



# SALARN Newsletter

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## Editorial - Extractive Industry

By Dr Dzingirai -

Extractive industries are rooted in Africa, much more than any part of the world. In part this rootedness arises from the obvious fact that the continent still hosts a variety of primary resources, whether on the earth or in its belly. Now, it is an undisputed fact that for the most part companies exploiting these resources have been profit minded, seeking to generate revenue ahead of other competitors and before some naughty rebels scatter the spoils. We saw it in the classic work of Bill Berkley, *The Graves Are Not Yet Full* and before that in the harrowing work of the journalist Scot Peterson, *Me against my Brother*.

For these corporations, the interests of indigenous communities living with and in the resources do not matter; it is as if these corporations all have a blind spot against for people and a worse one for the environment. The result of this has been horrendous poverty against brutal exploitation by states and firms all working together. We can only suppress, with difficulty, the inevitable and externally-shared

images and echoes of darkness long popularized by Joseph Conrad in that book we all have *The Heart of Darkness*.

This wretchedness - to continental relief- has finally given rise to a small but fast growing movement against extraction. There are, in the continent today, initiatives which are concerned with transparency issues in mining and timber industries. There are others which are concerned with accountability. It is fermentation in ideas that triumphs over the impossibility we all dared to wrestle.

Quite how this human and environmental wretchedness - the byproduct of projects of extraction- can be avoided is a matter that engenders lively debates across academia. For Dr Manyeruke, some degree of scrutiny over extractive corporations must hold now and in the future to keep local people in the radars of Capital. For Sifelani Tsiko, this scrutiny might be the solution, but it is one that will work only when civil society partners with western and local nongovern-



mental organizations defending local interests across scales. In this the environmentalist echoes the illuminating work of Michael Hardt and Negri, *Empire*. For Regis Mafurati, the problem of wretchedness will cease when citizens write their environmental and cultural rights in national constitutions. Finally, For Keitumetsi Basutu the problem will end when the nation- state, acting in the interest of its own people intervene, taking action against those who sacrifice people and the earth to profits. The debate is vicious, and very much on.

It is the editor's hope that these short pieces, preliminary in some respects, provide a starting point for us - researchers and activists - to engage extractive industries in ways that are innovative and useful to all concerned.

## Mining in Africa: Can the poor benefit?

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### Introduction

The former Anglican, Archbishop of Cape Town, Njongonkulu Ndungane, who now heads a pan-African non-profit organisation said "Africa is poor because it is rich," (Makoni, 2010). The majority of Africans have not benefited from mining in the region despite the abundance of gold, diamonds, copper and platinum in this continent. Mining activities in Africa can be traced back to the distant past when Africans used basic tools such as stones and metal pieces to extract minerals. Back then, mining was not as sophisticated as it has become. With the advent of colonialism, the region witnessed the formalisation of mining activities as concessions were

officially granted and registered . The critical question that arises now is whether the poor can benefit from the minerals their continent is endowed with.. Perhaps the benefits can be in the short term but what is of importance are sustainable benefits able to improve livelihoods.

### Sustainable development

Sustainable development is a very important aspect in the mining industry. The Bruntland Commission (World Commission of Environment and Development, 1987) defines sustainable development as "Development that meets the needs of the present without compromising that of future generations to meet their own needs". This definition entails that, future generations have rights over natural resources and the current generation

has the responsibility to take into account the needs and interests of future generations in their decision-making. Sustainable development is concerned with (a) the rights of future generations to the services of natural and produced assets and (b) whether the formal and informal institutions that affect the transfer of assets to future generations are adequate to assure the quality of life in the long run (Norgaard, 1992). Sustainable society is one that lives within the self-perpetuating limits of its environment. Society is not a 'no growth' entity. It is rather one that recognises the limits of growth and look for alternative ways of growing (Coomer, 1979). Sustainable development is also perceived as development that is likely to achieve lasting satisfaction of human needs and improvement of the

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*Mining plays a very important role in sustainable development. It creates employment and provides raw materials. It can improve standards of living.*

quality of human life (Allen, 1980). Sustainable development in the context of mining encompasses economic responsibility to shareholders, employees, community and society in general. Environmental responsibility is critical to society's welfare. Resource stewardship, that is the wise and efficient use of resources, community engagement, product stewardship, social license and public accountability result in sustainable development in mining. Mining plays a very important role in sustainable development. It creates employment and provides raw materials. It can improve standards of living. It can promote transfer of technology. The World Bank argues that sustainable development in the mining sector requires "projects that are financially viable, environmentally sound, socially responsible, implemented with sound governance (not only companies but also communities and governments) and have lasting developmental value, especially at the community level". (Van Der Veen & Strongman, 2003, p18). This article interrogates all these views in relation to practice. If all these definitions are what sustainable development is all about then the poor are supposed to benefit from minerals found in their country without question..

#### **Infrastructure development and mining**

Most mining activities often result in infrastructural development where the extraction is taking place to the port. Other activities like farming tend to benefit from the development of road networks. Access to markets can be improved by such road networks. However, the problem that may arise is that these road networks normally follow the routes for mining trucks or wagons thus excluding

nearby communities who may still remain inaccessible and therefore remote. George Frynas as quoted by Scott Pegg notes that on Shell's contribution to road building in Nigeria "most of these roads lead to oil installations, by-passing the local villages"(Frynas , 2001). Fraynas sadly observes that more than 40 years after oil was discovered in the Niger Delta, the vast majority of people there still do not have access to basic infrastructure like electricity or pipe-borne potable water. Infrastructural improvements that either do not materialize or are solely designed to benefit corporate mining firms will not produce substantive poverty reduction benefits.

#### **Community Participation**

Emphasis on resource extraction as compared to resource management has been accused of resulting in communities failing to benefit from mining investments. In such cases, mining companies are only concerned with the profit making at the expense of communities. There is very little or lack of public participation in most mining activities. Usually in these mining establishments, the communities are voiceless and powerless as noted by Scott Pegg who further argues that oil and mineral dependent states tend to be less democratic and more corrupt than other states. The World Bank highlights that giving poor people a stronger voice in their respective countries' governance is vital to making state institutions more responsive to the needs of the poor. All these positions are clear but what has been problematic is on practice by both the mines and states. Mining is often deemed a technical area where the ordinary people have no technical expertise to contribute to. This has resulted in consultations on most environmental impact assessments being done with people in offices and not the villagers where the mines are located. Problems often arise when it comes to displacements of such communities which are normally dictated by central governments and mining companies.

The Economic Commission for Africa report on mining in Africa (2009) notes that at the national level, there has generally been an improvement in the participation by communities in mining projects and in benefits accruing to communities. The report further notes that from a policy-making viewpoint, there has been notable exam-

ples of countries employing the multi-stakeholder approach as happened in Malawi, Namibia, South Africa and the United Republic of Tanzania. It correctly observes that generally, however, Governments still see policy-making and regulation of the mining sector as their sole responsibility. Again, many African countries do not have sustainable development principles in their national mining policies. Local equity participation in mining projects is also not seriously promoted nor embedded in law as is the case in South Africa. As a result, participation of nationals in large-scale mining projects is not commonplace in many African countries.

The SADC framework emphasizes the participation of nationals in mining projects and benefit sharing with communities around mining projects. It further encourages the participation of women in the minerals sector, based on the SADC Gender Protocol (Economic Commission for Africa, 2009). Whilst SADC promotes community participation in mining projects, there is little involvement of these communities on the ground. Communities often fight with the states and mining companies which often marginalise them in these projects.

The issue of ownership cannot be underplayed if mining is to change the lives of the poor African majority. In South Africa for example, the South African Mining Development Association (Samda) commissioned a study to review black ownership in mining. It observed that the gross value of black shareholding among the top 25 mining companies in the country is 5.27% of the total R1,8 trillion market capitalisation. In the Mining Charter, industry stakeholders were committed to achieve 15% black ownership by 2009 and 26% by 2014 (Faurie Jonathan, 2010). The Government of Zimbabwe is calling for a 51% indigenous ownership in the mining sector through its recently enacted Indigenous and Economic Empowerment Act (Chapter 14:33). The Government endeavors to secure that:

- At least fifty one percent of the shares of every public company and any other business shall be owned by indigenous Zimbabweans.
- Mergers and Acquisitions approved by the Competition Commission will have fifty one percent of the re-structured business held by indigenous Zimbabweans. The indigenous Zimbabweans should be equitably



represented in the governing body of any such resulting business.

- Any proposed investment by domestic or foreign investors which requires investment license in terms of the Zimbabwe Investment Authority Act shall be approved only when indigenous Zimbabweans have a controlling interest in the investment.
- All Government Departments, statutory bodies and local authorities and all companies shall procure at least fifty per cent of their goods and services required in terms of the Procurement Act from business in which a controlling interest is held by indigenous Zimbabweans.
- Any subcontracting required to be done by the supplier shall be done to the prescribed extent in favour of business in which a controlling interest is held by indigenous Zimbabweans.

Whilst this piece of legislation is aimed at addressing colonial imbalances and affirm the country's right to economic self determination particularly on natural resources, government has come under heavy criticism for failing to consult with the stakeholders first before coming up with a blanket percentage shareholding. The sentiments have been that whilst the principle is accepted, the indigenous shareholding structure may act as a disincentive to foreign investors. There is however fear that a few elites may benefit from this new law. The Minister responsible for implementing this policy has however said that a Fund will be created to assist the indigenous companies to enable them to acquire the required shares. What is important here is to ensure that the funding models underpinning transformation transactions do not principally benefit the already advantaged firms at the expense of the intended beneficiaries who are the absolute minority.

#### **Economic, social, health and environmental benefits**

Mining can reduce poverty by generating a lot of revenue for government from taxes, revenue and royalties collected from mining operations. However corruption results in government failing to account for the revenue collected. Again most central governments in Africa do not share revenue received from mining with local communities. However, South Africa contributes some of its revenue

to local communities. Most companies in Southern Africa do not enter into agreements with local communities to ameliorate the negative impacts of mining. In Southern Africa, DRC has a legal requirement for mining companies to clearly state how they will work with communities to ensure that they do not remain worse off as a result of a mining investment in their community.

Mining in Southern Africa is mostly capital intensive as compared to farming which is mostly labour intensive. It therefore does not create a lot of employment much to the expectations of local communities. This means that revenue collected is very high as compared to the jobs created. In Zambia:

“although investments (through privatisation of mines) have created some new jobs, there has been a collapse in the quality of employment, with around 45% of those working in the mines now unable to access permanent and pensionable contracts. Most mining companies have shifted workers onto rolling, fixed-term contracts on significantly less beneficial terms and conditions, or the jobs have been ‘contracted-out’ to companies that pay in many cases less than half the monthly wage offered permanent workers for the same work in the same mines, and in some cases, just one tenth of this figure. Given the dangerous and arduous nature of their work, Zambian miners have been used to, and believe they deserve, decent terms and conditions. The current situation is creating for the first time amongst mineworkers a category of the ‘working poor’ (Fraser and Lungu, 2008).

This means that job creation in mines does not necessarily results in decent living. This is because of poor salaries paid by the mining companies. South African gold mines during apartheid were notorious for poor wages yet they attracted labour from across Southern Africa. Its former workers are living in abject poverty and some suffer from illnesses which were caused by their mining jobs such as tuberculosis and liver cancer. Most mines do not have any pension schemes for their former employees. On the Zambia's Copperbelt the experience is that:

Over the past eighty years, more and more people have been drawn to the region, giving up rural lifestyles to live in the cities and work in the mines. At the end of formal employment, and

without a pension, many now find themselves unable to afford food and unable to fall back on subsistence farming and the extended family networks that many retirees in rural areas would depend on. An increasing number are living and farming on squatted land, owned by the mines, and on which they face risks from eviction, subsidence, explosions and pollution (Alastair Fraser and John Lungu, 2008).

Oil exploration in the Niger Delta has not resulted in any development for the local communities. What they got are oil spills, 24 hour flaring gas, carbon dioxide and methane emissions. The fishing and agricultural livelihoods for local people were distracted. Discontent with international oil companies and governments led to upheavals which led to organised opposition. The Movement for the Survival of Ogoni People (MoSOP), led by Ken Saro-Wiwa, Ijaw Youth Council (IYC) and Niger Delta People's Voluntary force are among organisations that were formed in the Niger Delta to fight oil companies and government against exploitation and non development of the Delta. They have been demanding royalties, damages, compensation, and a halt to environmental pollution. These groups have been involved in kidnapping of foreign workers, armed attacks and siphoning of oil from oil pipelines. The government's response has not been favourable. Their response was military repression, brutal beatings and killings of members of the Delta community (Amanor, 2008).

The mining sector remains a key variable in Africa's economic growth equation. In South Africa, mining contributed 9,5% to gross value added; 9% to total fixed capital formation; more than 30% to the country's total export revenue and employed 2,9% of the country's economically active population in 2009. The sector also contributed 18% to the country's corporate tax receipts and listed mining companies represented more than 30% of the market capitalisation of the Johannesburg Stock Exchange. Mining consumed 15% of national electricity but it contributed more than 95% towards the country's electricity generation. South Africa is one of the world's and Africa's most important mining countries in terms of the variety and quantity of minerals produced. Sales of primary mineral products accounted for nearly 35% of South Africa's total export revenue during 2000. It is estimated that South Africa

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holds 80% of the world's known manganese reserves as well as 72% of the world's known chromite ore reserves. In 2005 South Africa was found to be the ninth-largest producer of aluminium, the largest producer of aluminosilicates, chrome ore and ferrochromium. South Africa was also found to be the second-largest producer of manganese ore and the ninth-largest producer of nickel in the same year. The gold industry remains the largest employer, responsible for more than 50% of total employment, estimated at 420 000 people in 2000. Due to low gold prices and the marginal nature of many of South Africa's gold mines, the resultant restructuring and cost saving exercises has resulted in several thousand workers losing their jobs ([www.mbendi.com](http://www.mbendi.com)).

In the Niger Delta, revenue from oil has been very small, only 2 per cent of the value of oil produced. Local communities are given a small percentage of the revenue in recognition of their contributions. The percentage they received has dropped from 50% to an average of 2 percent as the government realised that it is largely dependent on oil production for its revenue. This region however has lack of infrastructure; it has high unemployment and poverty. In Ghana whilst 70% of the land was made available

for mining concessions, this has not reduced poverty. The communities within mining areas have poor roads, hospitals and schools. Small scale miners were disposed of their land rights, rights to livelihoods, settlements, residence and to a healthy environment. Members of the community are given harsh sentences if they refuse expropriation and bullying tactics of mining companies. Amanor elaborated on the five activists of Wassa Association of Communities Affected by Mining (WACAM) who in 2006 were arrested for meeting with disaffected members of a mining community. They were sentenced to two weeks prison custody. What is annoying is what the judge said in his judgement: "...in recent times, the mining communities had been disturbing the foreign companies and he would use this case to set an example so that community people would stop harassing the mining companies" (Amanor, 2008).

In Botswana the mining sector is the most important sector in the economy contributing about 34% of GDP. In Botswana, diamond mining consistently accounts for around 30% of GDP and around 80% of export earnings. Debswana and Namdeb are the largest taxpayers in Botswana and Namibia respectively. The Government of the Republic of Botswana consistently derives around 50% of its revenues from diamonds. This includes dividend income from its 15% shareholding in De Beers. In Namibia, government revenue from diamonds averaged around 8% over the past 10 years. ([www.debeersgroup.com](http://www.debeersgroup.com)).

Very interesting figures but very sorry stories on how local communities lose their lives as mining companies take over their livelihoods. A report by Action Aid shows that remote rural communities have lost their farm land and access to clean water in South Africa as a result of mining by Anglo Platinum, the world's largest platinum company, which made profits of US\$1.75 billion in 2007 alone. The report estimates that thousands of poor people in four villages in the Bushveld mineral complex in Limpopo province have lost farm land and received little compensation in a series of relocation deals with Anglo Platinum. "We used to live in harmony, we had food and electricity. But the mine came and buried us alive. It's like someone comes to live in your house and then kicks you out," says 56-year old Rose Dlabela, just one of thousands of people whose lives have been affected by the

world's largest platinum producer, Anglo Platinum. Whole communities have lost access to clean water and some villages have seen their water supplies cut off altogether, the report claims. "There were so many promises," said Isaac Pila, 72 years, who moved to the new township of Sterkwater to make way for open cast mining on his land ([www.actionaid.org](http://www.actionaid.org)).

#### Fair Contracts

Mining contracts are often shrouded in secrecy. Governments in Africa have in the past negotiated contracts which do not contribute to sustainable development. They were concerned with immediate gains and foreign investments. They had to entice investors by granting incentives such as extensive tax and royalty exemptions. Consequently, many countries earned very little from such contracts. It is therefore important for African governments to renegotiate their mining investments deals so that they can earn meaningful revenue, ensure that contracts address environmental protection, adequate compensation to affected communities and the rehabilitation of land after mining operations have ceased. Communities are also supposed to participate in the signing of contracts so that they know and they are able to review the benefits that they derive from such mining investments. In order to address this problem, Tanzania set up an 11-member committee of government officials, mining experts and civil society representatives to look at how to make mining contracts contribute to sustainable development. The committee's recommendations were taken on board. Subsequently, Tanzanian Minister of Energy and Minerals Nazir Karamagi announced to Parliament that mining companies AngloGold, Barrick and Resolute had agreed to pay annual levies equivalent to US\$200,000 directly to local governments in the areas where their mines were located. The funds would be used for community projects. An additional \$125,000 annually would be paid to an "empowerment fund" to finance national development projects. The companies would also be required to buy local products and services where these are available, instead of importing them (Kimani, 2009).

#### Conclusion

Mining can contribute significantly to poverty reduction in Africa. Africa is endowed with rich minerals. Unfortunately most of the mining investments

*The Government of the Republic of Botswana consistently derives around 50% of its revenues from diamonds.*



are foreign owned. It is therefore important for African governments to negotiate contracts with investors which will contribute to poverty reduction, result in infrastructural development in mining communities, provision of safe and clean water and sanitation, provision of good health and educational facilities. Electricity should also be made accessible to local communities. These communities should be able to review existing contracts in terms of their impact on the environment as well as community development and growth. Mining companies should form smart partnerships with local communities. They should have fair compensation packages in order to contribute to poverty reduction in mining communities. Mining companies should also contribute towards raising awareness and provide access to treatment for the HIV/AIDS pandemic. This is because, two-thirds of all people infected with HIV live in sub-Saharan Africa, although this region contains little more than 10% of the world's population. AIDS has caused immense human suffering in the continent. The most obvious effect of this crisis has been illness and death. During 2008 alone, an estimated 1.4 million adults and children died as a result of AIDS in sub-Saharan Africa. Since the beginning of the epidemic more than 15 million Africans have died from AIDS ([www.avert.org/aids-impact-africa.htm](http://www.avert.org/aids-impact-africa.htm)). Mining companies operating in Africa should not be granted too many tax subsidies and concessions and these should be placed under public, government and parliamentary scrutiny.

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**Mining can contribute significantly to poverty reduction in Africa**



## Hardwood Catastrophe: Illegal trade Accelerating loss of SADC's Priceless Forests

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THE intensive illegal logging of precious hardwoods and trade in forest products is seriously threatening Southern Africa Development Community countries' unique forest ecosystems characterised by a rich biodiversity on the fragile Kalahari sand and other ecosystems on the sub-continent (McCullum, 2000). Hardwood forests, the region's most valuable natural resource which provide economic and social and ecological functions, are rapidly being lost due to illegal timber logging and activities of forest

squatters (UNEP, 2002).

The illegal logging of teak (*Baikiaea Plurijuga*), mahogany (*Guibortia coleosperma*), mukwa (*Pterocarpus angolensis*) and other indigenous hardwoods such as wooden banana, Leadwood and white seringa (*Kirkia Acuminata*) in the 800 000 hectares of gazetted indigenous forests in Western Zimbabwe and another 82 000 hectares in the Midlands province is accompanied by wildlife poaching and trafficking of endangered species.

Ecologists and foresters are concerned at the rate at which the southern Africa sub continent is

losing its hardwood reserves. They estimate that Zimbabwe is losing more than 300 000 hectares of trees (forest) per year due largely to deforestation. The sharp demand for energy for tobacco curing, occasioned by erratic power supplies, is accelerating the rapid loss of the country's forest cover. This is the case in Zimbabwe where ZESA, the power utility is unable to generate power to meet the needs of farmers and industrialists.

Zambia, the Democratic Republic of Congo, Tanzania and Mozambique are also the hardest hit with increasing evidence of hardwood



**“illegal timber logging and trade is seriously affecting the stability of fragile ecosystems”**

clearance and degradation. This has left most rural communities living on the fringes of the protected forests vulnerable. Ecologists and foresters in Zambia, for example, say illegal timber dealers have invaded areas in chiefs Chibale, Muliro and Lundu in Chama North in the Eastern Province. Peter Nyirenda, the district commissioner, told the media - Lusaka Times - recently that unscrupulous people both locals and Tanzanian nationals have ventured into illegal activities in chiefs Chibale, Mulilo and Lundu cutting trees indiscriminately for timber production. He said the timber cut from the three chiefdoms is being transported into neighboring Tanzania via Isoka and Nakonde on a daily basis according to reports in mainly from the Lusaka Times, (Zambia).

In Tanzania, the media also reports the growth of unregulated timber trade in the woodlands and coastal forests of southern Tanzania. Large volumes of timber are felled without any licence. Concealment and evasion are the most common techniques used to avoid payment of royalties. Foresters say the dealers use off-road routes to avoid official natural resources checkpoints, travel at night, locking trucks to avoid inspection and hiding timber products under other products like salt and sugar. Under-declaring or mis-declaring the goods are a big challenge as well.

Foresters and ecologists say Mozambique instituted a system of ‘Simple License’ forest concessions to support local businesses. The simple licenses are restricted to Mozambicans and for a limited amount of timber. This system, however, is being abused by Chinese middlemen

who hire locals license holders to cut timber and then funnel it through informal ports along the coast. According to unconfirmed reports, the timber is then transferred to Chinese ‘motherships’ offshore. This is rife in Northern provinces of Cabo Delgado, Nam-pula and Zambezia.

Even though the woodlands and coastal forests present enormous potential in alleviating poverty and enhancing social development, growing disparities in poverty levels, population growth, unsustainable practices and increasing pressure on limited resources are threatening both the quality of woodlands and the quality of livelihoods. Forestry Commission of Zimbabwe spokesman, Abedinigo Marufu says in an interview with Herald, to cure 1 000 cubic metre of tobacco, a farmer needs a 30 tonne truck full of fuel wood. “This is a big challenge and few of the farmers are showing interesting reforestation,” he says. Zimbabwe’s woodland cover has fallen sharply in the past three decades to between 15 and 16 percent, according to a mapping and inventory study conducted by the Forestry Commission, the Surveyor General’s Office, the University of Zimbabwe and other partners.

Ecologists and foresters say the transboundary illegal timber logging and trade is seriously affecting the stability of fragile ecosystems which are on the delicate Kalahari sand soils in the case of Botswana, Zimbabwe and Zambia, making them more vulnerable to climate change and soil degradation. The harvesting and utilisation of hardwoods (teak, mukwa and mahogany) is continuing at a faster rate than their replacement. Teak is particularly sensitive to fire and has a regeneration rotation length of 80 to 100 years.

The uncontrolled and reckless harvesting of hardwood forest reserves is impacting on the quality and quantity of water resources, the rate of hardwood regeneration and the environment contributing to increased rural poverty. The monitoring and management of the hardwood forests, as the various reports from the Forestry Commission of Zimbabwe shows, is extremely weak and this has opened floodgates to the complex and organised crime networks involved in illegal logging and trade in timber products sourced from the

region’s gazetted forests.

The Forestry Commission, just like in other countries in the region, is mandated under the Forest Act and the Communal Lands Forest Produce Act to regulate the forestry sector, forestry extension, management of gazetted forests, research and income generation activities. The state-owned forestry utility is entrusted with the management of gazetted 14 forests in the Matabeleland North and Midlands provinces. These are Bembesi, Chesa, Fuller, Gwampa, Inseze, Kazuma, Mafungautsi, Mudzongwe, Mzola, Ngamo, Panda Masuie, Sikumi, Umgusa and Ungwe forests, all part of the fragile Kalahari sand areas forming the transition between the savannah and forest ecosystems. Vegetation in these forests is primarily important for soil protection, watershed management and biodiversity conservation purposes. These forests according to the reports by the Commission have hardwoods of national importance and together with softwoods contribute some 3 percent of the country’s GDP. Hardwoods contribute between 1, 5 and 2 percent to the country’s GDP. The Forestry Commission estimates that the country earns more than US \$15 million a year from hardwood timber sales.

Despite these highly spoken about benefits across the region, a complex web of problems such as the reckless plunder by logging companies with links to powerful politicians, illegal forestry settlements, timber poaching, forest fires, deforestation, financial and operational problems facing the forestry authorities and controversial land reform have led to the rapid loss of the country’s precious hardwoods. Added to this is the scourge of international trade in forestry products. This provides a ready market for timber and related products, according to one University of Zimbabwe ecologist interviewed recently:

*“Corruption by the ruling elite yes, but who is benefiting from hardwood products in the end. International trade, consumption patterns in the West and more recently China’s insatiable appetite for timber are the major culprits in this game. We need to understand this as we analyse the movement of hardwood timber from source to the final markets in the West.”*

All these factors have in one way or

another compromised the ability of most forestry utilities in the SADC region to sustainably manage and judiciously utilise the hardwood forest and services in member states. In Zimbabwe, the Forestry Commission, the Ministry of Environment and Natural Resources Management, the Environment Management Agency and the National Parks and Wildlife Management Authority recognise their actions have not had great success in fighting against illegal timber logging and trade.

Greed by the narrow elite

Foresters and sources in rural communities at various sites in the fragile state-run hardwood forests at Mzola, Gwayi, Bembesi, Gwampa and Lake Alice in Matabeleland North accuse the corrupt ruling elite of fuelling the illegal timber logging and trade in forest products. A forester from Lupane who spoke on condition of anonymity to the author says corrupt high level officials who own and control most sawmills and timber logging companies are engaged in the reckless deforestation of the hardwood forests:

*“Politicians are plundering and looting the hardwood forest reserves as they like. They own most of the sawmills here and use their relatives and friends as fronts. We know it and all the people here in Lupane and Gwayi know what is happening but we are powerless. The politicians are ruthless and if you say anything about the looting and plunder of hardwood forest they can kill you.”*

Mathendlegu Nkomo, a communal farmer in Lupane, also agreed with this, adding that people are not benefiting from the rampant exploitation of the hardwood by the politicians.

*“They are not paying any royalties to the rural council. We are not getting anything from this natural heritage. How do we get motivated to play our part in the conservation of the hardwood forest?”*

Bringing illegal loggers to justice still depends on the country's graft-ridden police and justice system. Top army and police chiefs are also allegedly involved in this logging business and this intervention virtually impossible. As one activist recently remarked to author:

Illegal logging by corrupt interests

is tied to major political figures is devastating the rapidly disappearing teak and mukwa forests of Zimbabwe. At the current logging rate, teak and mukwa in Zimbabwe may become all but extinct within the next 10 to 15 years. We are losing this valuable natural resource at a frightening level because of the greed politicians.”

The problem is thus intricate, and to the local people, possibly hopeless.

#### China spurs illegal timber trade

China's growing demand for timber has seen local elites forming partnerships with Chinese companies to extract hardwood timber in the country. The Asian powerhouse is the fastest growing importer of SADC's indigenous hardwood products, both unprocessed and semi-processed. Chinese carpentry companies transform much of the wood into furniture and other wood products for export to the United States and Europe where the local elite because of sanctions cannot export to. Timber is shipped from most SADC countries via Mozambique and South Africa to China. Ironically, China has imposed a strict ban on logging at home after years of rampant clear-cutting. Foresters and environmentalists say that has helped stoke demand for wood across Southeast Asia and Africa. A Zimbabwean forester remarked:

*“The Chinese and Koreans are involved in the illegal timber logging and trade in forest products. These people are maximizers and they don't care much about the plight of the rural communities surrounding these forest reserves,”*

According to the forests, these two countries are concerned about maximizing their returns and keeping the powerful politicians happy and oiled with the US dollars. But it is not only these Asian countries which are behind the trade: the west is culprit too.

#### The West

The unbridled and excessive timber logging that is taking place in most SADC countries with such "military efficiency," ecologists and foresters say is being pushed by demand in the Western markets. Numerous studies and reports suggest that the United States and France are two leading importers of this illegal harvest of the country's hardwoods. South Africa is a player but it must



be recognised it does so mainly as broker. It buys from local timber dealers and transmits these to western markets. It is difficult to distinguish teak, mukwa and mahogany from say South Africa and that from Zimbabwe on a finished product. The demand for mahogany, teak and mukwa which fetches 1,300 dollars per cubic meter on the international market is driven largely by demand for furniture in the U.S. In Zimbabwe, hardwoods are being sold at between US\$250 and \$300 per cubic meter, softwoods for US\$150 per cubic meter, and a far cry from the international rates. No studies have been conducted to track the movement of hardwood timbers from the country to international markets, but sources in the timber industry say orders have been received in recent years from large furniture concerns in the US such as Home Depot.

For this reason, ecologists and foresters call for the U.S. and EU to take stronger action to stop and prevent the imports of such goods in line with the July 2005 Group of Eight (G-8) summit commitments. It urged the listing for international protection of SADC's teak, mukwa and mahogany species and the upgrade of those that already exist for mahogany. Such a call is consistent with SADC Forestry Protocol whose spirit it is to protect forests and use them for benefits at various scales (Chenje, 2000).

Finally it must be noted that there also growing regional pressure to certify the origin of wood products to show that they are obtained from sustainably managed areas. This is in response to awareness of the negative environmental and social impacts of deforestation. Certification has only been done in some

***“The Chinese and Koreans are involved in the illegal timber logging and trade in forest products.”***





exotic timber plantations where considerable value addition is done to timber products.

#### **Weak Forestry Commission administration**

Ecologists and foresters say most state forestry regulators remain weak and without adequate financial resources to control vast tracts of forest lands in the region. In Zimbabwe which is a familiar case, the Forestry Commission has in the last decade faced numerous challenges in playing its stewardship role over the 800 000 hectares gazetted indigenous forests in Matabeleland North and Midlands provinces. The commission has failed to control and contain the problem of illegal settlers on gazetted forest land due to lack of power and political interference. Squatting continued unabated following the launch of the land reform program in 2000. This has raised the levels of wildlife and timber poaching and general environmental degradation in the affected areas. The gazetted forests have been hit hard by forest fires started by poachers and arsonists leading to a huge loss of biodiversity and hardwood forests. The unstable economic environment in the last 10 years, rampant inflation, foreign currency shortages, escalating operational costs, lack of fuel and vehicles, massive exodus of professionals, the land reform program, and lack of financial support from donors and political instability seriously compromised the Commission's ability to deliver against its mandate.

The Forestry Commission puts effort, there is no doubt about that. In 2006, a total of 170 anti-poaching patrols were conducted against a target of 236 while 255 offenders were arrested and prosecuted. They were 196 convictions. In addition to this, 825 snares were removed, 75 dogs were killed

while 27 spears and 67 axes were confiscated. Poachers in this year killed 72 animals valued at US\$100 000. But this effort is far from being viable and comprehensive. To be effective, the commission would, just like any other in the region, need adequate financial support from government and donors, an attractive manpower development and retention policy and recapitalisation and engagement with local communities. Otherwise the country's valuable hardwoods will be depleted in the coming 10 to 15 years, according to the Forestry Commission spokesman, Mr Marufu.

#### **Lack benefits at the local level and peasant hostility**

While the introduction of the Communal Area Management Program for Indigenous Resources (CAMPFIRE) principles to forestry management was hailed as a strategy to involve local communities in the sustainable management and utilisation of forestry resources, the benefits have not trickled to the local communities. This has led to illegal forestry settlement, timber poaching and arson. In February this year, 23 village heads and their communities took action and camped at Platinum sawmill in Lupane demanding that they be paid royalties. The firm has since been suspended from logging by the Forestry Commission.

#### **Way forward**

To chart a way forward one needs to understand what the problem is. Over the past two decades, the primary causes have usually been identified as impacts from peasant farmers, including intensification of shifting agriculture, overgrazing by domestic livestock and fuelwood collection. Population growth has often been named as an underlying cause. Whilst these certainly all play an important role in forest loss in some places, ecologists and foresters suggests that, at least in those forests which are most important from the perspective of biodiversity, most contemporary assessments exaggerate the significance of clearance by peasant farmers and fuel-wood collection, and understate the importance of industrial impacts, including particularly commercial timber extraction, for both national use and the international trade. So what is the way forward?

The critical point therefore is to

develop a two-pronged approach. The first is to empower and capacitate forestry regulators so they can adequately deal with the issue of poaching and illegal settlement on forestry land. The second strategy is for regional forestry commissions to step up public awareness campaign to inform sensitive western markets which are the final markets for the forestry products.

To help the regulators be more effective, it is recommended that forestry regulators partner with NGOs and local communities. These players have the resources that the forestry regulators lack to stop illegal resource use at various scales, local and regional.

The approaches suggested above stems from the view that logging is a process that involves many actors and locations (FAO, 2003; 2005). Without this understanding, it may not be possible to curb this local or global process.

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*The  
[Zimbabwean  
Forestry]  
commission has  
failed to  
control and  
contain the  
problem of  
illegal settlers  
on gazetted  
forest land due  
to lack of  
power and  
political  
interference.*

# Natural Resources Ownership, Control and Wealth- Sharing

By Regis Mafuratidze  
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## Introduction

Zimbabwe is very rich in natural resources which include gold, diamond, platinum, forestry, black granite etc. These resources contribute a greater percentage to the country's gross domestic product (GDP). The resources create wealth for the country and are therefore a national heritage requiring equitable use and exploitation. The indigenous communities should have the right to own, occupy, use and control the land and the natural resources so they can develop from these natural resource development. There are currently many challenges related to addressing the issue of equitable sharing of benefits arising out of the use of our natural resources and these challenges are mainly caused by corporate interests in natural resource exploitation that impact negatively on the livelihoods of our local communities. The same corporate interests violate the right. It is the State's responsibility to protect the local communities over their land rights and natural resources of local communities to natural resources and the benefits arising from their use.

In 2002, the Extractive Industries Transparency Initiative (EITI) was formed to deal with issues related to collection and distribution of natural resource revenue following realization that developing countries, continue to register poor economic performances in spite of the natural endowments. (IMF Guidelines on Resource Revenue Transparency (2005). A number of reasons have been given for this scenario. One reason is the lack of appropriate policies and institutions to manage long term sustainable utilization of natural resource exploitation (Karz, 2004). The second reason is that developing countries suffer from corruption now entrenched in the system of governance. It should however be emphasized that the above stipulated problems vary from country to country and there exist distinctive industry -specific problems surrounding extractive industries which include issues related to ownership and regulation of resources, control over natural resource management and dispute settlement resulting from ownership wrangles. This paper therefore seeks to analyze some of the above stated issues.

## The Principle of National Sovereignty

The concept of sovereignty developed as a result of the need to provide a formula which ensures effective exercise of power between developing and developed powers over the use of natural resources. The concept is generally subsumed under territorial sovereignty. The United Nations General Assembly adopted resolution 1803 (XVII) on permanent Sovereignty over Natural Resources in 1962. The resolution declared among other things that the right of people and nations to permanent sovereignty over their natural resources must be exercised in the interest of the State concerned and should be in conformity with the rules and conditions which the people and nations freely consider to be necessary or desirable with regard to the authorization, restriction or prohibition of such activities.

The concept has also found expression in several multilateral instruments for example the Article 6 of the 1972 UNESCO Convention for the Protection of the World Cultural and Natural Heritage which fully respect the sovereignty of States over their cultural and natural heritage. Article 3 of the 1992 CBD reaffirm the sovereignty of States over their own biological resources and their sovereignty right to exploit these resources pursuant to their national legislation. The authority to determine access to genetic resources rest with national governments, subject to national legislation (CBD Art.15). Countries are permitted to set terms and conditions for access to their resources so that they gain profit from the use of their biodiversity. The issue of unfair access to and control over natural resources has contributed immensely to poverty and environmental degradation in Zimbabwe. There is in Zimbabwe the specific example of Mutoko granite mining where the local community has not benefited much to the activity, so far enjoyed by the private sector and the local authorities in charge of the granite mining areas. It is therefore important to balance the local interests against the overall importance of natural resources to national development.

## Ownership, Control and wealth-sharing

### Constitution

Section 16B of the Constitution gives



the State sovereign right over all land in Zimbabwe. That means all land for whatever purpose in Zimbabwe belongs to the State. Arguably, the same constitution should have a provision regulating natural resources. It is important to include a provision on natural resource in the constitution so that the provision attempts to resolve competing interests over ownership, control and sharing of natural resources. Constitutional expression on treatment of natural resources is important since it protects the core elements of social contract and resolve claims by competing internal groups over ownership and control of the natural resources. The Constitution must have a specific provision where the local communities have the right for protection with respect to the natural resources on their land including the ability to use, manage and conserve such resources traditionally. Further, the constitution should have a provision for the participation of local communities on issues affecting their interests especially relating to exploitation of existing natural resources on their land.

Other developing countries have specific constitutional provisions regulating ownership of natural resource and these include the following:

Indonesia: Article 33.2 of the Indonesian Constitution stipulates as follows:

“Article 33.2 Sectors of production which are important for the country and affect the life of the people shall be under the powers of the State. (3) The land, the water and the natural resources within shall be under the powers of the State and shall be used to the greatest benefit of the people.”

Russian Federation Constitution stipulates that “the land and other natural

*It is important to balance the local interests against the overall importance of natural resources to national development.*

*Ownership becomes a very contentious issue since there exists competing interests of private, communal or customary land rights and state ownership*

resources shall be used and protected in the Russian Federation as the basis of the life and activity of the people living on their respective territories. The land and other natural resources may be in private, state, municipal and any other forms of ownership.”

The Papua New Guinea Constitution stipulate that the “the sovereignty of Papua New Guinea over its territory, and natural resources of its territories shall remain absolute”.

The example above show Constitutional clarity on issues of ownership and it is our considered view that Zimbabwe should do the same.

#### Sector specific legislation

Mines and Minerals Act [Chapter 21:05]

Zimbabwe has also come up with sector specific pieces of legislation. These include the Mines and Minerals Act [Chapter 21:05], which vests all mineral rights in the President. Any activity in relation to the mineral can only be carried out following the issuance of a permit. Beneficiation of the local community where the mining activity is being carried out is only done through the Rural District Council through unit tax. Recognizing the environmental damage caused by mining, the proposed Mines and Minerals Amendment Bill seeks to make it mandatory for every miner to provide funds to the local communities for rehabilitation of the environment after their operations. The same amendment is proposing to indigenize the mining sector by proposing a 51% share holding structure to be owned by indigenous community or the State.

The Indigenization and Economic Empowerment Act [Chapter 14:33]

The Indigenization and Economic Empowerment Act [Chapter 14:33] and the Indigenization Regulation, Statutory Instrument No. 21, 2010 emphasizes

government endeavour to secure at least 51% of the shares of every public company and any other business to be owned by indigenous Zimbabweans. It is suggested that in empowering our people the law should address and take into consideration the geographical distribution of natural resource which may be uneven. Ownership becomes a very contentious issue since there exists competing interests of private, communal or customary land rights and state ownership.

To address the above issues it is important to look at the recently published “Environmental Management (Access to Genetic Resources and Indigenous Genetic Resource- Based Knowledge), Regulations, 2009”, Statutory Instrument 61 of 2009 (as an example). These regulations provide an appropriate system of access to genetic resources based upon the explicit prior informed consent of local communities and the regulations have appropriate mechanism for the fair and equitable sharing of benefits arising from the use of genetic resources, that is to say, mechanism that ensure the participation of and agreement of concerned communities in making decisions regarding the distribution of benefits which may be derived from the use of genetic resources.

The above regulations addresses specific extra-communal rights in relation to genetic resources that is to say rights to manage, maintain, conserve, harvest, gather, collect, export or market which rights exclusively subsist in the a local community or local authority representing the community. The same provisions may be arguably used in issues related to extractive industries where the local communities should be empowered to control access, for example, to the Mutoko black granite. We advocate mineral rights to be granted to local communities and require those communities to be consulted in contracting procedures, negotiation of local benefits and the creation of sharing agreements. The local communities need to be consulted with respect to such access where it is to be given to persons who are not residents of the local community and where such access is granted, a mechanism for compensation to be put in place, for example, for any ecological or environmental costs that may be incurred as a result of such access.

Once local communities are granted ownership rights, and regulatory authority (through their local leader-

ship, that is to say, the chiefs, village heads or any other relevant traditional authority) this will enable them to deal with matters related to licensing, royalty payments, employment practices, issuance of permits and taxation.

#### Dispute settlement procedures

Conflicts frequently arise around the mining activities as a result of the disruption and the change the activities generate within the society where the activities are being carried out. The conflict or dispute arise as a result of perception of uneven distribution of benefits or the manner in which negotiation over natural resources takes places. It is therefore important that a sustainable community-based dispute settlement procedure is put in place as opposed to litigation which is very expensive and complicated for communities. The right decisions and environmental protection need to be made so that they can contribute to economic growth of the affected communities. There is also need to come up with conflict management strategies for managing conflict impacts.

#### Conclusion

National laws need to be harmonized to ensure efficient, effective administration and execution of natural resource policies in the country. There is need to clarify responsibilities for natural resources so as to reduce opportunities for corruption which arise as a result of unlimited discretion on regulatory processes on the part of government officials. It is suggested that in case of any dispute which may occur between local communities and other institutions, non-adjudicative processes should be encouraged to resolve that dispute.

#### Reference s

Mines and Minerals Act [Chapter 21:05]

The Environmental Management (Access to Genetic Resources and Indigenous Genetic Resource- Based Knowledge), Regulations, 2009”, Statutory Instrument 61 of 2009

The Indonesian Constitution

The Papua New Guinea Constitution

The Indigenization and Economic Empowerment Act [Chapter 14:33]

Russian Federation Constitution

Zimbabwe Constitution



## Forestry and the Land Reform in Zimbabwe: Challenges and the Way Forward

By Keitometsi N Abu-Basutu

Forestry is a land-based activity that has contributed significantly to the sustainable development of forest resources and the optimization of their contribution to the social and economic development of Zimbabwe (Scoones & Matose, 1993). In this piece, the focus is on forestry initiatives and challenges in the context of land reform in Zimbabwe

In Zimbabwe, there are two types of forestry. Exotic plantation timber production, until recently White dominated, is done in the eastern highlands and indigenous timber production is done mainly in the gazetted state forests located in the western part of the country. In 2001 and following huge social unrest, the government embarked on the land reform programme whose main objective was to equitably redistribute land so that every citizen had access to land so as to increase agricultural output. However, due to the land reform programme, the forestry sector, like all other sectors in Zimbabwe, witnessed significant challenges in its operating environment and these have affected its activities.

Upon realizing that not all land was suitable for agriculture purposes, the government in 2004 tasked the Forestry Commission of Zimbabwe to develop a Forest-Based Land Reform Programme. The Forestry Commission is the government's principal adviser on all forestry and forestry related matters. Informed by CAMPFIRE principles, the Forest-Based Land Reform Programme sought to increase local participation in forest activities and also to ensure that people benefit from forest resources.

In order to meet the two objectives of the Forest-Based Land Reform Programme and in order to spare themselves from possible land invasion by militant youths exotic plantation timber producing companies in the eastern highlands, established partnerships with adjacent rural communities. The relevant companies also thought the local participation would also encourage plantation development as it turned out, these partnerships led to the development of out growers' schemes specializing on timber,

simultaneously counteracting land shortages that had faced timber producing companies. In this out grower scheme, there is shared responsibility: companies provide smaller inputs such as seedlings and appropriate fertilizer while farmers provide land and timber husbandry. The companies also buy the mature tree crop from the farmers, hence both parties benefit.

When the land reform programme began, some exotic timber producing companies stopped their planting activities. Companies stopped planting citing uncertainty of tenure as the major drawback in their operations because people, supported by big politicians were already invading the long-term plantations. In order to counteract the problem of tenure uncertainty, and to ensure continued production of these entities, government stated that plantations would not be seized where these remained operational. The greatest challenge that the exotic timber producing companies are currently facing is that the government has failed to respect its stated position because to date 48 000ha belonging to Border Timbers Limited alone, has been pegged for resettlement (Government of Zimbabwe, 2008). This move by the state has impacted negatively on the company which now cannot meet the market demands for timber.

Relating to the gazetted indigenous forests, the Forest-Based Land Reform Programme sought to ensure that rural communities neighboring forests benefit from forest resources, and also to re-organize and regularize tenure. The first aim was straight forward in terms of implementing but the second aim was interpreted differently by both the Forestry Commission and the communities. To the Forestry Commission it meant that all forest squatters should be evicted because their settlement was irregular. To the community and forest squatters, it meant that the government through the Forestry Commission would legalize the residence of forest squatters in gazetted forest areas and that no other settlers would be evicted thereafter. This was a great challenge to the Forest-Based Land Reform Programme and still is, because it has created a conflict of

interests between the Forestry Commission and communities surrounding forest areas.

### Agriculture, energy needs and land reform

Zimbabwe's land reform programme marked an increase in the number of small-scale tobacco growers in the country. The change in the tobacco-growers' base has led to a major shift in the source of energy that is used to cure tobacco. Traditionally, coal has been used to cure tobacco and has been readily available to farmers. Before the land reform programme and dating back to the colonial past, large-scale commercial farmers established woodlots as a source of energy for tobacco curing. When the land reform programme began and its values were reduced to agriculture, newly resettled farmers cleared land to prepare the land for cropping. Some of the farmers saw an economic opportunity in trees, immediately sub-contracting small-scale saw millers to harvest the timber on site. Currently, coal and electricity supplies are erratic due to operational challenges bedeviling at Hwange Colliery and ZESA, two parastatals. In the circumstance, tobacco farmers turn to forests for supplementary energy. Research has shown that 7 tons of wood is required to cure 1 ton of tobacco (Forestry Commission, 2008). The 2010 tobacco target for Zimbabwe is pegged at 82 000 tons. This means that 574 000 tons of wood is required to cure the tobacco and the challenge is where will it all come from. Will the forests be the victims?

### Way forward

Given these challenges, what is the way forward? The obvious point is that there is a need to explore alternative sources of energy, other than fuel wood, that can be used for agriculture and domestic purposes. Hydro electricity, solar and bio gas are some of the alternatives government can explore as a solution to energy needs for agriculture. Government could provide incentives to those who use other sources of energy. It could also level sanctions against those who continue to mine timber for purpose of industrial energy. A mix of these incentives, while difficult to operational-

ise, give respite to indigenous forests, allowing them to recover from the extensive deforestation that accompanied land reform and resettlement

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*Hydro electricity, solar and bio gas are some of the alternatives government can explore as a solution to energy needs for agriculture.*

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## Southern African Land and Agrarian Reform Network

*The Land and Agrarian Reform Policy Initiative for the SADC Region is a two phased project that is being coordinated and managed by Community Technology Development Trust (CTDT) and funded by the Royal Norwegian Embassy in Harare . The project covers seven countries in the Region: Botswana, South Africa, Malawi, Mozambique, Namibia, Zambia and Zimbabwe. The major objective of the project is to embrace and advocate for pro poor policy positions and directions on land and agrarian reform in Southern Africa.*