, particularly law enforcement agencies, to

continues to cover sensitive extractive-related topics. Furthermore, the team could not confirm that EITI-related media coverage would lead to reprisals.

- **Operation**
EITI-related activities have faced setbacks due to accreditation problems at the local level. While having a letter from a government agency can prevent harassment, MSG members lacked documents proving their connection to EITI during Validation. No evidence suggests civil society EITI activities were impeded at the central government level.
- **Association**
Civil society's communication and collaboration on EITI appear effective, but some extractives-related events have halted in select regions due to security concerns. There are also worries about increased surveillance and monitoring of civil society events, which may affect discourse. It's unclear if this has impacted EITI-related communication or if the government does monitor civil society's EITI-related communications.
- **Engagement**
There is no evidence that civil society cannot fully participate as an equal partner in designing, implementing, monitoring, and evaluating the Philippines' EITI process.
- **Access to public decision-making**
There was no indication that civil society was hindered from leveraging the EITI process to stimulate public discourse and participate in natural resource governance.

Overall, the assessment finds that conditions for civil society engagement in the EITI in the Philippines are constantly changing. Data from the period covered by the assessment even indicated a decline in civic space throughout the country, which affected the ability of civil society to work on EITI-related issues. While the Validation team acknowledged that the evidence was mostly anecdotal, they noted that certain regions in the country do face obstacles in carrying out EITI-related activities.

Following the Validation of the Philippines, the EITI Board concluded that while the country achieved a moderate overall score in EITI implementation, it has only partly met Requirement 1.3. In May 2023, the EITI Board agreed that a targeted assessment for civil society engagement should be undertaken in the Philippines starting January 1, 2024.¹⁰

publicly brand individuals, groups, or institutions as affiliated to communist or leftist terrorists," see CHR, *CHR-CAR Human Rights Advisory on Red-Tagging*, 2.

¹⁰ "The EITI Board agreed transitional arrangements to the 2023 EITI Standard," EITI, accessed 9 Oct 2023, <https://eiti.org/board-decision/2023-21>.

Legal and Institutional Framework for Philippine Civil Society

The 1987 Constitution

The 1987 Constitution¹¹ acknowledges the vital role of Civil Society Organizations (CSOs), putting emphasis on the promotion and protection of the rights of the people as well as platforms for effective civic participation and empowerment. It is shown in several provisions of the Constitution, with the most prominent being the following:

- Article II, Section 23: “The State shall encourage non-governmental, community-based, or sector organizations that promote the welfare of the nation.”
- Article XIII, Section 15: “The State shall respect the role of independent people’s organizations, within the democratic framework, their legitimate and collective interests and aspirations through peaceful and lawful means [...]”
- Article XIII, Section 16: “The right of the people and their organizations to effective and reasonable participation at all levels of social, political and economic decision-making shall not be abridged. The State shall, by law, facilitate the establishment of adequate consultation mechanisms.”

The Local Government Code of 1991

The Local Government Code (LGC) of 1991¹² also emphasizes the importance of providing spaces and enacting appropriate policies to ensure civic engagement in governance at the local level. Specific sections of the LGC pertaining to civic participation in local governance include:¹³

- Sections 2 (c), 26, and 27 require national government agencies (NGAs) to consult nongovernmental organizations and sectors prior to implementing projects or programs.
- Sections 34 and 35 encourage local government units (LGUs) to partner with people’s and nongovernmental organizations to pursue local autonomy.
- Sections 98, 102, and 107 provide for the participation of civil society representatives in local special bodies (LSBs).

Regulatory Agencies

Although it is not a legal requirement for CSOs to register with the Philippine government, only those registered are granted legal recognition, enabling them to engage in contractual agreements and operate bank accounts. Four government agencies provide primary registration that provides a legal personality to a CSO: the Securities and Exchange Commission (SEC), the Cooperative Development Authority (CDA), the Department of Labor and Employment (DOLE), and the Housing and Land Use Regulatory Board (HLURB). Other government agencies may also require CSOs to obtain additional registration,

¹¹ <https://www.officialgazette.gov.ph/constitutions/1987-constitution/>; Asian Development Bank (ADB), *Civil Society Briefs: Philippines*, accessed 12 Oct 2023, <https://www.adb.org/sites/default/files/publication/30174/csb-phi.pdf>.

¹² An Act Providing for a Local Government Code of 1991, Republic Act No. 7160 (10 October 1991) (Phil.), <https://www.officialgazette.gov.ph/1991/10/10/republic-act-no-7160/>.

¹³ Chadwick Llanos, “The CSO Constituency: Describing the Civic Space in the PH-EITI for the CSO MSG” (Unpublished report, PH-EITI, October 5, 2023).

licenses, or permits based on their planned activities in addition to their primary registration.¹⁴

On November 7, 2018, the SEC issued the “Guidelines for the Protection of SEC Registered Non-Profit Organizations from Money Laundering and Terrorist Financing Abuse,” officially designated as Memorandum Circular (MC) No. 2018-15.¹⁵ MC 15 covers non-profit organizations (NPOs) assessed as high-risk, as well as politically exposed persons (PEPs) with prominent public positions/functions. According to the SEC, this will improve its registration and monitoring system by collecting essential data from Non-Profit Organizations (NPOs) to better regulate and assess potential risks. However, some expressed worries that the government could potentially employ this MC to go after their opponents in the political realm.¹⁶

From 2018 to 2021, the Department of Interior and Local Government (DILG) issued a series of MCs relating to CSOs.

- MC No. 2018-89¹⁷ references Section 23, Article II of the Constitution. It outlines general guidelines and conditions for CSO engagements and establishes a mechanism through which the DILG can engage CSOs.
- MC No. 2019-72¹⁸ relates to the CSOs’ participation in LSBs, outlining general guidelines on the accreditation of CSOs and the selection of representatives to these LSBs. It aims to enhance the involvement of CSOs in the processes of local governance and development.
- MC No. 2021-054,¹⁹ which amended the previously issued MC No. 2021-012²⁰ to address issues on operationalizing key concepts introduced in the original policy. The MC encourages local government units (LGUs) to set up their respective CSO

¹⁴ ADB, *Civil Society Briefs: Philippines*.

¹⁵ Securities and Exchange Commission, Guidelines for the protection of SEC Registered Non-Profit Organizations from Money Laundering and Terrorist Financing Abuse, SEC Memorandum Circular No. 15 (9 November 2018) (Phil.), <https://www.sec.gov.ph/mc-2018/mc-no-15-s-2018-guidelines-for-the-protection-of-sec-registered-non-profit-organizations-from-money-laundering-and-terrorist-financing-abuse-npo-guidelines-2/#qsc.tab=0>.

¹⁶ Russel Patina, “Chilling effect: Groups slam new SEC guidelines for nonprofits,” *Rappler*, 9 Feb 2019, <https://www.rappler.com/moveph/223001-civil-society-groups-statements-sec-new-guidelines-non-profit-organizations/>.

¹⁷ Department of the Interior and Local Government, Guidelines on Engagements with CSOs, DILG Memorandum Circular No. 2018-89 (13 June 2018) (Phil.), <https://www.dilg.gov.ph/issuances/mc/Guidelines-on-Engagements-with-CSOs/2736>.

¹⁸ Department of Interior and Local Government, Guidelines on accreditation of civil society organizations and selection of representatives to the local special bodies, DILG Memorandum Circular No. 2019-72 (27 May 2017) (Phil.), <https://dilg.gov.ph/issuances/mc/Guidelines-on-accreditaion-of-civil-society-organizations-and-%20selection-of-representatives-to-the-local-special-bodies/2975>.

¹⁹ Department of the Interior and Local Government, Amendment to the DILG Memorandum Circular No. 2021-012, on the Establishment of Civil Society Organization Desk and Institutionalization of People’s Council in the Local Government Units, DILG Memorandum Circular No. 2021-054 (19 May 2021) (Phil.), <https://www.dilg.gov.ph/issuances/mc/Amendment-to-the-DILG-Memorandum-Circular-No-2021-012-on-the-Establishment-of-Civil-Society-Organization-Desk-and-Institutionalization-of-Peoples-Council-in-the-Local-Government-Units/3390>.

²⁰ Department of the Interior and Local Government, A Establishment of Civil Society Organization Desk and Institutionalization of People’s Council in the Local Government Units, DILG Memorandum Circular No. 2021-012 (28 January 2021) (Phil.), <https://dilg.gov.ph/issuances/mc/Establishment-of-Civil-Society-Organization-Desk-and-%20Institutionalization-of-Peoples-Council-in-the-Local-Government-Units/3337>.

Desks and to establish the local People's Council in every province, city, and municipality. It should be noted that the amendment effectively removed a provision that CSOs feared would restrict civic freedom, specifically the requirement to secure clearance from state security forces.²¹

The Anti-Terrorism Act

Of most concern to actors within the civic space was the passing of the Anti-Terrorism Act (ATA) of 2020.²² The ATA was signed into law by former President Duterte on July 3, 2020, amid the Covid-19 pandemic. It replaced the Human Security Act of 2007 and was envisioned to provide “a strong legal structure that deals with terrorism to exact accountability, liability, and responsibility.” The ATA covers people who committed, are about to commit, or are supporting people committing terroristic acts.²³

Numerous groups have petitioned against this law, citing the possible violation of constitutional rights to due process, free speech, and expression, the encroachment on judicial power by the executive, arbitrary detention, and pretrial punishment.²⁴ In response to the petitions against ATA, the Supreme Court mostly upheld the validity of ATA except for two provisions, Section 4 and Section 25. However, protesters of ATA still deem the law flawed and open to abuse by authorities.²⁵

²¹ “DILG revokes AFP, PNP clearance req’t for CSOs,” *INCITEGov*, 25 May 2021, <https://incitegov.org.ph/posts?post=10005>.

²² An Act to Prevent, Prohibit and Penalize Terrorism, Thereby Repealing Republic Act No. 9372, Otherwise Known as the “Human Security Act of 2007,” Republic Act No. 11479.

²³ “Press Release: Senate OKs bill repealing the Anti-Terrorism Law,” *Senate of the Philippines 19th Congress*, 26 February 2020, http://legacy.senate.gov.ph/press_release/2020/0226_prib5.asp, (accessed 23 May 2023).

²⁴ E. Santos, “Here are the major issues raised against the Anti-Terrorism Act,” *CNN Philippines*, 30 January 2021, <http://www.cnnphilippines.com/news/2021/1/30/Anti-Terrorism-Act-oral-arguments-Supreme-Court.html>, (accessed 22 May 2023).

²⁵ J. Gomez, “Top Philippine court: Anti-terror law largely constitutional,” *AP News*, 9 December 2021, <https://apnews.com/article/business-philippines-manila-terrorism-7090c42a912695866c32d361fa124621>, (accessed 23 May 2023).

II. Scope and Methodology

The purpose of this chapter in the PH-EITI Country Report FY 2021 is to give an assessment of civic engagement in the Philippines, with a focus on the PH-EITI, as part of the PH-EITI's efforts to address the 2021 Validation corrective actions. Due to limitations in time and resources, the assessment is narrow in scope. An additional report will be published in early 2024 to broaden the assessment beyond PH-EITI.

To evaluate the civic engagement of PH-EITI in the Philippines, we will initially examine its compliance with EITI Requirement 1.3. This evaluation will focus on the action steps taken by PH-EITI to address corrective actions issued by the EITI Board after the 2021 Philippine Validation. To conduct this assessment, we will utilize qualitative research methods, specifically engaging secondary research on the documented activities of PH-EITI and the developments in the civic space related to extractive activities since the 2021 Philippine Validation.

This chapter also presents the preliminary results of the PH-EITI consultant's evaluation of PH-EITI's engagement with civil society. Specifically, the preliminary findings obtained from the consultant's assessment of the level and quality of CSO representation in the PH-EITI MSG.

The consultant conducted individual key informant interviews (KIIs) with the ten CSO representatives of the PH-EITI MSG between 11 September and 15 September 2023. The KIIs were conducted to inform their assessment and revolved around four main areas of discussion, as presented below.²⁶

1. Internal Governance: the manner in which the MSG-CSO members exhibit their leadership within the MSG.
2. Primary Constituency Accountability: how the MSG-CSO members represent and draw mandates from their communities and constituencies.
3. Networking: addresses the gaps in civic representation and participation within the PH-EITI.
4. Civic Space and Democratic Issues: current democratic issues and threats to civic space.

As mentioned previously, a report will be released in the first quarter of 2024, aiming to expand the assessment of civil society engagement beyond the PH-EITI. The report will consolidate the findings of two ongoing initiatives that analyze the status of civic engagement in the Philippines and in the PH-EITI carried out by the PH-EITI consultant and Bantay Kita.

The PH-EITI consultant is set to present a comprehensive evaluation of civic space to the PH-EITI MSG by January 2024. The consultant's work includes conducting additional regional Key Informant Interviews (KIIs) and surveys, both onsite and online, which will

²⁶ Chadwick Llanos, "The CSO Constituency: Describing the Civic Space in the PH-EITI for the CSO MSG."

cover all sectors involved in natural resource governance from the 12 administrative regions identified as having a high concentration of extractive projects.²⁷

Bantay Kita's comprehensive assessment is scheduled to be submitted for MSG deliberation by 31 December 2023. Bantay Kita's report employs mixed methods of social research, using both quantitative and qualitative methods. The study targeted over 90 respondents from the 19 provinces and 11 administrative regions (excluding BARMM) identified as having active large-scale metallic mining operations as of June 2023.²⁸

²⁷ Chadwick Llanos, "The CSO Constituency: Describing the Civic Space in the PH-EITI for the CSO MSG."

²⁸ Beverly Besmanos and Marco Zaplan, "Bantay Kita Civic Space Report," (Presentation for the PH-EITI MSG's Pre-Validation Workshop, Parañaque, Metro Manila, 28 November 2023).

III. PH-EITI compliance with Requirement 1.3

PH-EITI's commitment to an effective EITI implementation in the Philippines

There remains a solid commitment to implementing EITI in the Philippines. One of the pledges made by the country in the 5th Philippine Open Government Partnership (OGP) National Action Plan (NAP) 2019-2020²⁹ is to show meaningful progress in meeting the EITI Standard. Specifically, the Department of Finance (DOF) committed to institutionalizing transparency and accountability in the extractive industries by mainstreaming EITI implementation. PH-EITI has since created and maintained a public register³⁰ of beneficial owners (BO) of extractive companies.³¹

It is worth noting that the government's active involvement in the PH-EITI multi-stakeholder group (MSG) is a clear indication of its dedicated implementation of the EITI in the Philippines. High-level government officials have been designated to represent the government constituency within the PH-EITI MSG. This highlights the government's strong commitment to ensuring robust and credible engagement with the PH-EITI. More information on the PH-EITI MSG is available on the official PH-EITI website, accessible through <https://pheiti.dof.gov.ph/thepheitimsg>.

The PH-EITI MSG also demonstrates this commitment towards a more effective EITI implementation. Publicly accessible copies of the MSG minutes of the meetings³² will show that stakeholders continue to utilize the multi-stakeholder platform as a space for the discussion of transparency and resource governance issues, including concerns on civic engagement. The PH-EITI MSG also held a strategic planning conference on 22-24 March 2023 in Malate, Manila, recognizing the need to protect, strengthen, and broaden spaces for multi-stakeholder governance.³³

At the conference, the PH-EITI MSG agreed on a new framework and direction for EITI implementation in the Philippines. According to PH-EITI, this plan not only tackles the issues found in the Philippines' 2021 Validation but also goes beyond the EITI Standard, ensuring genuine multi-stakeholder participation in resource governance in the broader context of the Philippines.³⁴

²⁹ The Philippine Open Government Partnership, *5th National Action Plan Revised 2019-2022*, December 2020, https://www.opengovpartnership.org/wp-content/uploads/2019/12/Philippines_Action-Plan_2019-2022_Revised.pdf.

³⁰ Accessible via <https://pheiti.dof.gov.ph/boregistry/>.

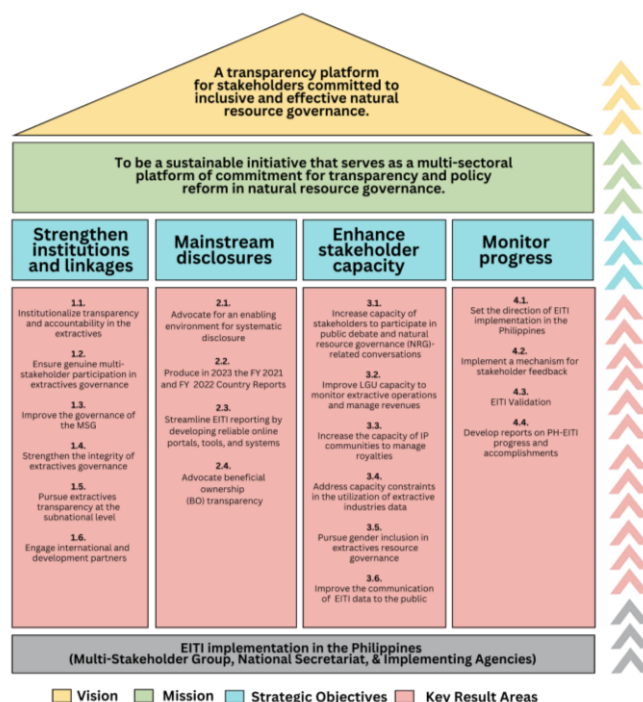
³¹ The BO data included in PH-EITI's BO registry are based on voluntary disclosures of extractive companies participating in the PH-EITI reporting.

³² Accessible via <https://pheiti.dof.gov.ph/minutes-of-meetings/>.

³³ PH-EITI, "PH-EITI MSG Conference FY 2023 Report," https://docs.google.com/document/d/1bJq7wM4R-W6zfFyegHFzrX5zP4gkE_RE/edit?usp=sharing&ouid=107694220725301124497&rtpof=true&sd=true.

³⁴ PH-EITI, *PH-EITI 2023 Work Plan*, May 2023, https://pheiti.dof.gov.ph/download/ph-eiti_work-plan-2023/?wpdmdl=3797&refresh=64591ea22e3cd1683562146.

Figure III-1. 2023 PH-EITI Implementation Framework



PH-EITI action steps and progress on Requirement 1.3 corrective actions

The validation outcome for the Philippines in 2021 concluded that the country achieved a moderate overall score in implementing the 2019 EITI Standard while only partially fulfilling EITI requirement 1.3 concerning civil society participation. Article 5 of Chapter 4 of the EITI Standard calls for suspending a country that “made inadequate progress or less on any one of the requirements relating to stakeholder engagement (Requirements 1.1, 1.2, and 1.3).” However, instead of reaching a consensus on enforcing this provision, the Board advised the Philippine government and all stakeholders to work toward implementing the corrective actions proposed by the Board.³⁵

Following the release of the country’s Validation result in February 2022, the PH-EITI MSG has been working to address the corrective actions issued by the EITI Board to improve the implementation of EITI. This report shall focus on PH-EITI’s efforts concerning EITI requirement 1.3.

Specifically for EITI Requirement 1.3, quoted below are the prescribed corrective actions:³⁶

“In accordance with Requirement 1.3, the Government of the Philippines is required to ensure that there are no obstacles to civil society participation in the EITI process. The government must refrain from actions which result in narrowing or restricting public debate in relation to implementation of the EITI.”

³⁵ “The Philippines has achieved a moderate overall score in implementing the 2019 EITI Standard,” EITI, 17 Feb 2022, <https://eiti.org/board-decision/2022-17>.

³⁶ EITI International Secretariat, *Validation of the Philippines: Final assessment of progress in implementing the EITI Standard* (EITI, 1 July 2021), <https://eiti.org/documents/philippines-2021-validation-report>.

The government should ensure that there are no obstacles for civil society to organize EITI-related activities, such as events and meetings, in any region of the country. Extractive companies engaged in the EITI are encouraged to express their support to civil society's freedom of expression and operation, also when engaging with local government officials.

The government is encouraged to undertake measures to prevent civil society actors from being red-tagged for expressing views related to oil, gas or mining governance. In the event that civil society actors engaged in the EITI experience threats or harassment for expressing views about the extractive industries or engaging in other EITI-related activities, the government is expected to undertake measures to protect these actors and their freedom of expression.

The government, in collaboration with the MSG, is encouraged to consider practical solutions for ensuring that civil society can engage in the EITI freely in all regions of the country. This could involve accreditation and supporting documentation from the government agencies involved in the EITI and raising awareness about the EITI among local government officials, the police, and armed forces. In areas where civil society is refraining from organising events due to security concerns, the MSG could consider stepping up EITI outreach. The MSG is encouraged to regularly monitor developments regarding civil society's ability to engage in the EITI. The government, in collaboration with the MSG, is encouraged to document the measures it undertakes to remove any obstacles to civil society participation in the EITI.

In accordance with the EITI protocol: Participation of civil society, civil society MSG members are encouraged to bring any ad hoc restrictions that could constitute a breach of the protocol to the attention of the MSG. The MSG is expected to document how it addresses these concerns.”

During its 81st meeting on 16 September 2022,³⁷ the PH-EITI MSG agreed on six specific action steps to address the prescribed corrective actions concerning Requirement 1.3 after a series of discussions with civil society representatives.

Action Step Provision No. 1.3-1. Creation of a permanent working group on stakeholder engagement with representatives from the government, industry, and civil society.

A resolution³⁸ was approved by the PH-EITI MSG in September 2022, establishing the stakeholder engagement (SE) committee. The committee aims to support the MSG in ensuring that stakeholder participation in the EITI is both inclusive and meaningful. Additionally, the committee will monitor, deliberate, and address any issues related to stakeholder engagement, including corrective actions and recommendations that result from the regular EITI Validation process.

³⁷ PH-EITI, “Minutes of the 81st MSG Meeting,” <https://pheiti.dof.gov.ph/download/81st-msg-meeting/?wpdmdl=3927>.

³⁸ PH-EITI, “Resolution: Creating the Committee on Stakeholder Engagement,” <https://drive.google.com/file/d/1nKkIied-Ej0Ij94SrYombKesQ1JCnUre/view>.

The SE committee, chaired by a DILG senior representative and co-chaired by a civil society representative, should have a diverse membership with at least one representative from each government, industry, and impacted community constituency. As of the time of writing, the committee fulfills this requirement with three government members, two from industry and five representing civil society and impacted communities. It is crucial to maintain a balanced representation to ensure the continued effectiveness of the committee.

The SE committee has held three meetings as of October 2023. On 2 February 2023, the committee convened its first meeting³⁹ to discuss the corrective actions for Requirement 1.3 and the report on the state of civic space engagement. Its second meeting⁴⁰ was held on 5 September 2023, with the primary agenda centering on the PH-EITI Extractive Transparency Week and the National Conference in November 2023. The committee then convened for its third meeting⁴¹ on 16 October 2023 to discuss upcoming PH-EITI events, progress updates on the Validation corrective actions, Bantay Kita's proposal for the selection process of civil society representatives in the Multi-Partite Monitoring Team (MMT) and Mine Rehabilitation Fund Committee (MRFC).

It is important to highlight that there were considerable delays between the establishment of the committee and its subsequent meetings. It was reported that the committee struggled to convene due to the unavailability of its members, most notably the DILG senior representative who was mandated to serve as its chairperson. A suggestion has been put forward to change the chairmanship of the SE committee and allow the DILG to co-chair it instead. However, this proposal has not yet been deliberated within the PH-EITI MSG.

Action Step Provision No. 1.3-2. Strengthening of spaces for multi-stakeholder participation along the extractive industry value chain.

- *Mapping of mandated spaces and identification of stages in the value chain where there are no spaces for multi-stakeholder participation.*
- *Ensuring that these spaces are functioning and that there is genuine representation.*
- *Discussion and agreement on the definition of terms, such as "EITI-related activities" and "obstacles to participation."*
- *Conduct of review, consultation, and feedback sessions regarding the implementation of ATA and other policies that impact civic engagement.*

³⁹ PH-EITI, "Minutes of the 1st Stakeholder Engagement Committee Meeting," https://docs.google.com/document/d/1bVjgdlPHXrkH_4HigBwUG6M61b9cN1ys/edit?usp=sharing&oid=107783726254245963548&rtpof=true&sd=true.

⁴⁰ PH-EITI, "Minutes of the 2nd Stakeholder Engagement Committee Meeting," <https://docs.google.com/document/d/1tkZ8fl7P1pmYq1zcy38sSE3bkcaNuLr8/edit?usp=sharing&oid=107783726254245963548&rtpof=true&sd=true>.

⁴¹ PH-EITI, "Minutes of the 3rd Stakeholder Engagement Committee Meeting," <https://docs.google.com/document/d/1tkZ8fl7P1pmYq1zcy38sSE3bkcaNuLr8/edit?usp=sharing&oid=107783726254245963548&rtpof=true&sd=true>.

a. PH-EITI feedback mechanism⁴²

In 2022, the PH-EITI engaged in a process to establish its feedback mechanism. This process involved a thorough review of the grievance mechanism used by EITI International and the Harvard Negotiation and Mediation Clinical Program (HNMCP) recommendations for guidance.

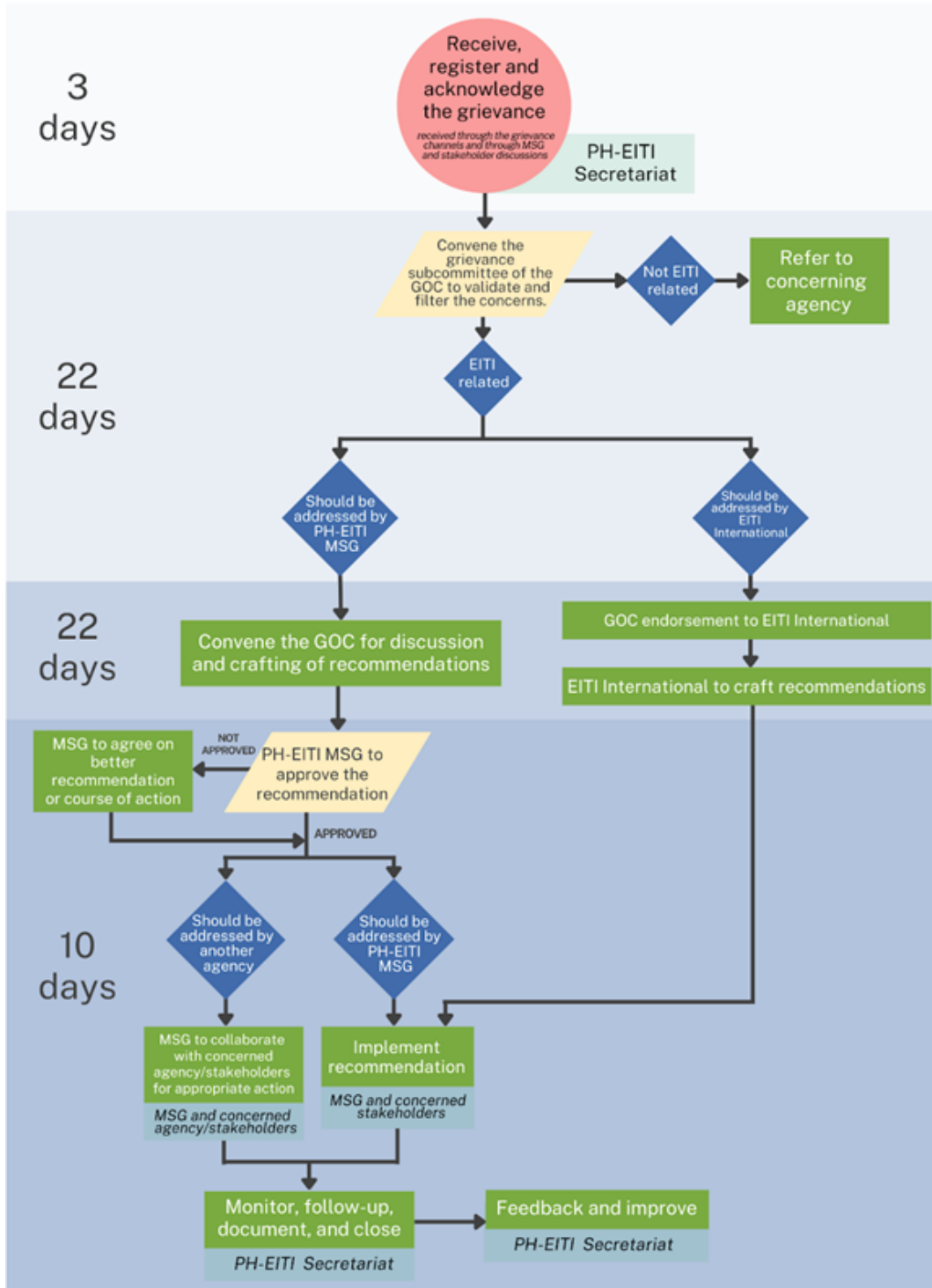
The PH-EITI feedback mechanism would employ various channels and modalities to guarantee that stakeholders can conveniently access the feedback mechanism, including an online feedback form (<https://pheiti.dof.gov.ph/contact-us/>), PH-EITI's Facebook page and messenger (<https://www.facebook.com/PhilippineEITI/>), community dropbox, PH-EITI stakeholder activities, and MSG meetings. Various channels and events under PH-EITI will be used to promote both online and offline feedback platforms to motivate stakeholders to report issues concerning the extractive industries.

Upon receiving a report, a subcommittee under the Governance and Oversight Committee (GOC) will evaluate each concern to determine if it falls within the EITI's scope. If the concern is not EITI-related, it will be referred to the appropriate agency. If the concern is EITI-related, it will undergo an evaluation to determine if it can be resolved by the PH-EITI MSG or by EITI International, with final approval of all recommendations coming from the PH-EITI MSG.

The evaluation process findings will be made publicly available on the PH-EITI website, including updates on the status and resolution of reports. Anonymous complaints will be able to monitor the status of their concerns there, and the PH-EITI Secretariat will provide regular updates to those who provide their contact information. However, this section of the website is not yet operational at the time of this writing.

⁴² PH-EITI, "PH-EITI Feedback Mechanism Briefer," https://docs.google.com/document/d/1n5jKbpAX25ZXUTVeVgjn8VWPbQ9_yOWui0Pq_f6ER7k/edit?usp=sharing.

Figure III-2. Process and estimated timeline of addressing reports



Currently, the PH-EITI feedback mechanism is in its pilot phase, with cases submitted to PH-EITI handled by the PH-EITI Governance and Oversight Committee (GOC).

The GOC is one of the four committees created by PH-EITI⁴³ to support decision-making on various aspects of EITI implementation, governance, and finance. The committee is composed of representatives from all sectors of the MSG, government, industry, and civil society. Its primary responsibility is to handle matters concerning the governance and strategic implementation of EITI in the Philippines. This involves guaranteeing adherence to EITI principles, setting direction, creating decision-making procedures, defining accountability lines, offering constituency guidelines, and overseeing the governance of the PH-EITI Secretariat, among others.

As of November 2023, the GOC has dealt with three cases following the pilot of the PH-EITI feedback mechanism.

Case 2023-0001: Nickel mining operations of Atlai Philippines Mining Corporation (APMC) in Sibuyan Island, Romblon⁴⁴

On 30 January 2023, the PH-EITI received a grievance letter from Mayor Trina Alejandra Firmalo-Fabio of the Municipality of Odiongan Romblon. Mayor Fabio requested an investigation into potential violations by Atlai Philippines Mining Corporation (APMC), which holds an exploration permit for nickel ore on Sibuyan Island. Concerns were raised regarding tree cutting in the primary forest and a transport permit for 50,000 tons of nickel ore. Mayor Fabio also questioned whether community consent is a pre-requisite for granting mining exploration permits and appealed for a review of APMC's exploration and transport permits.

PH-EITI invited the Mines and Geosciences Bureau (MGB) and APMC representatives for discussions on Sibuyan Island's nickel mining operations. However, APMC did not respond to the invitation. During a PH-EITI GOC meeting on 28 February 2023, the MGB provided an overview of APMC's operations, mentioning a Mineral Production Sharing Agreement (MPSA) granted in 2009, a suspended exploration process in 2011 lifted in 2021, and subsequent exploration extensions. While the MGB reassured that APMC provided the local government unit (LGU) with the documentation requirements for their operations, the lifting of the suspension was not officially transmitted to the LGU.

During the meeting, the civil society constituency raised concerns about transparency, legal petitions, social acceptability, and compliance with permits. The MGB clarified distinctions between exploration and mineral production, denied amending environmental statements, and noted limitations in addressing the environmental compliance of APMC's operations.

Suggestions included early identification of affected areas, on-site monitoring, mining literacy campaigns, and legislative amendments. There was a proposal to involve other agencies like the Environmental Management Bureau (EMB) in future

⁴³ PH-EITI, "Resolution: Creating Multi-stakeholder Group Committees," <https://docs.google.com/document/d/1igMAJLQfWyljdOIQHIFLTDJk8ldWki85/edit?usp=sharing&ouid=107783726254245963548&rtpof=true&sd=true>.

⁴⁴ PH-EITI, "PH-EITI Stakeholder Feedback Case Brief #1," <https://docs.google.com/document/d/1hJqy57rbCl5Esdh6Conv9iytJ3NLZgC1WkBOuvKlmg/edit?usp=sharing>.

discussions and continue engaging APMC for further dialogue. The MGB committed to providing related documents to PH-EITI for review.

Following the GOC meeting, the conversation was expected to continue on the MSG level to develop PH-EITI's recommendations, including reaching out to other agencies and maintaining communication with APMC.

On 13 June 2023, the Philippine Supreme Court issued a writ of kalikasan⁴⁵ against the MGB, DENR, and APMC in response to a Sibuyan Island residents' petition. The company and agencies involved were instructed by the Supreme Court to provide their comments within 10 days of receiving the writ. Additionally, the case was forwarded to the Court of Appeals.⁴⁶ Since a case has been filed in the Supreme Court, the parties involved can no longer comment on the matter. PH-EITI is currently working on developing policy recommendations, specifically those related to the exploration of minerals.

Case 2023-0002: Nickel mining operations of Ipilan Nickel Corporation (INC) in Maasin, Brooke's Point, Palawan⁴⁷

A civil society organization (CSO) representative of the PH-EITI MSG, on behalf of seven affected communities by Ipilan Nickel Mining (INC) operations, pushed for the inclusion of this case in the 3rd PH-EITI GOC meeting. They highlighted the negative impacts caused by the mining activities, including environmental degradation, flash floods, crop destruction, and violence against peaceful protestors.

Celestial Nickel Mining Exploration (Celestial Mining) holds the MPSA for this particular nickel mining operation in Massin, Brooke's Point, Palawan, with INC as the operator. The complainant reported severe negative impacts from the mining activities: flash floods, river/creek swelling, crop destruction, and a new port in a marine reserve. Additionally, a rally against the mining operation led to a violent dispersal on 14 April 2023, causing injuries and arrests. The bishops of Palawan supported the rallyists, calling for legal action against the company and police.

The complainant sought the following:

1. Dismissal of charges against rallyists and accountability for INC officials and police.
2. Permanent cessation of INC's mining operations by governmental bodies.
3. Respect for constitutional rights to protest against destructive mining.
4. Solidarity from Filipinos and Palawan residents with the rallyists.

⁴⁵ A writ of kalikasan is a legal remedy under Section 16, Article II of the Consitution to safeguard an individual's right to "a balanced and healthful ecology in accord with the rhythm and harmony of nature."

⁴⁶ Zacarian Sarao, "Supreme Court issues writ of kalikasan vs DENR, MGB, mining firm in Sibuyan," *Inquirer.net*, July 3, 2023, <https://newsinfo.inquirer.net/1796832/supreme-court-issues-writ-of-kalikasan-against-denr-mgb-mining-firm-in-sibuyan-island>.

⁴⁷ PH-EITI, "PH-EITI Stakeholder Feedback Case Brief #2," <https://docs.google.com/document/d/1UGU8-hYN7gbFHNjHq6ow3kpYpvzdbIzBWW80zm6LOBs/edit?usp=sharing>.

As of the time of submitting this grievance case, legal actions were pending, including complaints with the MGB and criminal cases against INC and rallyists. The complainant urges DENR to suspend INC's Environmental Compliance Certificate (ECC) due to non-compliance with DENR Administrative Order 2017-07. If INC complies, the complainant requests community and LGU empowerment to monitor operations.

At the GOC meeting, the complainant presented the issue. The GOC asked for further information to create a detailed case brief. The complainant provided all the requested supporting documents on 11 August 2023.

The INC mining project received a writ of kalikasan from the Philippine Supreme Court on 16 August 2023. The court ordered the DENR, MGB, INC, and Celestial Mining to provide a verified return of the writ within ten days. This writ issuance followed the cease and desist order (CDO) issued by the National Commission on Indigenous Peoples (NCIP) against INC on the same day due to the absence of "free and prior informed consent" from the local indigenous community.⁴⁸

Similar to the Sibuyan Island case, the parties involved are not able to comment on the matter any longer pending deliberations in the Supreme Court. PH-EITI is currently working on developing policy recommendations, specifically those related to effective communication and engagement between companies and affected local communities.

*Case 2023-0003: Coal mining activities in Lake Sebu, South Cotabato*⁴⁹

On 31 May 2023, the Philippine Misereor Partnership Inc. (PMPI) met with PH-EITI to discuss concerns about coal mining in Lake Sebu, South Cotabato. The complainants, including environmental groups and the local Catholic Church, opposed the coal mining project due to potential environmental damage, threats to food security, and the displacement of Indigenous peoples. Specific complaints included mining in protected areas, government land selling to San Miguel, and lack of public access to permits.

The main mining sites are in protected areas of Barangay Ned, and transportation occurs in Barangay Maitom. Sultan Energy Philippine Corp. and Daguma Agro-Minerals, Inc. were identified as the operating mining projects involved in the case. PMPI sought access to permits before filing a formal complaint. While the PH-EITI did provide PMPI access to the contracts for the mining projects, minimal action has been taken pending a formal complaint submitted by the complainant.

During a GOC meeting, this case was brought up. A committee member from the Department of Energy (DOE) provided an update on the San Miguel mining

⁴⁸ Palawan News, "Mining firm Ipilil Nickel Corp suffers double whammy, as SC issues Writ of Kalikasan and NCIP serves stoppage order," *Palawan News*, August 16, 2023, <https://palawan-news.com/inc-suffers-double-whammy-as-sc-issues-writ-of-kalikasan-and-ncip-serves-stoppage-order/>.

⁴⁹ PH-EITI, "PH-EITI Stakeholder Feedback Case Brief #3," <https://docs.google.com/document/d/1nDPce5XiaTZ1seE4vzjp0KbhhBZdJM1aofxE5gsuh8I/edit?usp=sharing>.

projects, which finally began operations after a decade-long wait for approval. Prior to commencing operations, reports on geohazards were submitted by the MGB, and an Environmental Compliance Certificate (ECC) was issued by the DENR. Additionally, on 12 April 2023, there were discussions between the company, DOE, and the local church regarding coal mining activities.

The GOC agreed to wait for an official complaint from PMPI to be endorsed to the DOE. Upon receipt, the DOE will provide the requested documents and prepare a case brief for presentation at the next Multi-Stakeholder Group (MSG) meeting.

On 7 August 2023, a letter from the Social Action Center of the Diocese of Marbel was received by PH-EITI requesting assistance in obtaining various documents associated with coal mining operations in Barangay Ned involving Daguma Agro-Minerals, Inc. and Sultan Energy Philippines Corporation.

Apart from the three cases that were presented, PH-EITI's feedback mechanism has received two additional reports endorsed by Bantay Kita (BK), Case 2023-0004 (*Delayed release of royalty shares from SR Metals Inc.*)⁵⁰ and Case 2023-0005 (*Devastation of mangrove areas and farmlands in Loreto, Dinagat Islands*).⁵¹ Although there has been a preliminary examination of the material submitted by the complainants and the data available to PH-EITI, the cases have yet to be deliberated by the GOC.

b. Civic space mapping and assessment

The PH-EITI has initiated efforts to map mandated multi-stakeholder spaces along the extractive value chain by building up and maintaining its own directories of the following:

- Provincial/City Mining Regulatory Board (P/CMRB) Members
- Mine Rehabilitation Fund Committee (MRFC) and Multi-partite Monitoring Team (MMT) Members
- Civil Society Organizations (CSOs) involved in the EITI and natural resource governance by subsector

The latest version of the listed directories will be made available for download in the PH-EITI website via <https://pheiti.dof.gov.ph/resources/>.

In September 2023, PH-EITI brought on board a consultant to aid in their civic space mapping and assessment initiatives. The consultant is primarily tasked with improving PH-EITI's engagement with CSOs and local communities. The consultant has a 4-month contract and is expected to submit an inception report, a comprehensive assessment report detailing PH-EITI's engagement with civil society, a strategic plan for civil society engagement with PH-EITI, a report on key findings from stakeholder consultations, and capacity building materials specifically tailored for CSOs and community groups.

⁵⁰ PH-EITI, "PH-EITI Stakeholder Feedback Case Brief #4," https://docs.google.com/document/d/12kg_xPpDa1vkZz2yKz3tsO1L0Uak1rQ_Pci2QuyQLss/edit?usp=sharing.

⁵¹ PH-EITI, "PH-EITI Stakeholder Feedback Case Brief #5," <https://docs.google.com/document/d/1r1v980gtaU-OMcN2fhaqU3nHw5Uwt4Dy1Geh2koEdxO/edit?usp=sharing>.

A summary of the preliminary findings of the consultant's assessment of the Philippine civic space is also included in this chapter of the PH-EITI report.

All of the consultant's output will be made available through the PH-EITI website, <https://pheiti.dof.gov.ph/resources/>.

- c. Enhancing the CSO Representation Selection Process in the Mine Rehabilitation Fund Committees (MRFCs) and Multi-partite Monitoring Teams (MMTs)

On 8 August 2023, the PH-EITI and Bantay Kita (BK) held a meeting to discuss ways to improve the selection process for CSO representation in the MRFCs and MMTs. BK was tasked with drafting a DENR issuance for the enhanced selection process. On 22 August 2023, they submitted their proposal to the PH-EITI. The SE committee deliberated on the proposal on 16 October 2023, and it is now pending deliberation with the PH-EITI MSG.

During a meeting with DENR Secretary Yulo, PH-EITI asked if DENR would be willing to adopt the proposed DENR issuance after it has been developed and approved by the MSG. Secretary Yulo expressed her interest.

- d. Establishment of a protocol on red-tagging and resource-based conflicts in mining areas

The PH-EITI has initiated talks with the Philippine National Police (PNP) and the Department of National Defense (DND) to develop a protocol that will tackle the issue of red-tagging in mining communities. While both organizations have expressed willingness to collaborate, they have requested that PH-EITI provide an initial proposal. PH-EITI is currently in the process of drafting its proposal.

The Legal Rights and Natural Resource Center (LRC), a member organization of Bantay Kita (BK), was approached by the PH-EITI to explore the possibility of providing technical support in formulating the proposed protocol. The LRC has shown its willingness to assist with this process and designated BK as its point of coordination with PH-EITI.

Action Step Provision No. 1.3-3. Strengthening the engagement of all stakeholders through amendments to EO 147.

Before PH-EITI's 2021 Validation, there were talks among the PH-EITI MSG about amending Executive Order no. 147, s. 2013 (EO 147). At the 75th MSG meeting, the discussion of amending the EO was reopened, and it was initially agreed that a technical working group (TWG) would be established for the EO 147 updates. However, when the Governance and Oversight Committee (GOC) was formed on 5 January 2023,⁵² the committee became responsible for developing the MSG's proposal on amending EO 147 instead of a TWG.

The amendments suggested for EO 147 are under final consideration and approval by the PH-EITI MSG. The proposed changes aim to enhance stakeholder engagement by

⁵² PH-EITI, "Resolution: Creating Multi-stakeholder Group Committees."

broadening the membership of the MSG and redefining its role to include the establishment of a safe platform for constructive engagement.

Once the proposed amendments are finalized, they will be accessible on the PH-EITI website through <https://pheiti.dof.gov.ph/resources/>.

Action Step Provision No. 1.3-4. Inclusion of government and industry in public expression of support for civic engagement in PH-EITI outreach activities.

At its 81st meeting on 16 September 2022,⁵³ the PH-EITI MSG decided to conduct a special ceremony reaffirming its commitment to promoting transparency and accountability in the extractive industries through PH-EITI. This ceremony took place on 8 November 2022, during the PH-EITI National Conference.⁵⁴ The statement made during the ceremony included the MSG's pledge to uphold the EITI principles, actively participate in the EITI process, and engage in meaningful dialogue with all stakeholders.

PH-EITI has scheduled another recommitment ceremony for its 2023 National Conference on 30 November 2023.

Action Step Provision No. 1.3-5. Preparation of an MSG statement on an Anti-Red Tagging Bill once filed in Congress.

A statement on behalf of PH-EITI MSG was approved by the stakeholder engagement committee on 23 October 2023,⁵⁵ pending MSG approval.

The draft statement concerns PH-EITI's endorsement of House Bill (HB) Nos. 1152⁵⁶ and 4941,⁵⁷ which were both filed during the 19th Philippine Congress. Representative Raoul Danniell Manuel filed HB 1152 on 5 July 2022, while Representative Gus Tambunting submitted HB 4941 on 19 September 2022. Both bills are awaiting review by the House of Representatives Committee on Justice.⁵⁸

It's important to highlight that the PH-EITI has put in place robust mechanisms to safeguard stakeholders within the extractive industries, ensuring their ability to voice concerns without fear of reprisal or red-tagging. The PH-EITI's feedback system allows stakeholders to anonymously report issues or concerns related to extractive activities.

Furthermore, the current administration has recognized the concerns raised by different groups regarding instances of violence, extrajudicial killings, harassment, suppression of trade union rights, and alleged red-tagging involving State agents. This acknowledgment

⁵³ PH-EITI, "Minutes of the 81st MSG Meeting."

⁵⁴ PH-EITI, "2022 Extractives Transparency Week Documentation," <https://docs.google.com/document/d/1KH8x60544AhWOHZDDrtXtU6ux5qrZZ8YGv5EhvAThS0/edit?usp=sharing>.

⁵⁵ PH-EITI, "Minutes of the 3rd Stakeholder Engagement Committee Meeting," p. 6.

⁵⁶ Defining and Penalizing the Crime of Red-Tagging, HB No. 4941, 19th Congress (2022), https://hrep-website.s3.ap-southeast-1.amazonaws.com/legisdocs/basic_19/HB04941.pdf.

⁵⁷ An Act Providing for the Criminalization of Red-tagging, HB No. 1152, 19th Congress (2022), https://hrep-website.s3.ap-southeast-1.amazonaws.com/legisdocs/basic_19/HB01152.pdf.

⁵⁸ Updates on the House bills may be found on the House of Representative's official website: <https://www.congress.gov.ph/legisdocs/?v=bills>.

is clearly demonstrated by the issuance of Executive Order No. 23, s. 2023.⁵⁹ This executive order established a presidential body in line with recommendations from an International Labor Organization (ILO) fact-finding mission that visited the country in January 2023.

The primary mandate of this committee includes the consolidation and evaluation of comprehensive reports containing findings and recommendations from concerned agencies. These reports will be submitted to the president. Moreover, the committee is tasked with developing a strategic roadmap outlining priority areas of action, concrete objectives, designated responsibilities, and specific timelines in line with the recommendations outlined by the ILO mission. Importantly, the roadmap will undergo periodic reviews and will incorporate inputs from concerned agencies and relevant stakeholders.⁶⁰

Action Step Provision No. 1.3-6. Inclusion of an MSG report on the state of civic engagement in the Philippines in the annual country report.

This particular chapter of the PH-EITI country report FY 2021 is included in compliance with this corrective action step.

Assessment of PH-EITI progress in addressing 2021 Validation corrective actions

Despite the significant progress made by PH-EITI in implementing action steps to address corrective actions, much work still needs to be done.

1. The Stakeholder Engagement (SE) committee was established to ensure the effective participation of civil society in the EITI processes, as provided for in action step provision no. 1.3-1. However, it has not fully demonstrated its mandate in this regard, as there have been only a limited number of documented SE committee meetings. The committee has faced difficulties in convening due to the unavailability of its members. To address this issue, the PH-EITI MSG should revisit the committee's composition to ensure its proper operation. Meanwhile, the MSG-CSO can create its own mechanism to ensure that the concerns of its primary constituency are taken into account. This way, while there are limitations at the committee level, a process within the CSOs can be established to enhance and inform the work of the SE committee.
2. Significant progress has been made in implementing action step provision no. 1.3-2, but there is still work to be done in order to strengthen the spaces for multi-stakeholder participation along the extractive industries value chain. The piloting of the PH-EITI feedback mechanism, mapping of mandated spaces, and initiating efforts to strengthen spaces for multi-stakeholder participation along the extractive industries value chain are all steps in the right direction, but these are still in their

⁵⁹ Office of the President, Reinforcing and Protecting the Freedom of Association and Right to Organize of Workers, Constituting An Inter-Agency Committee to Strengthen Coordination and Expedite the Investigation, Prosecution, and Resolution of Cases for Violations Thereof, Among Others, Executive Order No. 23, s. 2023, (30 April 2023) (Phil.), <https://www.officialgazette.gov.ph/2023/04/30/executive-order-no-23-s-2023/>.

⁶⁰ Dona Pazzibugan and Jerome Aning, "Marcos issues EO creating body to probe killings, harassment of workers," 1 May 2023, <https://newsinfo.inquirer.net/1763151/marcos-issues-eo-creating-body-to-probe-killings-harassment-of-workers>.

infancy. It is essential to ensure the proper implementation and follow-through of these efforts. Additionally, there needs to be discussion and agreement on the definition of the terms “EITI-related activities” and “obstacles to participation” to ensure that all stakeholders involved in the PH-EITI are on the same page.

3. The PH-EITI has made great progress in implementing action step provision no. 1.3-3. To further enhance stakeholder engagement, the proposed amendments to EO 147, s. 2013 will broaden the membership of the MSG and redefine its role. This will help create a safe and constructive environment for engagement in the EITI, ensuring that all stakeholders involved in or affected by extractive activities are represented.
4. Action step provision 1.3-4 involves holding a recommitment ceremony with the PH-EITI MSG, which is a positive step forward. However, it would be more impactful if all groups participating in the EITI could express clear support for civic participation in all PH-EITI activities. By doing so, it would demonstrate a stronger commitment to ensuring that civic engagement in the EITI is both inclusive and effective.
5. Provision 1.3-5 is a clear indication of PH-EITI's commitment to creating a secure and supportive environment for public participation. Although the PH-EITI has already issued its support statement for the Anti-Red Tagging bills filed in the Philippine Congress, it is still subject to review and discussion with the PH-EITI MSG. PH-EITI has also established mechanisms to ensure that stakeholders involved in extractive governance can voice their concerns without fear of being reprimanded or red-tagged through its feedback mechanism. It is crucial that PH-EITI continues to advance solutions to guarantee effective civic participation. To further their efforts in supporting public participation, PH-EITI should initiate conversations with relevant agencies to address concerns about the shrinking civic space caused by red-tagging, especially for CSOs involved in the PH-EITI. By delving deeper into these discussions, PH-EITI can continue to create a secure and supportive environment for public participation.
6. The PH-EITI's action step provision no. 1.3-6 mandates the inclusion of a report on the state of Philippine civic engagement in the annual country report. This ensures that the developments related to civil society's ability to engage in the EITI are regularly and accurately documented. Properly implementing this action step in all future reports will increase awareness of civic concerns in the extractives sector. Additionally, incorporating CSO initiatives on extractive activities in PH-EITI publications can help legitimize civic action within the PH-EITI sphere.

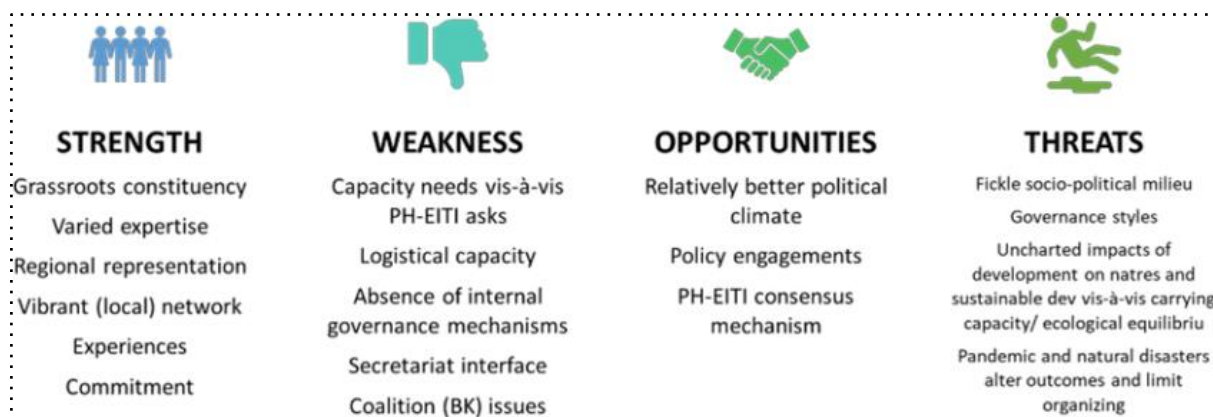
IV. Preliminary assessment of PH-EITI civic engagement

As mentioned earlier, PH-EITI hired a consultant to aid in their efforts in mapping and evaluating the civic space. In this section, we will provide a brief summary of the preliminary findings from the consultant's assessment. This overview will be limited to the consultant's initial report on PH-EITI's civic engagement, primarily based on the responses of the MSG-CSO members who participated in the consultant's first batch of KIIs. Unless otherwise stated, all information presented is based on the consultant's preliminary report submitted to the PH-EITI on 17 November 2023.⁶¹

Assessing the MSG-CSO civic space using a SWOT analysis

A SWOT analysis of the MSG-CSO civic space was conducted by the consultant to begin the assessment. Its results are presented in Figure III-3.

Figure III-3. SWOT Analysis of the CSO-MSG members



The analysis reveals that the primary strength of the MSG-CSO members is their unwavering commitment to the PH-EITI objectives. Their dedication is deeply rooted in the communities they represent, allowing them to leverage their expertise and support their constituents while benefiting from the collaborative network of CSOs present in the space they operate in.

Despite the positive effects of democratization in enriching communities and people's organizations, unpredictable political climates can limit their progress. The PH-EITI is thus valuable because of its multilateral nature and the government's steadfast commitment to it. However, this guarantee of transparency and participation is not always present outside of the PH-EITI. Improvements in civic space are noted, but some participation areas remain inaccessible due to formalization processes in select LGUs linked to anti-insurgency efforts.

⁶¹ Chadwick Llanos, "The State of Civic Space: A Preliminary Report Inquiring on the Recommendations of the EITI Board According to the Civil Society Protocol" (Unpublished report, PH-EITI, November 17, 2023).

The analysis also highlights the importance of deliberative democracy, which involves empowering community organizations. This is essential for both national and subnational engagement within PH-EITI. Additionally, the focus on data's role in governance within PH-EITI highlights the necessity for citizens and CSOs to acquire data utilization and analysis skills for effective PH-EITI objectives attainment.

Assessing the MSG-CSO civic space using the PESTLE analysis

An assessment of factors impacting civic space was conducted by the consultant using a PESTLE Analysis, the results of which are presented in Figure III-4.

Figure III-4. PESTLE Analysis of Civic Space

Political	Economic	Social	Technical	Legal/legislative	Environmental
<ul style="list-style-type: none"> •Some degree of desirable changes but weaknesses in governance institutions (in need of strengthening) deters participation. Local governance show signs of unilateralism and exclusion •Some recent policies have adverse impacts on civic space and sustainable development •NCIP changes show promise of beneficial impacts 	<ul style="list-style-type: none"> •Development and socio-economic priorities on basic sectors, many are around extractives, are not met •Economic restlessness due to increasing cost of good affect the most basic sectors significantly •Lesser opportunities at economic stability 	<ul style="list-style-type: none"> •Social cohesion has broken down due to gaps in values •Truth-seeking and truth-telling has become distorted 	<ul style="list-style-type: none"> •Capacity needs and scaling up of capacities needed for effective leadership, representation, strategy formulation •Physical (hardware) instruments and connectivity challenges •Weaponization of socmed against advocates 	<ul style="list-style-type: none"> •Some policies and laws challenge free speech, organizing, and self-determination •Institutionalization of PH-EITI still pivotal •CHR has mandate and capacity to assist CSOs in crisis due to threats and intimidation 	<ul style="list-style-type: none"> •Prevailing conditions on environment and ecosystems have potential to further sectoral disadvantages •Certain areas of study needed to update appreciation/information on the state of the natural world and ecological equilibrium. •Impacts of pandemic and natural disasters on advocacy and outcomes

It's clear from the analysis that political trends, economic conditions, and legal instruments significantly impact civic engagement. To maintain the integrity of civic space in the face of government restrictions, it's crucial to institutionalize PH-EITI. Unfortunately, discrepancies between data integrity and logical reasoning, coupled with the spread of fake news, have put social cohesion at risk. The pandemic has only exacerbated this situation, as restrictions have made it difficult for communities to organize, secure funding, and stay connected technologically. Given the global concerns about climate change and resource scarcity, there's now a greater need than ever for constituency building, which will require increased efforts, capacity rescaling, and support in networking and development to ensure effective advocacy.

Assessing the MSG-CSO civic space using the EITI CSO Protocol

The direction taken by CSOs within civic space is crucial and constitutes the core of the corrective measures issued by the EITI Board following the 2021 Philippine Validation, particularly for EITI requirement 1.3. Table III-1 provides an overview of the current direction of the CSO constituency of PH-EITI concerning the areas of inquiry of the EITI CSO protocol,⁶² along with the consultant's recommendations based on their KIIs with the members of MSG-CSO.

⁶² "Protocol: Participation of civil society."

Table III-1. EITI Validation inquiry areas

Evaluation Areas	Directions Towards Compliance	Recommended Action
<p>Are civil society organizations able to engage in public debate related to the EITI process and express opinions about the EITI process without restraint, coercion, or reprisal?</p>	<p>There are already existing platforms for public engagement, but they remain limited to the regular constituency of PH-EITI.</p> <p>The inclusion of PH-EITI in the Philippine Open Government Partnership (PH-OGP) is a milestone. Yet the parallel commitment by the CSO partner can be limited in reach and, at times, disconnected.</p> <p>The actual experience on the ground needs further evaluation.</p> <p>Community competencies and tools for data appreciation needs rescaling.</p> <p>Definitive protocol on grievance resolution is being undertaken.</p>	<p>Widen and deepen the reach and network of PH-EITI in the subnational setting.</p> <p>Following recalibration at PH-OGP, locate strategic CSO partners for congruent commitment outcomes.</p> <p>The context in which CSOs operate in various communities and LGUs needs probing. Networking for safety nets is also an important initiative.</p> <p>Development of comprehensive and context-responsive learning instruments for communities.</p> <p>Strengthen mechanisms within the grievance resolution for timely closure of the feedback loop among concerned government agencies and, if necessary facilitate the identification of the root cause of the issue(s).</p>
<p>Are civil society representatives able to operate freely in relation to the EITI process?</p>	<p>The consensus-building processes within PH-EITI remain vital. CSO representatives contribute freely to the formulation of the agenda and designing outcomes.</p> <p>Internal governance and leadership need strengthening to improve the quality of participation within PH-EITI.</p>	<p>There is a need for an internal governance framework for the CSO-MSG members.</p> <p>A more active role in work plan development is also suggested by the respondents.</p>
<p>Are civil society representatives able to communicate and cooperate with each other regarding the EITI process?</p>	<p>Communication hindrances due to coercive factors are not present within PH-EITI. Yet, the respondents observed that an internal</p>	<p>The creation of internal mechanisms for updating and periodic strategy formulation, particularly through</p>

Evaluation Areas	Directions Towards Compliance	Recommended Action
	<p>mechanism for effective and timely updating needs reorganization.</p> <p>A communications plan is vital to strategic communications outcomes.</p>	<p>monthly constituency meetings, is suggested.</p> <p>The crafting of a communications plan is paramount.</p>
Are civil society representatives able to be fully, actively, and effectively engaged in the design, implementation, monitoring and evaluation of the EITI process?	<p>Subnational representation of monitoring and compliance bodies demands a credible selection process and primary constituency accountability.</p> <p>A CSO selection protocol is being undertaken in the PH-EITI.</p>	Finalization of the CSO selection protocol; adoption of the proposed protocol (including amendments made after consultation with stakeholders) by concerned agencies.
Are civil society representatives able to speak freely on transparency and natural resource governance issues, and ensure that the EITI contributes to public debate?	<p>The PH-EITI has rolled out regional outreaches though these are limited to regular collaborators and networks.</p> <p>The respondents observed that a viable feedback mechanism for CSOs within PH-EITI and those in local communities is yet to be established.</p> <p>There is no definitive process for regular constituency discourse at the subnational level.</p>	<p>The review of a submitted policy note regarding the impacts of these outreaches is essential.</p> <p>Support for local CSO forums responsive to PH-EITI objectives is needed.</p>

There are four Key Result Areas (KRAs) identified for the MSG-CSO.

1. Strengthen internal governance through capacity upscaling, research, strategic meetings, internal feedback mechanisms, and other forms of support.
2. Qualify primary constituency mechanisms through periodic reviews, inquiries, and assessments, protection and relief protocols, and platform creation for robust subnational discourse.
3. Expand networks and reach through strategic thematic outreaches and collaborations with academia and other development CSOs whose advocacy complements that of PH-EITI.
4. Affirm intra-MSG relations and National Secretariat cooperation, especially in work planning.

PH-EITI's engagement with civil society

The PH-EITI is a crucial platform for CSOs to address community concerns and bring attention to critical issues. In the KIIs conducted, respondents highlighted the need for

clearer leadership within the CSO community and a comprehensive framework to enhance engagement in both PH-EITI and subnational settings. They emphasized the importance of capacity development, strategic agenda building, and pursuing funding opportunities to effectively communicate PH-EITI objectives to the grassroots. While the Multi-Stakeholder Group (MSG) is open to various agenda directions from its constituents, respondents stressed the importance of scaling up their role in negotiations and advancing their tasks.

The annual national conferences organized by PH-EITI showcase the current report's key findings and bring together stakeholders involved in extractives transparency, accountability, and natural resource governance. Despite recognizing the significance of this event, respondents have noted a decline in CSOs' capacity to organize and provide independent analysis of the report over the years. Reflecting on past regional and subnational events, respondents have emphasized the need to bring discussions closer to communities. They have highlighted the value of mine visits, especially those designed to engage impacted communities and beneficiaries of Social Development and Management Programs (SDMPs). Such visits provide insight into extractive activities' positive and negative impacts, public finance aspects, compliance, and monitoring processes. The respondents have emphasized the potential of community-based situational analysis and capacity development to reinforce the quality of civic space.

The CSOs within the MSG ultimately have the responsibility to guide their constituency through effective constituency-building processes and tools. Additionally, it is essential to have robust platforms for discourse in areas where PH-EITI is expected to address controversies and challenges. Collaborative efforts among stakeholders and the Secretariat are essential to align strategies with PH-EITI objectives.

There is some evidence that interactions within the civic space have improved. However, it is crucial to test the limits and strengths of these improving spaces, which requires the development of functional capacities and collaborations to ensure safe spaces. It should be noted that the consultant plans to conduct regional consultations and additional Key Informant Interviews (KIIs) to gain further insight.

V. Conclusion

Civil society organizations (CSOs) have a significant impact on the implementation of the EITI process, shaping governance and fostering transparency both locally and globally. While the Philippines has taken significant steps towards involving CSOs in governance, notable challenges persist, hindering effective civic participation.

The outcome of the 2021 EITI Validation underscored areas for improvement in the Philippines' compliance with the EITI Standard and emphasized the importance of improving civic engagement. In response, the PH-EITI has undertaken substantial measures, crafting a strategic action plan aimed at addressing concerns flagged in the validation report.

The establishment of the Stakeholder Engagement (SE) committee stands out as a pivotal initiative, providing a dedicated platform to tackle civil society engagement issues within the PH-EITI. Moreover, PH-EITI has taken concrete steps to fortify multi-stakeholder participation across the extractive industries value chain, such as establishing a feedback mechanism, civic space mapping, and ensuring comprehensive stakeholder representation. These efforts affirm PH-EITI's unwavering commitment to inclusive and meaningful stakeholder engagement. However, more work needs to be done. PH-EITI should ensure that the SE committee is functioning properly, establish functional multi-stakeholder spaces, and streamline the implementation of all initiated efforts. Continual implementation, monitoring, and refinement of these strategic action steps remain crucial for fostering effective and sustainable civic participation.

As evident in the preliminary assessment of civic engagement within the PH-EITI, the initiative remains an essential platform for CSOs to voice community concerns and spotlight critical issues. However, clearer CSO leadership and a comprehensive internal governance framework are necessary to improve engagement. Capacity development, strategic agenda building, and pursuing funding opportunities are crucial to effectively communicate PH-EITI's objectives to the grassroots. And while improvements in interactions within the civic space are evident, there remains a pressing need to ascertain the limits and strengths of these evolving spaces.

Sustained commitment, concerted efforts in capacity building, and fostering collaborations are essential for PH-EITI's journey towards a more robust and inclusive civic engagement landscape, ultimately contributing to enhanced transparency and accountability within the extractive industries in the Philippines.