



MINING POLICY ISSUES AFFECTING COMMUNITIES IN MINING

Environmental and cultural rights issues.

Mining often pollutes the water, air and soil, and can disrupt farming activities and community life. Communities throughout Zimbabwe are struggling to defend their rights to their land, to their environment and to their resources when faced with mining in their community.

In terms of the Environmental Management Act a potential miner or a miner is compelled to do an environment impact assessment which involves stakeholder consultations. Community Participation through the Environmental Impact Assessment is required.

Normally when mining companies or their consultants are doing community consultation, they approach the headman and Chiefs, sometimes the community members argue that they were not consulted. The error normally happens when the Head of the area only calls them for a gathering just to tell them about the growth which will be brought by the investment to the area without telling them that they have the right to object to the proposed mining operations.

There is much more space for local communities, unions and local government to participate in the resource exploitation process and oversight under the new reporting standards which are provided for by Africa Mining Vision. These reporting procedures which are through the peer review have to be domesticated for them to be implemented.

Disclosure of contracts and revenues.

Every contract has a confidentiality clause which has to be respected by both Parties. Contract disclosure is violation of the contracting Parties so it is not advisable unless Zimbabwe joins the Extractives Industries Transparency Initiative which is championed by Britain. The EITI compels its member states to do contract disclosures.

The Extractives Industries Transparency Initiative also provides for resource rent monitoring systems.

Revenue monitoring can be achieved by strengthening the weak government institutions. There are new regional and sub-regional monitoring and governance

assessment systems such as the African Union's African Peer Review Mechanism that countries can accede to;

Performance and progress are measured in four thematic areas:

- democracy and political governance
- economic governance and management
- corporate governance
- Socio-economic development.

One of the mechanisms by which host countries have, in the past, sought to capture mineral rent has been through the establishment of state mining enterprises where Government directly benefits through dividends.

It is now much more common in mining regimes for the state or a community to take a minority interest by in a mining project through economic empowerment.

Accounting for revenues paid to governments from mining projects has become an important issue of governance. In Zimbabwe the Zimbabwe Mining Development Corporation is the Government mining arm. There is also the Zimbabwe Consolidated Diamond Company which is responsible for mining diamonds on behalf of the State. All other revenues acquired from private companies are collected through taxes and royalties.

The Auditor General's Office is empowered to audit those revenues collected from private mining houses. The Auditor General's reports are presented in parliament.

Through the budget statement of 2018 the Minister of Finance and Economic Development announced that Zimbabwe might consider joining the EITI.

Investment in local content devoted.

Economic empowerment

The benefits to the local community may come in various forms including revenues which accrue to the community because of its location (property rates and land rents); through land development levies paid by mining companies. The community can benefit through the community's share of central government revenues from mining and non-income benefits such as employment for local residents. They can also benefit through assistance to community health and educational institutions through there are few companies which manage to build such structures. They can also access the use of mine infrastructure through using the roads which will be constructed by mining companies.

Care needs to be taken to train communities in managing revenues and to strengthen their capacity to engage in meaningful negotiations with both government and private sector and to invest in post mining economic activities and enabling infrastructure. The best-case study is the Bindura Nickel Corporation Community Share Ownership Trust which failed to operate on its own after gold was removed from minerals which fell under the economic empowerment policy.

Africa Mining Vision has provisions that safeguard transparency and good governance as well as enforce internationally acceptable safety and health standards, environmental and material stewardship, corporate social responsibility, and preferential recruitment of local staff.

Relocation.

Mining can negatively affect people by forcing them from their homes and land, preventing them from accessing clean land and water, impacting on their health and livelihoods. Normally is mining companies do exploration drilling the issue of relocations doesn't arise. The issue of relocation arises after a viable economically exploitable mineral. Normally when mining companies decide to relocate the community, they do not consult them to their satisfaction especially when it comes to grazing land, water sources and schools where ever they will be relocated to. Normally companies only build homes and fails to provide all the other needed infrastructure.

The discussion about what constitutes fair compensation for rural mining-affected communities who are moved from their land cannot simply be left to a calculation of the market value of material elements such as homesteads and land improvements.

The Mines and Minerals Act does not provide for relocations. Zimbabwe should take a leaf from South Africa which has already provided for relocations in their mining Act because it is unfair for the mining company to use its discretion on how compensation will be done.

Harmonisation with other laws such as Rural District Councils Act farmer miner conflicts and cadastre system

In terms of the RDC Act mining companies are compelled to pay development levies as determined by the RDC which the company is operating from. The mines and minerals Act also provides for payment of levies to RDCs. The Mines and Minerals amendment bill should be aligned with the RDC Act.

The mining disputes between farmers and miners result from farmers thinking that they are entitled to underground rights. All mineral rights are vested in the President on behalf of the State in terms of section 2 of the Mines and Minerals Act.

The other cause of mining disputes between farmers and miners is that farmers do not have knowledge on which circumstances they are entitled to claims compensation. Farmers can only claim compensation for the infringement of their surface rights in terms of section 188 of the Mines and Minerals Act.

The other contribution to disputes between the farmers and miners is that the maps which are used in the Ministry of Mines and Mining Development offices were done before the land reform program so they still show the big farms instead of the current subdivisions.

How the bill must address these challenges mineral rights invested in the state with little parliamentary oversight.

In terms of the Mines and Minerals Act the Parliament is informed when a company has been issued with an Exclusive Prospecting Order which is a license approved by the President.

The Parliament's oversight is already enshrined in the Constitution which is the supreme law of Zimbabwe. There is no need to spell it out in an Act of Parliament. The Parliamentary Portfolio Committee through the standing orders has a right to summon the Ministry on any issue which affects the public.