

**REPORT ON THE 'DEBT AND EXTRACTIVES DIALOGUE SERIES' MEETING  
HELD ON THE 7<sup>th</sup> OF NOVEMBER 2013**

**VENUE: GOLDEN PEACOCK HOTEL, MUTARE**



**Convened By:**

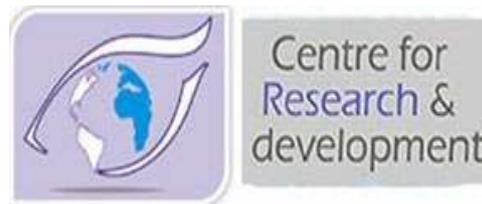
**ZIMCODD**

**and**

**CRD**



*Investing in People for Social and Economic Development*



*Sowing the Seeds of human rights, peace and sustainable development*

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## Acronyms

ARDA	Agricultural and Rural Development Authority
CCDT	Chiadzwa Community Development Trust
CIO	Central Intelligence Organisation
CCT	Chimanimani Development Trust
CIVNET	Civic Education Network Trust
CMRRT	Combined Mutare Residents and Ratepayers Association
CRD	Centre for Research and Development
CSSCGA	Chipinge Small Scale Cotton Growers Association
EIA	Environmental Impact Assessment
EMA	Environmental Management Agency
MARRA	Mutare Residents and Ratepayers Association
TIZ	Transparency International Zimbabwe
ZCTU	Zimbabwe Coalition on Debt and Development
ZELA	Zimbabwe Environmental Law Association
ZIMCODD	Zimbabwe Coalition on Debt and Development
ZINWA	Zimbabwe National Water Authority
ZNRDF	Zimbabwe Natural Resources Development Forum
ZPP	Zimbabwe Peace Project

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## 1. INTRODUCTION

The Zimbabwe Coalition on Debt and Development (ZIMCODD) in collaboration with the Centre for Research and Development (CRD) co-hosted a Debt and Extractives Dialogue Series workshop in the mineral-rich province of Manicaland on the 7<sup>th</sup> of November 2013 at the Golden Peacock Hotel, Mutare. ZIMCODD initiated the dialogue series in line with its Policy, Research and Advocacy programme where the coalition interface with critical stakeholders around issues of debt, extractives and socio-economic rights of communities in resource exploitation. This policy resonates with CRD's policy of "building sustainable communities" an initiative that draws critical stakeholders through dialogues to discussions with an objective of creating a sustainable development framework that addresses issues of transparency and accountability in the extractive sector whilst increasing participation of communities in sustainable resource management. The meeting was attended by a total of 55 participants including community leaders; community based organisations (CBOs), civil society organisations (CSOs), government representatives and the business community.

## 2. OBJECTIVES OF THE MEETING

- Explore through dialogue opportunities for leveraging minerals resources for sustainable economic development and debt issues.
- To review policies affecting the extractive sector and come out with recommendations that promote good governance of the mining sector in Zimbabwe.
- To promote and enhance cohesion, openness and accountability between public office bearers, communities and the private sector in order to advance sustainable management of resources in the extractive sector.

## 3. PARTICIPATION

Figure 1: Participants at the Debt and Dialogue Series in Mutare.



Table 1 : Segregation of Participants

	Female	Male	Total
Civil Society	5	13	18
Labour	0	1	1
Government Agencies	0	3	3
Residents	2	1	3
Media	0	4	4
Youth/Students	2	3	5
Council	0	1	1
Parliament	0	1	1
Business Community	6	8	14
Secretariat	3	2	5
<b>TOTAL</b>	<b>18</b>	<b>37</b>	<b>55</b>

### 3. OUTLINE OF ACTIVITIES

#### 3.1.1. Welcome Remarks- Mrs Patricia Kasiamhuru (Executive Director, ZIMCODD)

Mrs Kasiamhuru welcomed the participants to the debt and dialogue meeting. She stated that the meeting was one of two debt and dialogue series to be conducted by ZIMCODD before the end of the year. She outlined the planned activities for the day.

### 3.2. FIRST SESSION

#### 3.2.1. Opening Remarks-Andy Ziyera (Chairperson, Eastern Region, ZIMCODD)

The Regional Chairperson likened the situation in the mining sector in Zimbabwe to a process of dental surgical operation where the tooth is extracted without replacement. He then explained the meaning of debt and that Zimbabwe owes more than 10 billion to the international monetary fund and that poor communities are going to use their meagre financial resources to service the debt if resources coming out of the extractive sector remains largely in the hands of a few individuals.

Mr Ziyera indicated that minerals like diamonds were a finite resource and can easily be depleted hence it is important that these resources are managed in a sustainable manner. He highlighted the civil strife in Nigeria as a classical example of conflicts that can emanate out of the mismanagement of natural resources.

Mr Ziyera then took the opportunity to announce that the forum welcomed different parties to discuss with community representatives on issues that affect their livelihoods and their future generations.

#### 3.2.2. Debt and Extractives: the quest for social and economic justice in Zimbabwe - Hopewell Gumbo (Programs Director, ZIMCODD)

Mr Hopewell Gumbo outlined that indeed Zimbabwe was saddled by a \$10-billion-dollar debt burden and the quest to achieve socio-economic prosperity that would also address

the issue of debt has seen parties coming out with different economic policy frame works like ZANU PF's policy on indigenisation and the JUICE policy of Movement for Democratic Change.

He went on to highlight stinking levels of poverty and hardships faced by poor communities in Zimbabwe such as failure by parents to fund their children's education, housing shortages and bemoaned the commercialisation of education in Zimbabwe. According to Hopewell, education in Zimbabwe has become a commodity where university lectures and private schools teachers are earning high salaries at the expense of parents who in most cases are unemployed and had to make sacrifices to send their children to school.

He recommended that for the economy to perform companies in the extractive sector must play a significant role in paying taxes to government. He denounced the continuous looting of mineral resources in Zimbabwe by multi-national companies at the expense of poverty stricken communities. Hopewell called for a debt audit in Zimbabwe to ascertain how it was brought about and also the need for Zimbabwe to audit its minerals in order to realise its potential.

### **3.2.3. The role of natural resources in the development discourse: Combating illicit outflows in the sector-Freeman Bhoso**

Mr Bhoso began his presentation by thanking the organisers of the workshop ZIMCODD and CRD for affording him an opportunity to share his views about the extractive sector in Zimbabwe. In his presentation Mr Bhoso highlighted that there was a need for a geological survey if the country was to ascertain on the amount of its mineral resources. He quickly pointed out that it was important to talk more about the resource endowment underground than waste financial resources tracking on the resources that has been stolen already.

According to Mr Bhoso the State must stop narrowing developmental issues by blaming the west for its failures and dividing poor communities in the process. The State must take due diligence and decisively deal with enclave laws like the Mines and Minerals Act of 1965 as well as the Communal Lands Act. The latter law hinders community development and give the state complete ownership to communal land where it can move people as and when it deem necessary without any form of compensation as in the case of relocated families at Arda Transau resulting in loss of livelihoods, culture and heritage.

#### **The following pitfalls in the extractive sector were highlighted by Mr Bhoso**

1. Archaic laws meant for the interests of the former colonialists
2. Violations of the environmental laws by government eg companies have been allowed to mine without carrying out Environmental Impact Assessments (EIAs.)
3. Poor contracting and poor negotiation skills by government. Investors bring experts to the negotiation table whilst our government use politicians or experts working in government who are poorly paid leading to corruption and poor contracts.

Mr Bhoso further went on to say that it was because of poor negotiation that companies like Anjin are importing cheap labour, cars and machinery from China at the expense of the local industry and communities. Accordingly, it was a shame that mineral –rich provinces like Manicaland were not able to generate their own electricity, even though there were

huge water reservoirs hence the state is importing electricity from civil torn countries like DRC and Mozambique.

He also mentioned that Zimbabweans have the right to know how much revenue government was realising from the mining sector and the amount of money being ploughed back to the communities.

#### **3.2.4. Discussant - Hon Innocent Gonese MP (Mutare Central Constituency).**

The MP conceded that the issues raised by speakers were reflective of the performance of government and that as a nation the people should not blame others for their own problems and that they must be introspective. He agreed that there was need for a minerals audit, and to stop the tendency of saying all minerals are not exhaustive.



Figure 2: Hon. Innocent Gonese a discussant at the meeting.

In terms of contract negotiating he stated that Zimbabwean negotiators may lack financial clout but they have the intellectual capacity. He highlighted that the state was contradictory when it came to governance issues through political posturing, e.g., Minister of Finance, Patrick Chinamasa was currently negotiating with the Breton Woods Institutions for financial assistance whilst the same government was attacking the same institutions at other forums. Finally Honourable Gonese recommended that there was need for transparency in the diamond industry in Zimbabwe.

### **3.3. 1<sup>st</sup> PLENARY DISCUSSION**

The following issues were raised during the first plenary session:

#### **MR Mundenda:Mutare Residents Association**

- Civil Society Organisations themselves should produce reports and independent surveys to present to the state on the state of affairs in the extractive sector.
- Zimbabwe was one of the richest countries yet it had the poorest people. There was need for the citizens to rise up to solve the challenges facing them.

#### **Mr Mannex Mauya:ZIMCODD**

- The people are being fooled by the state in as far as resource management is concerned. The few politically connected elites are benefitting from the vast mineral resources at the expense of the entire country.
- The new constitution failed to provide for a Public Debt Audit Commission

**Mr Weston Makone:Tsvingwe Residents Association-Penhalonga**

- There was need for figures and inventories on resources.
- The country is always exporting raw materials, without value addition; hence there would always be lower returns from national resources.
- It raises my spirit that the community has these Cheuka/Look Back/Kangela Emuva platforms

**Mr Dube:MRRA**



**Figure 3: Mr Dube contributing during the meeting.**

- Angola worked on a lucrative US\$ 40billion oil deal with foreign partners which prioritised taxation and a quota-system in employment-creation. Zimbabwe should have done likewise.
- The state needed to review some of the contracts especially in Marange if they are to promote transparency and accountability in the sector.

**Mr Mukwecheni:Men As Partners**

- For 33years, the people have been talking, now is the time for action.
- Devolution is best for resource management, yet we have no updates so far from government.
- It was up to the people to confront the government; they should take the bull by the horns and cease talking.

Mr Maronde:(CDT)



Fig 4

- Deliberate delays by government in reforming laws in the mining sector.
- Government is loud in pronouncing the Indigenisation policy as all inclusive but in practise only a few elites in government have benefitted. We had hoped the discovery of minerals in our community was going to be a panacea to end poverty in our communities but we have noticed wanton destruction of our communities. Most villagers who have been relocated have benefitted nothing except some very small houses that has been built for them without any source of livelihood for their families and future generations.

### 3.4. SECOND SESSION: Chairperson: Mr Mupfumi (CRD)

**Making Public-Private Partnerships Work: A Conceptual Framework for Business and Human Rights with Specific Examples from the Extractive Sector in Manicaland - Chida Mudadi (CRD)**



Figure 5: Mr Mudadi going through his presentation

## Presentation Summary

Mr Mudadi began his presentation by defining the concept of human rights and the categories of human rights. He defined civil and political rights and socio-economic rights and that communities have the right to claim those rights from the state which has the obligatory role to protect these communities from human rights violations. Mr Mudadi further went on to say that human rights are equal and no right is more powerful than the other and that all rights were enshrined in the constitution.

Business is for profiteering and companies are encouraged to maximise profits but not at the expense of the law, communities and the environment. Business must respect human rights because they are an essential arm of the enterprise hence employees must be allowed to form trade unions whilst communities must have their socio-economic and environmental rights respected by the extractive activities taking place in their communities. He went on to highlight incidences of human rights violations where mining operations commenced in Marange without companies carrying out EIAs. He also blamed illegal panning and human rights abuses taking place in Marange on the companies' failure to uphold the economic rights of communities to benefit from the resources. He reminded mining companies in Manicaland that they have a mandate to uphold the rights of employees and the host communities including the environment.

Business cycle in Zimbabwe is not compatible with the rights of communities and employees. He highlighted that the process from mining exploration, development and rehabilitation does not involve participation of communities because decisions are made by people in higher offices who are not affected by those decisions. He recommended wide consultations to all stakeholders before any mining activities have taken place.

### Response to Mr Mudadi's Presentation: Mr Mupfumi CRD

- Fundamental question why private public partnership is not building sustainable development in as far the extractive sector is concerned in Zimbabwe
- State has become an interested partner in business especially in the extractive sector for example ZMDC is an investment vehicle for government but Zimbabwe is not realising any substantive revenue from the mining sector.
- We have a government that we have entrusted in running the affairs in the extractive sector but the levels of mismanagement is impacting negatively on the communities .Illegal panning activities are still taking place in Marange because communities are poor and desparate. Response from the security guards has been brutal causing loss of lives and in some instances survivors fail to seek medical treatment because of fear of victimisation and a big number of them are moving around with bullets in their bodies.
- Some companies operating without EIAs in the province and social cultural violations in Marange where graves have been destroyed by mining companies without consulting their families.
- Government has entered into secretive deals with foreign companies without the oversight role of Parliament using the sanctions mantra in Marange. Mr Mupfumi found it difficult to understand how sanctions have forbidden government to disclose mining tenders at the same time the companies mining in Marange have not remitted any funds to the community ownership scheme.

## **Mudadi's Prepared Presentation**

### **Presentation Overview**

- What are human rights
- Categories of human rights
- Characteristics of human rights
- Human rights and law
- States human rights obligations
- Business human rights perspectives
- Business-human rights mandate
- Contribution of mining to economic development
- Nature of extractive sector
- Extractive sector and human rights
- Business and human rights: Extractive sector-Manicaland
- Recommendations

### **What are human rights?**

Human rights are basic rights aimed at securing dignity and equality for all.

Human rights are entitlements or legal claims which a person has against the state, individuals and corporate

### **Categories of human rights**

- Economic, social and cultural rights-right to health, education, to shelter, food, clean water, to work and to a family.
- Civil and political rights- right to information, right to life, right to liberty, to protection from inhuman treatment, freedom to express, association and assembly.
- Group rights/solidarity rights, right to clean environment etc.

### **Characteristics of human rights.**

- Universal- applicable to all human beings everywhere.
- Inalienable- the human rights of an individual cannot be taken away, they are inherent in a person because they are human beings.
- Indivisible- All rights are equally important that means no one human right is more important than the other, one human right compliments and cannot be separated from another [the right to life cannot be enjoyed without the right to health, to food.

**Human rights and the law**

- They are enshrined in legal instruments or laws----The constitution of Zimbabwe which is the supreme law of the country has a bill of rights providing for human rights.
- Zimbabwe has signed and ratified various international and regional human rights instruments---African charter on human and people's rights, international covenant on civil and political rights, international covenant on economic, social and cultural rights etc.

**States human rights obligations**

- States must respect, protect, promote and fulfil human rights.
- As much as states have an obligation individuals and corporate should also work towards the same goal

**Business human rights mandate**

- Businesses are for profit organisations and should not be apologetic about pursuing their goal. On the contrary they should be encouraged to be as profitable as possible. However, whatever measures they take it cannot be at the expense of their employees and customers, or at the expense of the surrounding environment and host communities. It has to be within the parameters of the law.
- Successful businesses and respect for human rights are not mutually exclusive. In fact human rights and business are intertwined. Human rights play a role in the daily operations of every business. For instance, human resources departments use the right to equality and freedom from discrimination as a basis to employ and promote employees, while staff members have a right to decent working conditions and to join trade union.
- Business, particularly in the extractive industries and particularly in developing countries, do not make any meaningful effort to protect human rights, even when their operations pose a significant risk-to the community they will be operating in.
- Business has a social and legal responsibility to protect and promote human rights in its activities.
- The community in which natural resources are discovered expects business to plough back in it and also benefit from the discovery of resources.

**Contribution of Mining to Economic Growth**

- Mining became the fastest growing sector since 2009 with growth from 33.3% to an estimated 47%in 2010. (Min of Fin 2011budget statement)
- Mining sector has potential to trigger economic growth through capitalization of minerals like diamonds, platinum, gold, chrome, coal and copper.

- There is a nexus between a nation's mineral wealth and potential to develop economically and a rise in the living standards of common people
- Mining sector has potential to create jobs, bring in foreign direct investment and may result in infrastructure development (roads, clinics, schools, houses) as well as other social services
- Mining contributes to treasury through mining taxation (royalties, corporate and other taxes)
- Therefore in an ideal situation, such contribution to economic growth can lead to the fulfilment of Economic, Environmental, Social and Cultural rights

### **Nature of the Extractive Sector**

- Causes social and cultural destabilization and in some cases violent conflict
- Is inherently destructive of the environment and may have negative social, economic and cultural impacts on communities.
- Companies take away valuable community land, lead to deforestation, cause water and air pollution, cause siltation of rivers and generally violate rights of people/employees.

### **Extractive Sector and Human Rights**

- During the process of eviction and resettlement, communities are often not consulted and their consent is not sought, hence they are denied access to information and participation.
- Communities' rights to an adequate standard of living, right to housing and right to culture as community institutions, social cohesion and livelihoods are disrupted
- This results on an assault to economic, environmental, social and cultural rights of people living around mining areas.
- Violations of community rights in mining areas are mostly caused by the actions or non actions of the state or mining companies.
- Unequal distribution of mineral wealth, and the environmental destruction caused by mining continue to be a major source of poverty and a source of tensions and conflicts of various levels of intensity which result in violation of a number of human rights

### **Business and Human rights: Extractive Sector- Manicaland**

- Some mining companies started operations without undertaking EIAs as required by Environmental Management Act [Chapter 20:27]
- EIAs are a tool to reveal economic, social, environmental and cultural impacts of a project and possible mitigation measures. This process should involve community

consultation and participation to assess how the proposed mining project may affect their EES&C needs and interests.

- Existing legislation expose communities to business-human rights violations. It's difficult for communal residents to directly receive compensation and payment from mining companies after discoveries because communal residents do not own land according to the Communal Lands Act (chapter 20:04)
- Communities have user rights only while land ownership is vested in the President with RDCs managing it on his behalf. Thus communities are vulnerable to evictions and displacements by mining companies and sometimes government since it is also engaged in business. (case of Mrs Kambeni- Arda Transau)
- Displacement of communities by mining activities affect and change their way of life, social fabric, economic activities and culture as they are resettled elsewhere. This in turn may result in risks like joblessness, homelessness, and food insecurity, loss of common lands, social disarticulation and disruption of formal education activities and loss civil and human rights.
- COMMUNITY SHARE OWNERSHIP SCHEMES OR TRUSTS (CSOTS) IN TERMS OF THE INDIGENISATION AND ECONOMIC EMPOWERMENT ACT [CHAPTER 14:33] Section 14(b) of Statutory Instrument 21 of 2010 CSOTS....” This initiative is expected to robustly transform the socio-economic circumstances of all communities concerned through implementation of development programmes based on clearly-regulated partnerships in which the conduct of business and sharing of profits is done transparently, fairly, justly and equitably”.
- Community Share Ownership Trusts (CSOTS) on paper is laudable but there is likely to be conflict of interest as a result of its composition thus failing to meet community demands.
- Zimunya - Marange CSOTS gave mining rights to communities through partnering companies operating in the diamonds fields.
- CSR have become an issue of moral willingness by businesses to assist communities affected or impacted by their operations. Zimbabwe does not have specific legislation that deals with CSR. For example Nyanyadzi canal system saving wards 3, 5&8 with 800 plot holders is non functional due to siltation.
- Most mining companies discriminate against employing people from the mining communities thus violating community rights to equality and freedom from discrimination hence violating the Universal Declaration of HR articles 1 and 2.
- Licensing and mineral rights acquisition policy is guided by the Mines and Minerals Act Chapter 21:05 which is the principal legal instrument on mining in Zimbabwe. The Act provides for the manner of obtaining mining rights and title and the type of license for the Mineral sought.

- The mining cycle regime which starts with exploration to mine development, mineral extraction, marketing and mine rehabilitation does not take into consideration the communities’ rights where mining activities take place

### **Recommendations**

- Enact laws that compel business to improve welfare of communities surrounding the mines and beyond
- Mining has a duty to ensure that people in communities in which they do their work realises the economic social and cultural rights-----The right to health, education, clean water, clean environment, work and shelter.
- They should also ensure that communities are consulted prior to relocations and are adequately compensated.
- Amend the Mines and Minerals Act by making/ implementing reforms in The Mines and Mineral Amendment Bill into law.

#### **3.4.1. COMMUNITY SHARE OWNERSHIP TRUSTS: PROSPECTS & CHALLENGES -Mutuso Dhlwayo (Zimbabwe Environmental Law Association)**



**Fig 6.Mutuso going through his presentation**

#### **Presentation Summary**

Mr Mutuso started his presentation by highlighting his organisation’s efforts in registering a community trust organisation (CCDT) because they had seen the challenges that communities were facing because of the extractive activities. He cited the background of the campfire project as a good example that has taken place in the wildlife sector since 1989 where communities received benefits from the sector out of the inconveniences of living with wild animals a concept that must be extended to the mining sector so that communities can also derive benefits. Mr Mutuso then looked at the legal framework of the community ownership schemes where he quickly pointed out the act does not make it an obligation for companies to dispose 10 percent shares to community ownership schemes because of the phrase “maybe “ used in the indigenisation act. Furthermore, community

ownership schemes came as an after thought because the parent act does not talk of community ownership schemes. It was through a statutory instrument that the idea of community ownership schemes came into being said Mutuso.

He identified operational challenges associated with the running of the schemes such as the involvement of chiefs and rural district councils who have their own interests and may not necessarily be the interests of the immediate communities. The ability to perform is compromised and decisions tend more to marginalise the intended beneficiaries. If government is genuine about empowering its own people it must allow people to choose their own representatives to sit on the boards of these schemes. There is inadequate legal backing of the community ownership schemes. Companies may choose to dispose shares to its employees instead of community schemes. It becomes a moral issue on the part of the company or the minister of indigenisation's discretion to direct shares to these schemes.

He highlighted that there was lack of implementation and clarity on these schemes because other companies have complied whilst others have not. The top heavy handedness approach also makes it difficult for communities to derive any benefit from the schemes. Mr Mutuso recommended that communities must be heavily involved in the management of the schemes at any given stage. He also alluded to the fact that information dissemination on these initiatives by government is poor and in some instances communities were not aware of these COS. COS must not be partisan in their approach because every member in these communities is affected by extractive activities like river pollutions and livestock death. Mr Mutuso concluded by acknowledging that there was need to capacitate communities on these initiatives and he applauded the efforts made by Zimcodd and CRD in coming up with this idea in Manicaland Province.

### **Mutuso's Prepared Presentation**

#### **OUTLINE**

- Legal Framework
- Possible ways of establishing CSOT
- Rationale / justification
- Opportunities
- Challenges
- Recommendations
- Conclusion

#### **Legal Framework**

- Indigenization and Economic Empowerment Act ( Chapter 14:33)
- At least 51% of shares of business operating in Zimbabwe to be owned by locals by 2015
- Of this 51 %, **10 % maybe disposed off** to local communities through CSOT/S

- A further 10 % can be availed to employees through Employee Share Ownership Trust

#### **Possible ways of establishing CSOT**

- Made up of residents of the RDC established under the RDC Act whose natural resources are being exploited by the qualifying business
- Residents of one or more wards of a RDC specified in a RDC
- Formed by **a distinct community of persons as** defined in a CSOS affected by the exploitation of natural resources in or adjacent to their place of residence
- A CSOT – constituted by a Deed of Trust registered with the Deeds Office
- Looks similar but have different implications on communities & their ability to benefit effectively from exploitation of mineral resources
- First option – The RDC have the right to appoint Trustees who will hold shares in the qualifying business
- Second option RDC and the qualifying business will have to agree on the appointment of the Trustees
- Third option –communities have a leeway to decide on their own who represent them
- 7- 15 Peoples
- Chief- chairperson , rotational where there are more than one chiefs in the District
- Other Chiefs in the District
- District Head of the Ministry of Youth Development , Indigenization and Empowerment
- District Administrator
- Council Chairperson- Vice Chairperson
- CEO of RDC- Ex-Officio , Secretary
- Representatives of qualifying business- drawn from senior management
- Representative of women
- Representative of Youth
- Lawyer
- Accountant
- Any other person co-opted by the Trust for their expertise and / or special skills from time to time

## Rationale & Objectives

- Political patronage purposes
- Economic development for rural communities i.e. provision, operation and maintenance of schools and other educational institutions
- Educational scholarships , hospitals , clinics and dispensaries
- Provision and maintenance of dipping tanks, roads, water work
- Gully reclamation and other works related to soil conservation & prevention of environmental degradation
- Ethical and moral questions of socio-economic and ecological justice
- A way of addressing historically generated economic injustices

## Challenges

- The indigenization and economic empowerment and related attempts to organize communities can be analyzed at three levels namely:
  - i. Policy as legislated
  - ii. Policy as pronounced ( public verbal pronouncements or through official documents )
  - iii. Policy as practiced
- Inadequate legal backing of CSOT- No legal requirement for mining companies to dispose of shares to communities or CSOS
- Statutory Instrument 21 of 2010 provides for CSOT and a qualifying business “ may “ wish to use it as a way of fulfilling its indigenization quota , sec 4( b) (4)
- In the absence of clear legal backing , CSOT will only participate and own shares at the discretion of the Minister & Mining companies
- Lack of implementation clarity – Official position is that all mining companies have complied with the law. Have companies sold off their shares to indigenous entities or have they submitted indigenization plan that is acceptable to the Ministry?
- An indigenization is merely a promise to meet the 2015 51 % requirement
- Not clear whether the money communities are getting is a loan or a donation
- Lack of community involvement and ownership- Top down approach – To what extent can CSOT be regarded as being true representatives of communities
- Lack of representatives – CBOs are not represented in these Community Share Ownership Schemes
- Sustainability challenges – lack of clear legal backing , limited community involvement , top heavy handedness of the approach, lack of clarity in terms of the funding model

## Recommendations

- Need for legal clarity to ensure that communities own 10 % of shares in mining companies
- Should provide for mechanisms for central government to share royalties with local communities (Draft Minerals Policy). Dividends may not be forthcoming soon
- Improve community involvement in the formation and running of CSOT- Democratize their formation and management – CBOs and FBOs should participate in the Board
- Information on CSOT should be widely available to the communities where they are being implemented
- CSOT should be non- partisan
- Capacity building of CSOT
- Democratize and decentralize CSOTs

## Conclusion

- Hope for communities despite weaknesses
- Focus should be on how we improve them rather than dismissing them
- CSOs should engage , work for their democratization and decentralization

### 3.4.2. DISCUSSANT RESPONSE TO THE PRESENTATIONS -HONOURABLE INNOCENT

#### Economic growth

- Lack of seriousness in government more 30years after independence to reform the mining sector to become productive
- Mining can play a fundamental role in economic growth if we improve on transparency and accountability.
- Legislative framework in the mining sector is skewed in the favour of the elites.
- The loopholes in the indigenisation act were caused by the use of statutory instruments. Parliament passed the act but the regulations were done by the minister and civil servants and that is one best way of avoiding public scrutiny because there is no debate in parliament. The Parliamentary legal committee looks at the aspect of constitutionality and if the regulations do not violate the constitution they are given a clean bill of health. In this instance former minister Kasukuwere gazetted the regulatory framework and operationalised the act using these statutory instruments thereby avoiding public scrutiny.

#### 1. On Mr Mutuso Dhiwayo's Presentation

- We must have community funds and make companies pay up to the fund out of their profits. Legislation must make this compulsory.

- At the moment the word 'May' in the Act does not make it compulsory for companies to set up the community share ownership schemes.
- On Community Share Ownership Trust composition, there indeed was need for these to be more broad-based.
- No one hates indigenisation, but people who are at the forefront end up enriching themselves at the expense of the entire country.

### 3.4.3. SECOND PLENARY



Figure 7: Contributions during the plenary sessions.

#### 1<sup>st</sup> Contributions:

- The people must not be afraid of the political leaders, there must be more forums like these organised by ZIMCODD and CRD to empower communities on their rights.

#### Mr Mannex Mauya:ZIMCODD

- What can be done to provincial capitals like Mutare where they are resources but no development?

#### 3.4.4. Response

#### Mr Mutuso Dhiwayo:ZELA

- Benefits only come from well-negotiated contracts .Hence the Essar and Zimplats deals were poorly negotiated
- Chinese are business partners not “friends” and government must take due diligence in dealing with them

### 4.3. THIRD SESSION-Community Voices on the Impact of Extractive Industries on Livelihoods



Fig 8

#### Mr Gwayagwaya-Arda Transau

- Relocated families at Arda Transau face acute food shortages because the soils are poor and not suitable for maize production. The proposed Irrigation project for the community has since been abandoned by government and there is a serious food shortage at the relocated area. People are selling firewood at Odzi in order to buy food to survive.
- There are housing shortages at Arda. Families that were moved from Marange are polygamous families and they were forced to share a single house against their cultural practises where each polygamous man had its own house for his wives as was the case in Marange. Houses at Arda were hurriedly built by Anjin without following proper procedures and most of them have developed cracks.
- There is no electricity as widely publicised
- Overpopulation at Arda Transau has increased enrolment and pupils are learning in makeshift classrooms.
- Anjin is mining 24 hours in Marange but they claim that they do not have money to meet the needs of the families that they relocated to Arda Transau.
- Anjin is refusing to employ people from Arda Transau because they have knowledge of the diamond and they are labelled “panners.”
- The Arda Transau Clinic is in a deplorable state

**Spiwe Machingauta :Community Monitor Marange**



**Fig 9**

- Prospecting mining companies disturbing farming activities in Muyedzengwa village in Marange. Top soil used for cultivation by members of the communities has been extracted for diamond samples and the entire ecosystem has been disturbed. Pits created by these activities have been left open posing dangers to people's lives and livestock.
- There is Dust, noise coming from the mining operations and people are having sleepless nights. Heavy pollution of the Odzi, Save and Singwizi Rivers through dumping of sludge and other hazardous substances has made the water unsafe for human consumption.
- People have been ordered to stop farming activities because they have been earmarked for relocations. Company had promised to provide food handouts to affected families but to no avail. Villagers are now looking for leftover food from company bins.

**Malvern Mudiwa:CCDT**



- We formed CCDT so that we could speak with one voice on issues affecting our community since diamonds were discovered in this community of Marange.
- Identified 5 companies mining in Marange and in terms of socio-corporate responsibility the companies have done nothing to date. We only hear about them funding football for Harare based teams.
- Also highlighted serious river pollution affecting Save and Singwizi rivers and their livestock especially cattle are dying due to drowning and drinking of intoxicated water.
- Enrolment at remaining schools in Chiadzwa has increased because schools were destroyed by mining companies. At the same time not all pupils affected were moved to Arda Transau resulting in over population in Chiadzwa.
- CCDT made a lot of noise with the first relocation exercise because people were dumped into tobacco barns because houses had not been built. The noise forced government to abandon the exercise until houses had been built.
- We do not necessarily oppose relocations but we want government to use internationally recognised benchmarks that take into cognisance community's socio-economic rights including compensation for loss of property which is based on independent evaluation.
- Traditional leaders have been given state of the art vehicles and state of the art houses have been built for them but they cannot build a single hospital for the community.
- At least if companies can built a dam to tap into the water resource being wasted by Odzi and Save rivers then a thriving irrigation scheme can benefit the people of Chiadzwa and the surrounding communities and improve the food situation for the communities.
- Why does government awards mining contracts to Chinese to mine alluvial diamonds when government is capable of mining itself or at least award the contracts to locals who are also capable of mining alluvial diamonds?

### **Weston Makoni-Tsvingwe Residents Association-Penhalonga**



**Fig 11**

- Two companies Metallon Gold and DTZ-OZGEO are mining in Penhalonga
- .A high number of illegal panners is panning for gold in Penhalonga.
- Observed serious competition among mining entities with Metallon Gold claiming that all the gold claims in Penhalonga belong to them and they have pegged everywhere.
- Due to high levels of unemployment locals have resorted to panning and they are fighting with these established companies over mining claims.
- High level of prostitution in Penhalonga and death due to HIV related illnesses.
- Companies not carrying out any social corporate responsibilities.Metallon Gold once known as Redwing mine has been operating in Penhalonga for 100years but has nothing to show for it. Schools are in deplorable state and several appeals by residents for mining companies to assist has fallen on deaf ears. High schools like Tsvingwe do not have science laboratories or some classroom blocks. Primary schools are hot-seating because of shortages of classrooms and there are no blocks built for Early Childhood Development learning.
- Serious air pollution caused by huge mining dumpsites that transmit dust to residential areas.
- Roads are in a terrible state and mining authorities used high terrain vehicles and they are not bothered by the state of the roads.
- 

### **3.5. PLENARY**

#### **Contributions:**

- Community facing problems were not sharing them with the rest of the citizens hence there was no solidarity in civil society.

#### **Ethel Mapungu-Arda Transau**

- Relocated communities were also being suppressed by highly connected individuals living at Arda Transau.
- Only Major Nyakuni has been given a solar panel and visitors who come to assess the situation at Arda Transau are led to his house
- Because of the polygamous nature of our families one hectare is not adequate for a household.
- Arda Transau is the most difficult area to live because there is no other source of income.Chiadzwa was far much better because we could make mats from baobab trees and sell to South Africa to earn a living.

#### **Mr Mannex Mauya.ZIMCODD**

- Zimcodd and CRD must train communities in lobbying strategies so that they are able to approach government and the international community to seek redress to issues affecting them.Communities must also be united and have solidarity of purpose in order to hold the companies to account for these violations.

#### **MR Matiyashe .CMRRT**

- He asked about the pollution in the river Odzi because he witnessed the dumping of toxic waste by DMC in the Odzi river.

### **Responses**

#### **J. Mupfumi -CRD**



**Fig 12**

- CRD has consulted EMA and ZNWA on these allegations and their response especially on Marange has always been that the hazardous substances being dumped by these mining companies are not harmful to the people and livestock. This also applies to mining operations in Chimanimani and Penhalonga where DTZ-OZGEO is mining gold and diamonds. They however insisted that the biggest threat to water pollution were panning activities by small scale miners who were using mercury a hazardous chemical to purify gold which is finding its way into these rivers.
- The greatest challenge however is that EMA and ZNWA cannot disclose the results in the interest of the public and communities affected because they claim that they are forbidden under the officials' secret act.
- CRD calls upon CSOs to come up with mechanisms to carry out independent water tests and publicise the results for the benefit of the communities whilst exposing polluters in the same process.

#### **4. RECOMMENDATIONS**

- Capacity building programmes for communities in order for communities to know and demand their rights from government.
- Communities must mobilise themselves and approach government to seek redress on issues affecting their lives
- CSO must create more platforms where relevant government ministers are invited to listen to community grievances and demand action from them to have their grievances addressed.

- Workshop recommended government representatives to engage with communities on these platforms because they provide an opportunity for them to showcase on what they are doing for the community and respond to critical issues coming from these communities.
- Workshop recommends government to follow the dictates of the constitution and uphold fundamental rights of the communities.
- The forum also called upon policy makers to review the indigenisation act, the communal lands act and the mines and minerals act in order to adapt regulatory frameworks that safeguard the interests of the majority including affected communities.

## 5. LIST OF PARTICIPANTS

Table 2: Detailed List of Participants in alphabetical order.

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