

ZAMBIA ALTERNATIVE MINING INDABA



PROGRESS AND ACHIEVEMENTS 2012-2019



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ZAMBIA ALTERNATIVE MINING INDABA



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ACRONYMS

AMI	Alternative Mining Indaba
AMV	African Mining Vision
AFRODAD	African Forum For Debt and Development
ASM	Artisanal And Small Scale Mining
CSR	Corporate Social Responsibility
CMV	Country Mining Vision
CSOs	Civil Society Organizations
FBOs	Faith Based Organizations
EITI	Extractive Industries Transparency Initiative
ESTIMA	Extractive Measures Transparency Act
FACT	Fostering Accountability and Transparency
IFFS	Illicit Financial Flows
IFAD	International Fund for Agricultural Development
MNC	Multi National Corporation
PAC	Public Accounts Committee
PEMFA	Public Expenditure Management and Financial Accountability Reform Programme
PWYPZ	Publish What You Pay Zambia
SDGs	Sustainable Development Goals
ZIMEC	Zambia International Mining and Energy Conference
ZAMI	Zambia Extractive Industries Transparency Initiative
ZEIP	Zambia Extractive Industry Project

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As organizations dedicated to ensuring that mining meaningfully contributes to the attainment of integral human development for all, multi-stakeholder platforms such as the Zambia Alternative Mining Indaba(ZAMI) remain a key strategy to promote dialogue amongst stakeholders. As such, we remain committed to supporting meaningful deliberations on natural resource governance, as those presented by the alternative mining indaba



EXECUTIVE SUMMARY

First convened in 2012 by the three church mother bodies and few selected members of Civil Society Organizations, the Zambia Alternative Mining Indaba is a multi-stakeholder platform which grew from primarily providing a space for communities to deliberate on the costs and benefits of mining to a people's policy space where stakeholders can submit proposed legal and policy framework that can make mining work for Zambians. Since 2012, Civil Society has successfully hosted 8 Zambia Alternative Mining Indaba (AMI). These indabas, held parallel to the Zambia International Mining and Energy Conference(ZIMEC), aimed at bringing to the attention of officials the community perceptions and experiences from mining. The climatic end, and most important part, of each ZAMI over the years has been the presentation of a communique to government and mining companies which includes recommendations on what needs to be done from the people's perspective to make mining work for them. The extent to which these recommendations have been considered and worked on is this paper's primary interest.

The objective of this synthesis report is to measure progress tracked on recommendations presented by the ZAMI over the past years. The paper does this by means of taking the proposals made by the ZAMI with regard to particularly prevalent issues affecting Zambia's extractives sector and weighing them against the interventions of the government and other key bodies to that effect. This would also bring measure to the level of influence and of impact the ZAMI has been able to achieve over the years.

Although the Zambia Alternative Mining Indaba cannot solely claim that its deliberations lead to the following policy changes, what is certain is the ZAMI has significantly influenced progress in terms of recommended policy and legislative changes, amongst them include:

- a. The amendment and legislation of the Property Rating Act number 21 of 2018, which allows for councils to collect Property Rates from valuated and numbered mining companies that are not on title. This recommendation came from the Provincial Mining Indaba and Zambia Alternative Mining Indaba of 2017. The Minister of Finance in his 2018 budget speech committed to revising the Property Rating Act as a way to enhance local council revenue collection. The amendments to the property is equally a result of submission by local authorities on challenges faced in optimizing revenue from mining.
- b. Accompanied by the decade of changes in Zambia's mining tax regime, has been a series of recommendations on what needs to be made of mining tax in Zambia from the Zambia Alternative Mining Indabas. The indabas focused on practical ways the policy objective on optimization of mining revenue and Zambian benefit can be met. During the 7th Zambia Alternative Mining Indaba, the Minister of Mines recognized the efforts of the ZAMI in influencing tax regimes and further invited the ZAMI to seat on the countries Mining Reforms Committee. This far, the Zambian cabinet has approved the setting up of the Mining Taxation reforms committee called the "Mining Industry Reform Tax Team", a team which the ZAMI was invited to seat on. We believe this too come out of civil society advocacy efforts on calling for mining taxation reforms, and consultative processes in attaining them.
- c. In light of reports that Zambia loses approximately 3 billion dollars in Illicit Financial Flows annually, a set of recommendation on how to seal the loopholes on tax avoidance and evasion have frequented the Ministry of Mines and Mineral Development and the Ministry of Finance at the end of each and every ZAMI for the past five years. Specifically, a recommendation to end tax holidays has never missed in the past 5 ZAMI declarations. The Minister of Finance in his 2018 budget speech committed to discontinuing tax 5-year tax holidays and also revising the Income Tax Act of 2006 as a way of ending Illicit financial flows, cabinet further approved the Joining the Organization for Economic Co-operation and Development (OECD) Framework on Base Erosion and Profit Sharing. Both actions being recommendations from the 2015 and 2016 Alternative Mining Indaba and advocacy efforts by coalition members.

WHERE WE ARE COMING FROM?

Despite having vast mineral wealth, the African continent has generally and for the longest time been referred to as “Developing” or “Third World”. The abundance of Natural Resources which should directly grow the continent have not, and various countries and their mining communities continue to suffer underdevelopment and live below the poverty line.

The reasons behind this underdevelopment?

Natural resource governance in Africa has demonstrated, rather recurrently, failure to ensure that mining and extractive industries benefits the people of Africa. Investing in mining in Africa is an investment in the people of Africa. However, conversations around mining remain restricted in content and in participation. The directly affected parties are left voiceless, discontent and disregarded somewhat. It is for this reason that there is need for inclusive, accessible and multi-stakeholder discussions about mining.

In light of this, The Alternative Mining Indaba (AMI) has for the past ten years provided a platform for various key stakeholders and affected communities to discuss and understand the social effects of extractive industries and demand accountability, transparency and good governance. It has acted as a much required response team and with much progress. Having started out with only few participants at its inception, the AMI now attracts over 600 participants from about 43 countries; 12 of which have developed sub-indabas (i.e. National Alternative Mining Indabas and Provincial Mining Indabas) to discuss issues at National, subnational and grassroots levels.

The birth of the Zambia Alternative Mining Indaba

Inspired by the AMI, The Zambia Alternative Mining Indaba was first introduced in 2012 and has been held annually since. Each year, the ZAMI has had a unique theme that sums up what CSOs would like to push forward in order to see positive change, good governance, transparency and accountability in the extractives sector.

The Zambia Alternative Mining Indaba (ZAMI) is an initiative by a coalition of Civil Society Organizations, Faith Based Organizations and other developmental partners to come together to deliberate on issues affecting Zambian communities involved in extractive activities and to find solutions to such issues, ensuring accountability and transparency are prevalent for an all-round benefit.

In all eight years since its inception, the Indaba has been successful in adhering to the following objectives:

1. Providing a platform for voices of marginalized and mining affected communities in order for decision and policy making on mining to take full account of their realities, concerns and aspirations.
2. Provide a safe space for constructive multi-stakeholder dialogue on mining and Natural Resources governance.
3. Explore and propose solutions for improved governance of the sector.

OBJECTIVE OF THIS PAPER

1. The purpose of this paper is to present tracked progress of the ZAMI during the years of its existence, and its achievements thus far, in accordance with the set objectives of the Indaba and its subsequent recommendations. As such, discussions in this paper are centered on the Zambia Alternative Mining Indaba as a National initiative in light of the progress made during the last eight years.

¹ http://www.parliament.gov.zm/sites/default/files/images/publication_docs/2018%20Budget.pdf

² <https://www.daily-mail.co.zm/state-ponders-maximising-revenue-from-mining/>

³ <https://www.lusakatimes.com/2017/12/10/cabinet-approves-publication-introduction-parliament-industrial-labour-relations-bill/>

2. In essence, this paper reviews the actions and developments that have shaped the Zambia Alternative Mining Indaba over the years taking into consideration the objectives of the initiative. Firstly, it will show how the ZAMI has grown to be a platform for the marginalized mining communities to voice out their concerns and have a say in what directly affects them. Second, how the ZAMI has fostered multi-stakeholder dialogue concerning natural resource management in the country. And;
3. Finally, and most importantly the paper will bring out resolutions, as recommended by the various stakeholders of the indaba since 2012, and based on this and what responses and actions have been taken by the government to sort out issues faced by the various marginalized and mining affected communities, will gauge progress of the initiative.

Why track progress of the ZAMI?

This is of importance in understanding the level of influence the movement has achieved and how best it can be used to increase impact on the society and enable for continued efforts towards achieving the objectives of the Indaba to benefit the country as a whole, and more importantly the affected communities.

It is imperative that we take into consideration the fact that some of the steps taken by the government and other bodies in line with the ZAMI proposed resolutions are yet to yield significant results. Therefore, this paper will also highlight some of the situations arising as a result of the actions taken following proposals made, and what is being done either by government or the various CSOs and Faith Based Organizations that are key stakeholders, to ensure the overall aim of the AMI-ZAMI initiative is achieved.

In the end, the overall result of this paper should be to show the good that the ZAMI initiative has been able to yield as a reflection of its progress, and to establish what would be the required focus of the Indaba to further push its agenda for the benefit of the country.





METHODOLOGY

Research and development of this paper included interviews with some of the long-standing members of CSOs responsible for organization of the ZAMI to better capture the background on where the initiative has come from and progress made in fulfilment of set objectives. These interviews also related experiences at the ZAMIs that were striking in telling the success story of the Indaba.

The paper was further informed by review of issues raised by the ZAMI over the past years and the proposals made to this effect in the declarations and extended to research on the documented works by government and other key bodies to deal with the issues raised in line with the proposals. This basically took the works done in response to the proposals made as a reflection of the progress made by the initiative in both its reach and impact.

FINDINGS

1.0 THE ZAMI PROVIDED A PLATFORM FOR THE VOICELESS AND THE COMMUNITY

On Providing a platform for voices of marginalized and mining affected communities in order for decision and policy making on mining to take full account of their realities, concerns and aspirations;

The ZAMI, during the years it has been held, has invited and facilitated for community representatives to attend and has engaged them in the discussions to give the view of the communities they come from as well as feedback on works done.

The ZAMI has also seen development of the sub-national indabas at provincial levels to include the Copperbelt, North Western, Southern and Luapula provinces, as well as at district level with Kasempa and Sinazongwe being the most

⁴ www.unpan1.un.org/intradoc/groups/public/documents/un/unpan020793.pdf/

recent addition. This has ensured engagement with a wider group of the marginalized and mining affected communities in the agenda of the indaba, created awareness at grassroots levels and created a platform for them to voice out their realities, concerns and aspirations.

As the world has moved onto a developmental fasttrack over the past decades, there is one thing that has become increasingly apparent. Despite the vast developments in all sectors around the world, the indigenous people of areas hosting these have been least beneficial. A report on a round table discussion for the International Fund for Agricultural Development (IFAD) held in February, 2003, highlighted that according to available estimates, worldwide, there were about 300 million indigenous peoples living in more than 70 countries, and the majority of them were poor. As would be expected, the numbers have increased further over the years and it is for this reason that provisions such as the 2007 United Nations Declaration on the rights of Indigenous Peoples have come into play.

The “Investment in Africa is investment in the People of Africa” ideal bases on the principle that every development investment should benefit the indigenous hosts of the activity as a way of influencing sustainable development. It adheres to key principles of the UN Declaration in ensuring indigenous people are accorded the right to participate in decision making, right to lands and resources and right to free, prior, and informed consent. This is the way of the ZAMI. Since its inception in 2012, the ZAMI has made it a point to invite and facilitate attendance and participation of select communities in the deliberations of the indabas. The aim of this has been to provide a platform for the marginalized mining affected communities to voice out the issues that they face and seek the necessary answers and assistance. This section of the paper is a consideration of progressive steps over the years towards building a platform that has enabled the ZAMI to assist mining communities to give voice to their concerns. Amongst the notable wins the

ZAMI has had on this include;

- a. The Growing of peer learning and awareness work on the issues of mining that started in 2006, through a campaign called the Zambia Extractives Industry Project (ZIEP). The project was spearheaded by Caritas Ndola, later extended to the other Caritas Dioceses, and addressed the problem of natural resource exploitation by extractive industries not adequately contributing to poverty eradication and sustainable development in Zambia. Building on these efforts, the ZAMI linked target communities around the country and built the capacity of communities by ensuring that they knew their rights, in light of the extractive activities, and claimed them, with good results. Because of this knowledge provided, the communities were better able to recognize their rights and claim benefits from the extractive sector.
- b. The ZAMI upholds the importance of the local communities every year by inviting and facilitating for mining affected communities to attend the deliberations at the National Indabas, the ZAMI reserves a minimum of 40% participation for communities affected by mining.
- c. The ZAMI has extended its reach through introduction of sub-national indabas at Provincial and District levels in Zambia. In 2017 the very first North Western Provincial Mining Indaba was held in Solwezi and has been followed by indabas on the Copperbelt and Southern Provinces of Zambia. The initiative has further extended to district level and indabas have till now been held in Kasempa, Sinazongwe, Kalomo, Mufulira, Solwezi and Kalumbila.
- d. Some of the communities that have been represented at the Indaba have brought forward very interesting cases that the ZAMI has helped to voice. One such case is the community of New Israel, situated 60 kilometers North-East of Solwezi in the North Western Province, that was displaced and relocated in 2005 to pave way for mining activities by Kansanshi Mines. During the first five years of relocation, the mines assisted the community by giving farming inputs, donating boreholes, roofing sheets and building a clinic and two staff houses. The mines also built a bridge to help the community members cross a stream nearby and in 2016 Kansanshi School. The community, however, mentioned that after those times the mines were unresponsive to any issues they raised regarding their livelihoods and the government was unresponsive from the start. The only benefit from the government was a teacher who later abandoned the school. The community complained that their were no united terms that

⁵ http://www.ndoladiocese.org/?page_id=53/

⁶ The story of New Israel and many other communities documented in Community Company Government Assessment at www.pwypzambia.org/images/analysis_papers/ccga_report_web.pdf/

governed the benefits they could get from the mines in their area. They had bad roads, a project that the Zambia National Service started but had left unfinished, and this hindered them from getting their farming produce to markets which were a long distance from the community. The government's unresponsive nature extended to their councilor, who stayed away and the District Commissioner who instead of giving assistance, discouraged their visits to his office and told them to wait for the next elections where they could vote better. In this case, the most evident plight of the community was the lack of a focal person to table their complaints to the unresponsive mines and government. The Zambia Alternative Mining Indaba, therefore, became the required platform for the community to bring their complaints to the two entities that had so far eluded them.

The example of New Israel, and many others over the years, have turned into success stories and are worthy of looking back on as an indicator of the benefits drawn from having the Indaba as a platform for the voiceless. The Indaba remains dedicated to ensuring that the marginalized communities are able to not only bring their complaints to the right authorities, but that they are not fazed in seeking accountability in the face of their trials.

2.0 THE ZAMI PROVIDES A SAFE SPACE FOR DIALOGUE

ZAMI provided a safe space for constructive multi-stakeholder dialogue on mining and Natural Resources governance.

An undeniable fact about Zambia is that mining is an integral part of the economy. Another fact that can't be separated from this is that mining is also one of the most controversial subjects and a cause for much debate in the country. Why?

Zambia has had extractives activities going on for decades. The country, however, though having a fully established mining industry continues to benefit less and less. Question has been raised to where the returns from mining go, whether mining companies are robbing the country of its resource wealth, what the government does with the revenue earned and the future of mining in Zambia. Can a particular entity be blamed for the deteriorating state of the industry and the lack of benefit thereof?

The ZAMI has in the years of its existence upheld the ideal that everyone has a responsibility towards the effective management of natural resources in Zambia. It attracts stakeholders from CSOs, Mining companies, Government, mining



affected communities and the media in a safe space to discuss issues affecting mining in Zambia and collectively agree on a way forward.

It is worth noting, however, that the process of creating a space that fosters collective dialogue on natural resource management has not been an easy one. This section of the paper highlights progress points during the seven years that have been significant in achieving this objective.

Prior to the ZAMI being started in 2012, CSOs were already making efforts to start the conversation on community beneficiation from the mining activities in Zambia. Where efforts to engage the communities in awareness programs such as the ZIEP dialogue platforms proved easier, the government and mining companies were the hardest to engage. The government viewed this step by CSOs to engage them and get answers as an attack and often times simply turned them away. Mining companies on the other hand refused to give answers regarding the community beneficiation from their activities because they claimed government, the recipient of taxes which the mines paid, should be the one to respond. The very first ZAMI, as a result, was held without any government or mining company in attendance.

Leading up to the 8th Zambia Alternative Mining Indaba, the following points are notable:

a. In Government engagement:

The government which initially refused engagement has been in attendance and fully participatory since the third indaba. At first only the Ministry of Mines was engaged but the indaba has gone on to engage government ministries including Finance, Local Government, National Planning and Development, Gender, Community Development etc in not only discussing the issues that mining in Zambia faces, but giving answers to questions arising about the same and discussing proposals for solutions.

b. In Mining Companies engagement:

The mining companies, also unresponsive at first, have been participating in the indaba since the second Indaba held in 2013. At present, the Indaba has engaged Mopani Copper Mines, Chibuluma Mines, Lubambe Mines on the Copperbelt province, Lumwana Mines, Kansanshi Mines PLC, Kalumbila and First Quantum Mines in the North Western Province, Mamba Collarries and Munali Nickel Mine and Mabiza Mine in Southern Province and other smaller mines in the country. The mines are now able to present data on their operations, Corporate Social Responsibilities, payments to government, proposals to assist the communities and also get involved in discussions to find solutions to the problems that the ZAMI has identified.

Till date, the most important achievement of the ZAMI is managing to bridge the controversial gap between government and the mining companies. The start may have been bleak but the two entities are now participants in these meetings where they can listen to the plights of the communities affected by extractives activity in Zambia and offer the necessary assistance to them.

It is also noteworthy that the ZAMI maintains strict neutrality in its stand to address issues of mining in Zambia. This is evident in how the ZAMI takes no side, but questions both the mines and the government, and encourages the citizenry to ask the right questions to the right duty bearers.

In the deliberations, the ZAMI has called out the government for weak legislation enforcement structures that have undermined laws and policies governing mining, tax systems, environmental protection and revenue sharing in Zambia. It has also called out the mines for the gross disregard for environment, land and the rights for the communities in which they operate.

⁷ <https://investingnews.com/daily/resource-investing/base-metals-investing/copper-investing/copper-production-country/>

Ultimately, the ZAMI asks that government and the mines are accountable to the people, and that the people are also accountable to themselves by taking responsibility for required change. This aspect in itself has ensured that the participants in this initiative have been able to speak out on issues freely, and without fear or judgement, for a cause spearheading all round benefit.

The ZAMI attracts stakeholders from CSOs, Faith Based Organizations(FBOs), government representatives, major mining companies and the ASM miners, community members and the media to have constructive dialogue on natural resource governance in the country. The ZAMI seeks to maintain neutrality and provide a safe space for open airing of views by all so as to facilitate dialogue on the various issues brought to light and collectively agree on and propose solutions.

3.0 ZAMI PROVIDED FOR AND PROVIDES FOR AS A MOVEMENT FOR CHANGE

On Exploring and proposing solutions for improved governance of the sector. Having some of the most major copper deposits, Zambia is hailed the second largest copper producer in the Southern Region of Africa, after the Democratic Republic of Congo, and seventh in the world . In addition, Zambia mines other minerals such as cobalt, uranium, coal, lead, semi-precious gemstones and others. As such, there has been the major question of why this vast mineral wealth has not translated into development for the country in the decades that mining activity has been going on.

During the seven years that the Zambia Alternative Mining Indaba has been held, this question has slowly been translated into answers. Various issues have been raised, deliberated on, and proposals made for governmental consideration and implementation. During these years, some of the issues that proved to prevalently affect the Mining sector, and curb its development and benefits from trickling into hosting communities, are issues of Illicit Financial Flows, Lack of Transparency and Accountability in Mining Revenue Management and of aligning the Zambian Mining Act to the Africa Mining Vision (AMV) and SGDs to ensure optimal and sustainable benefit for the country as a whole.



⁸ https://www.afdb.org/fileadmin/uploads/afdb/Documents/Publications/Illicit_Financial_Flows_and_the_Problem_of_Net_Resource_Transfers_from_Africa_1980-2009_-_Executive_Summary.pdf/

This section is a consideration of the proposals made by the ZAMI participants in response to these and more issues and the relevantly positive action on their part and that of the government as a result. At the end of each ZAMI, a declaration or communique has been written and shared with the Minister of mines. This encompasses the discussions during the three day deliberations of the ZAMI in a list of proposals made to remedy issues the ZAMI identifies in mineral resource governance.

The declaration is a collective statement by stakeholders, from all parts of the country taking part in the ZAMI, that takes into consideration the feedback from all communities, to propose solutions for improved governance of the extractives sector and ensure benefit of the citizenry. This section of the paper will consider in detail the significant aspects of the ZAMI that have shaped the initiative in ensuring fulfilment of its governing objectives.

4.0 PROVIDED A SPACE TO MAKE POLICY AND LEGISLATIVE CHANGE RECOMMENDATIONS

ZAMI provided a platform where communities, CSO, the church, academia's, parliamentarians, traditional leaders, mining companies etc could suggest and recommend specific policy and legislative changes. Some of these included

1.0 ILLICIT FINANCIAL FLOWS AND BENEFICIAL OWNERSHIP:

The problem of Illicit Financial Flows, especially in the extractives sector, has long plagued the African continent. A joint report by the Global Financial Integrity and African Development Bank, in May of 2013, on Illicit Financial Flows from Africa indicates that the continent was a net creditor to the world, as measured by the net resource transfers, to the tune of up to US\$1.4 trillion over the period 1980-2009 .

Zambia too has borne the brunt of Illicit Financial Flows. During their deliberations, the ZAMI members recognized that Zambia was losing Billions of dollars in tax revenue due to IFFs through Transfer Pricing, round tripping and tax evasion by MNCs. In 2016, it was established that Zambia was losing about \$3 Billion annually, amounting to about K36 Billion, which accounted for about 70% of the K51.3 Billion set for the 2015 National Budget; money that could have been used as public servicing funds.

Realizing the imminent danger of IFFs on the country's assets and its overall economic-social development, the ZAMI participants recommended Strengthened capacity of relevant monitoring and tax setting authorities such as Ministry of Finance and The Zambia Revenue Authority in combating this. They demanded that government engage consultative services in reviewing and renegotiating all tax treaties and to terminate unyielding contracts. They also encouraged the government to take charge of the situation by ensuring that all MNCs publicly declare their sales, profits and taxes paid in their operational jurisdictions in audited annual reports.

Additionally, Government was encouraged to embrace automatic exchange of information among governments as a way of staying informed of financial assets in other domains and the cash flow among them. This, coupled with a review on the Beneficial ownership of many of these firms would assist better in ensuring regained control of public funds being lost through tax evasion.

⁹ <https://www.lusakatimes.com/2017/12/09/readjust-legislation-curb-illicit-financial-flows/>

¹⁰ <https://www.themastonline.com/2018/02/16/fic-reveals-obscure-foreign-firms-seeking-to-fund-govt/>

¹¹ http://www.xinhuanet.com/english/2018-03/03/c_137013021.htm/

¹² http://www.xinhuanet.com/english/2018-04/22/c_137128116.htm/

¹³ <https://www.lusakatimes.com/2017/12/10/cabinet-approves-publication-introduction-parliament-industrial-labour-relations-bill/>

WHAT HAS BEEN DONE?

So far, the Zambian government, along with key leading bodies, has responded with the following efforts:

- a. The Government in 2017 set precedence in resolution of IFFs by making adjustments to legislative bodies in place, for monitoring of cash flow in and out of the country; essentially improving the position of bodies such as the ZRA, Financial Intelligence Centre and Ministry of Finance to curb IFFs. At the launch of a “Stop The Bleeding” campaign in Mufulira district that same year, Mufulira Deputy Mayor, Beatrice Kapasa, acknowledged need for updating of the legislative system so as to tackle IFFs better and said that this was a priority of the government. The steps taken were to ensure strengthened tax compliance, reduced tax evasion, enhanced resource mobilization and transparency in public finance management .
- b. The Financial Intelligence Centre(FIC) has also been championing the fight against Illicit Financial Flows by monitoring cash flow in the country. Chief Executive Officer of the FIC, Mary Tshuma, revealed early in 2018 at an Institute of Directors of Zambia Business Breakfast, a rising trend in unexplained cash transactions, looting of business proceeds through offshore accounts and suspected corruption in some government contracts. She also expressed concern about observed obscure foreign entities that were offering to finance various government projects and said the the FIC would work with the Ministry of Finance and the Cabinet Office to look into and protect the country from such unscrupulous investors .
- c. Zambia, as a country, demonstrated her stand against IFFs when in March of 2018 the permanent representative to the African Union, Susan Sikaneta, in her remarks during a quarterly briefing of the Economic Commission for Africa (ECA), called on the continent’s finance ministers to address the issue of illicit money flows, a growing problem she said was hampering development. She added that it was time these conferences be utilized for discussions that would yield solutions and spur development to all member countries .
- d. The Finance Minister, Honorable Margaret Mwanakatwe, at the 2018 inaugural session for the World Bank/IMF Spring Meetings called for assistance from the World Bank in stopping Illicit Financial Flows in Zambia . She urged the World Bank to play a critical role in the identification, tracking and prevention of infusion of IFFs into the Zambian Financial system.
- e. The two day High-Level Panel meeting on Illicit Financial Flows held in Lusaka with heads of the Zambian state from 17th -18th June 2013, attended by former President Thabo Mbeki, and other separate meetings with the late H.E. President of Zambia, Mr. Michael Sata, as well as Vice President Guy Scott, have also proved key. Speaking during the meeting with the Zambian Head of State, Mr. Mbeki called for a stronger African voice on illicit financial flows which he said was the single economic issue hampering Africa’s development. The ten-member Panel chaired by His Excellence, former President of South Africa Mr. Thabo Mbeki was established by the Economic Commission for Africa (ECA) and the African Union (AU) and was inaugurated in February 2012 to address the debilitating problem of illicit financial outflows from Africa and Zambia.
- f. The most recent measure against Illicit Financial Flows taken by the Zambian Government is engraved in their 2019 Mine Tax Regime announced on 28th September, 2018 by Hon. Margaret Mwanakatwe. The Government recognizes that many Multi-National Corporations(MNCs) are beneficial owners of a huge amount of funds leaving the country illicitly. The regime, therefore, aims at ensuring that MNEs pay their dues and that Zambians can finally benefit more from their resources.

Illicit Financial Flows continue to hound the country and obstruct its fine developmental path. This is, therefore, an area requiring ceaseless efforts and much dedication in its fight. There is still much to be done by not only Government as a leading body, but also by Civil Society and all key stakeholders collectively, to remove the problem of Illicit flow of revenue from the country

More specific positive policy changes have included;

- g. The Minister of Finance in his 2018 budget speech committed to discontinuing tax 5-year tax holidays and also revising the Income Tax Act of 2006 as a way of ending Illicit financial flows, cabinet further approved the Joining the Organization for Economic Co-operation and Development (OECD) Framework on Base Erosion and Profit Sharing. Both actions being recommendations from the 2015 and 2016 Alternative Mining Indaba and advocacy efforts by coalition members.
- h. The revision of the penalties for Transfer-pricing; as an amendment to the Income Tax Act and demonstrating the Minister of Finance commitment to curbing IFFs, the penalty fee for not adhering to transfer pricing regulation was revised from ten thousand penalty units to eighty thousand penalty units (ZMW 3, 000 to ZMW 24,000,000. Section 97A of the Income Tax Act (Chapter 323 of the laws of Zambia provide the income tax regulations. The penalty of K3, 000 is not punitive enough to compel the companies to comply with documentation rules. Therefore, this measure is expected to make the penalties for non-compliance to transfer pricing provisions more punitive.
- i. The ZRA has embraced the OECD Transfer Pricing international standards – the Arm’s Length Principle. Fines for transfer pricing include imprisonment term not exceeding twelve months; and or a fine. The financial penalties are prescribed by the Commissioner General, and these range from 17.5% to 35% for incorrect return on understated income amount. Furthermore, late payment of tax (on mineral as well) is penalized by a fine of 5% per month of the amount due, plus an interest assessed on the outstanding tax payable at the Bank of Zambia discount rate plus 2% surcharge.
- j. The Minister of Finance in his 2018 budget speech committed to discontinuing tax 5 year tax holidays and also revising the Income Tax Act of 2006 as a way of ending Illicit financial flows, cabinet further approved the Joining the Organization for Economic Co-operation and Development (OECD) Framework on Base Erosion and Profit Sharing. Both actions are recommendations from the 2016 Alternative Mining Indaba and advocacy efforts by coalition members
- k. Amend Section 65 of the Income Tax Act to allow assessments in transfer pricing cases to be made beyond the period of 6 years but not exceeding 10 years. Transfer pricing audits generally take longer than normal audits because of their complex nature and the need for gathering of information of the persons transacting. For instance, completing transfer pricing audits may require exchange of information between Zambia and the tax jurisdiction of the taxpayer’s related parties. The exchange of information is another lengthy process. Due to the foregoing, the six year period limitation is not adequate for transfer pricing audits.
- l. In April 2018, the Zambian Government through the Ministry of Finance (MOF) released the Income Tax (Transfer Pricing) (Amendment) Regulations 2018 to govern transactions between related parties. The regulations are aimed at ensuring that commercial transactions between related parties are carried out at arm’s length (i.e. terms that would apply if the parties were unrelated). According to BDO (2018),These regulations affect transactions between related Zambian companies as well as transactions between Zambian companies and their counterparts in a Multinational Enterprise (MNE).

2.0 TRANSPARENCY AND ACCOUNTABILITY IN MINING REVENUE MANAGEMENT AND THE EITI:

The Zambia Alternative Mining Indaba affirms that effective and equitable taxation is critical to overall economic growth and socio-economic and political wellbeing of the community. As such, strengthening channels of political representation and government accountability in the management of mineral resources can’t be forgone.

It is for this very reason that Zambia is compliant to the EITI, an institution that should address this need exactly. The Extractives Industry Transparency Initiative is an international multi-stakeholder initiative promoting transparency and accountability in the oil, gas and mining sectors through disclosure of government and company data in resource

¹⁴. www.zanis.com.zm/?q=article/govt-considers-legislating-eiti/

¹⁵. zambiaeiti.org/zambia-makes-stride-in-ensuring-accountable-management-of-oil-gas-and-minerals/
See score card for Zambia EITI Validation here

¹⁵. <https://www.themastonline.com/2018/10/02/fostering-accountability-and-transparency/>

rich countries. Having over 52 member countries, the EITI has achieved much and is championing transparency and accountability in many parts of the world.

However, while the ZAMI appreciates that Zambia is EITI compliant and has, through the ZEITI, produced night reconciliation reports which detail mining company payments and government receipts, they expressed displeasure at the fact that the transparency achieved so far has not translated into the desired level of accountability in the usage of resources.

The following issues were brought forward by the ZAMI:

- a. The Zambian government lacks political will and capacity to negotiate contracts that put forth optimal benefits of mining in the country. Mining contracts are shrouded in secrecy which in effect causes inadequacy and lack of participation and engagement of communities in policy and decision making processes. The ZAMI delegates pointed out that allocation and use of mineral resource should be guided by a transparent mechanism.
- b. Zambia lacks a specific mineral resource account for deposits of proceeds from the sector as well as a well oiled governmental structure that is lacking in the poorly coordinated Ministries (i.e. Lands, Finance, Mines and Local government and Housing) which should be spearheading development of the mining and hosting communities.
- c. Zambia lacks a specific mineral resource account for deposits of proceeds from the sector as well as a well oiled governmental structure that is lacking in the poorly coordinated Ministries (i.e. Lands, Finance, Mines and Local government and Housing) which should be spearheading development of the mining and hosting communities.
- d. Mineral Revenue Sharing Mechanism disregarded in the 2015 Mines and Minerals Act, unlike in 2008, depriving communities of retaining the percentage of Mineral revenue they were once entitled to.

In the wake of such issues, the ZAMI proposed:

- a. Transparency and disclosure in investments and trade contracts with a consistent contract awarding mechanism that would also allow Zambians first priority ownership of mines (i.e. 51% of all mining contracts to be Zambian owned.
- b. Review and Ratification of mining contracts be opened up to Parliament to enhance accountability and protect Zambian interests, while also putting in place an operational guideline for decentralized Mineral Revenue Sharing. In addition, reimplementation of the MRSM and also the Sovereign Wealth Fund mentioned in the 2015 National Budget.
- c. Freedom of Information Bill to be passed into law to ensure citizens are able to access information about revenues and how they are being used for their communities.
- d. Mine Tax Regimes to be revised to allow for collection of royalties on mineral sales, gross production and tax on mining profits; while moving away from focus on giving the foreign companies tax incentives to ensure they pay tax.



¹⁷ www.africafocus.org/docs18/amv1811.php/

- e. The Extractive Industries Transparency Initiative (EITI) implementation; it should no longer be voluntary but made compulsory to enhance transparency. They further pushed for enactment of the EITI Bill backed by a policy that clearly spells out how transparency from the reports will amount into the much needed accountability.

ACTIONS TAKEN

1. At the time that Zambia's joined the EITI in 2009, compliance of the various companies was voluntary. By 2012, Zambia had achieved the status of being fully compliant to the EITI. In view of the progress made, the Zambian government in 2014 expressed intent to legislate the EITI, stating that more progress could be made and less revenue lost if more companies were compliant to this cause . It should be mentioned that the ZAMI has over the years been used as a space to both reorganize the Civil Society Constituency on the EITI and also provide input on the EITI process.
2. Zambia's EITI process also benefited from other countries making EITI compliance compulsory. In 2015, the Canadian government introduced the Extractive Sector Transparency Measures Act which ensured that all Canadian owned companies would publicly disclose their financial payments in a bid for transparency.
3. In 2017, through their Validation process, the EITI Board declared that Zambia had made meaningful progress in implementing the extractive transparency standard. It was highlighted how the EITI in Zambia had provided valuable information along the value chain, identified gaps and opportunities for strengthening monitoring of production, and improved the public understanding of the revenues generated from oil, gas and mining activities. Zambia's score card showed satisfactory progress on most of the EITI requirements, and every effort was found meaningful. The Board advised that to enhance transparency and accountability in the sector, Zambia would now need to ensure clarity in access to information on licensing, the government's policy on contract transparency, production data and following up on recommendations from EITI reporting . Part of the validation process involved consulting from CSOs that are essentially part of the ZAMI.
4. In December of 2017, following recommendation by the EITI Board in their Validation report and also proposals by Civil Society, Minister of Mines and Minerals Development at the time , Mr. Chris Yaluma, said that government was committed to ensuring that all discrepancies emanating from conflicting data held by major stakeholders would be dispelled and that all production and financial activity of the mining companies would be disclosed to the public and made readily available. Moving towards compulsory implementation of the EITI would ensure the country doesn't lose revenue by allowing ZRA to collect proper taxes for the ultimate benefit of the citizenry. This has been a recommendation from the 2014 to 2016 ZAMI
5. The Fostering Accountability and Transparency Zambia (FACT Zambia) programme, funded by USAID, was launched in February of 2018 aimed at alleviating the negative effects of poor economic governance in the country by creating a transparent system that makes the public aware of the government's budgetary decisions and their implications, and holds them accountable for better performance . This is being implemented by some of the ZAMI committee members and has complimented efforts to raise awareness on EITI data use.

As the proposed theme of the 2019 Zambia Alternative Mining Indaba, "moving towards meaningful transparency and accountability" would suggest, some level of transparency has been achieved and the public can now ask the necessary questions to make the government accountable. There is need, however, to continue pushing for this and ensure that meaningful transparency and accountability effects the desired change and benefits the country better.

3.0 ALIGNMENT TO AFRICA MINING VISION(AMV), SDG 2030 AND AGENDA 2063:

It is quite undeniably true that the Resource Curse - a paradox that countries with natural resource abundance(i.e. Fossil fuels and some minerals) tend to have less economic growth and development outcomes; is one much applicable to

¹⁸ www.mmmd.gov.zm/?page_id=5245/

¹⁹ www.afrodad.org/images/Resource-Center/Research/Domestic-Resource-Mobilization/2017/AMV-report-The-Case-of-Zambia.pdf/



the African continent. Most of the countries, Zambia inclusive, have seen very little developmental benefits from their abundant resources despite putting much into developing their extractives sectors.

The African Mining Vision is the response team or initiative set up to address this issue. Africa focus dubs it as “..Africa’s own response to tackling the paradox of great mineral wealth” with the goal of promoting transparent, equitable and optimal exploitation of mineral resources to underpin broad-based sustainable growth and socio-economic development for all of Africa. It was adopted in February of 2009 and a framework for implementation developed in 2011 for member countries, including Zambia.

As far as implementation goes, however, the ZAMI raised concern over the fact that there has been minimal policy and legislation reforms made in alignment to the AMV in Zambia. They stated that apart from the government being in motion to set up an AMV secretariat, the fact that the 7th National Development Plan, the Mines and Minerals Act of 2015 and the Mineral Development Policy of 2013 do not reference the AMV is proof of little significant progress in implementation of the initiative, which should result in enhanced local beneficiation and value addition of minerals in the country.

Similar to the AMV, but not solely focused on extractives, the Sustainable Development Goals 2030 and Agenda 2063 address a range of political, economic, social, and environmental challenges that Africa faces. The two agendas lobby for contribution of the mining industry to sustainable development in the country without compromising socio-economic and cultural rights of the citizens and should, therefore, be considered in Extractives sector legislation to ensure optimal beneficiation from the industry.

The ZAMI participants proposed the following towards this cause:

- a. That the government speed up the alignment process by taking consideration of the AMV in forming policies and making legislative decisions.
- b. That the government open up the process to include key stakeholders in mining sector and mining communities, Civil Society Organizations and the Private Sector to further push this agenda.
- c. The government ensure all development plans and programmes be directed towards meeting the SDGs and aspirations of the Agenda 2063.
- d. Mining companies should respect the law of the land and support developmental agenda and aspirations of the country.

WHAT WAS DONE?

The response to need for alignment of Zambian policies and legislation to the AMV, SDG 2030 Agenda and the Agenda 2063, has been seen over the years in many efforts taken by the government. Some significant actions are:

²⁰ European Scientific Journal August 2016 edition vol.12, No.22 ISSN: 1857 – 7881 (Print) e - ISSN 1857- 743122 <https://eujournal.org/index.php/esj/article/viewFile/7936/7660/>

- a. A one year long Preparatory Assistance Project launched for the 2015-2016 period, by the Ministry of Mines and Mineral Development, in conjunction with the United Nations Development Programme. This initiative aimed to develop a five year multi-partner programme for implementing mining sector transformational activities to achieve the vision 2030 and leverage Zambia’s Commitment to the Africa Mining Vision .The expected output of this initiative is development of an AMV engagement strategy that draws upon key stakeholders in Zambia, regionally and internationally, while building a platform for resource mobilization aimed at augmenting existing resources for the programme. It will also produce five analytical reports identifying gaps and issues in policy and legal frameworks governing the extractives sector. However it should be noted that little has been done since 2017 after the development of and advocacy and communication strategy.
2. In 2017, a study by African Forum and Network on Debt and Development (AFRODAD) assessing Zambia’s Mining Legal Frameworks and Policies against the AMV, recognized the efforts by government to implement the AMV . However it should be noted that some of these efforts are not systematically aligned to the AMV, (PWYP 2016). The AFRODAD study highlighted that there has being significant steps towards Zambian alignment to the initiative, for instance:
 - The enactment of the,2015 Mines and Minerals Development Act, specifically on recognizing and legislating artisanal and small scale mining.
 - The improvement of Income Tax Act in terms of ensuring optimal revenue accrued to the country. This accompanied by the removal of the 5 year tax holidays and introduction of the sliding royalty tax rate.
 - The Public Financial Management Reform Programme (supported by the World Bank), which assisted in building capacity of government agencies in tracking IFFs
 - Renegotiation of DTA with the United Kingdom

In its conclusive statement, the it should be noted study stated that these and other efforts depicted a positive course taken in aligning mining legislation and policies to the aspirations of the AMV, but that there was still more to be done in ensuring that the AMV was better implemented to directly benefit mining host communities. Hence or otherwise a more systematic process needs to be done on this.

4.0 SUSTAINABLE DEVELOPMENT AND CORPORATE SOCIAL RESPONSIBILITY:

In Socio-Economic and business circles, two concepts, that of Corporate Social Responsibility and Sustainable Development, have a history of both being unrelated and very related. Whereas Sustainable Development has been considered more to deal with environmental issues, Corporate Social Responsibility has been accorded more to business.

In the past decades, however, there has been much talk about the relationship that the two share. A research paper published in the European Scientific Journal in August 2016 on The role of CSR in achieving Sustainable Development, states that although the concept of Corporate Social Responsibility and that of Sustainable Development progressed separately for a long time, the business sphere got a larger and larger role in sustainable development and it has become clear by now that CSR contributes to the sustainable development of the business sphere and without that sustainable development cannot be attained.

“CSR is a business model which promotes business contributions to sustainable development i.e, it creates a balance between economic interests, environmental needs and social expectations by integrating the spirit of Sustainable Development into the business strategy.”- The European Scientific Journal.

In this era of the 2030 Agenda for Sustainable Development, the significance of Corporate Social Responsibility can not be forgone. The agenda is based on a belief that business corporations should rightly be in support of the developmental agenda of their place of operation and their contribution to this is what constitutes their corporate social responsibility.

²¹ <https://mineralproductionmonitoring.co.zm/are-mines-doing-enough-in-the-community/>

In light of this, the ZAMI expressed concern at the lack of a deliberate plan to ensure that mining proceeds were used to advance human development, especially in the mining communities. Corporate Social Responsibility in Zambia is seemingly disregarded by both government and mining companies, which has left most host communities deteriorating. Even when something is done, conceptualization and identification of CSR projects scarcely involves communities, and thus, disregards the real needs of those communities.

In their demand to have CSR benefit extractives host communities in a more meaningful, consultative and structured manner, the ZAMI made the following proposals:

- a. That government strengthen weak governance systems that render them weak to corporate dictates, and show more political will to be CSR enforcers rather than just facilitators.
- b. CSR must be made compulsory and never be used as a substitute or excuse from paying due taxes.
- c. That the government set precedence for mining companies by taking the lead in providing basic social services in the mining communities instead of abandoning them and expecting CSR to assume their core responsibility.
- d. That government formulate mechanisms and guidelines that link CSR to existing national provincial and district plans and that operate in a transparent, accountable way, that shows respect for rights of the people in their communities of operation. Mining companies should also be supportive of these plans and work with the local governments to achieve this.
- e. Government, through the laws they enforce, must protect the mining communities by:
 - Creating systems that ensure that there is free, prior, informed and continuous consent of the affected communities
 - Ensuring displaced communities are protected and given alternative land and compensation.
 - Ensuring that corporates establish, implement and enforce labour practices that offer clearly defined benefit sharing mechanisms for the communities and corporates.
 - Ensuring corporates involve the communities in identifying and formulation of CSR projects to better address their needs.

THE RESPONSE?

The Zambian government has undertaken a number of projects for improved infrastructure in both rural and urban areas. This can be evidenced by some very recent construction projects like that of the Kapompi Bridge in Kitwe mining district in January 2019. The bridge was built by Mopani Copper Mines as part of their CSR programme, but lacked maintenance and collapsed, affecting people in the Nkana East and Chipata compound areas.

The works of the government, and also of the mining companies are many and cannot be unappreciated. However, there is still the issue of non-involvement of the host communities in considering of what projects would really satisfy their immediate needs and should be prioritized in these CSR projects. Roads, bridges, social facilities for education and health are still lacking in such areas and that's not something that can be forgone.

And though Civil Society has taken steps in monitoring of CSR projects (e.g. The Corporate Social Responsibility Index by Publish What You Pay), Government still has no proper plan governing CSR works by the mining companies. This completely leaves the choice of whatever is done in the form of corporate social responsibility to the mining companies and the communities really have little to no say.

²² <https://www.lusakatimes.com/2016/04/24/zambia-join-175-countries-signing-paris-agreement-climate-change/>

²³ <https://www.lusakatimes.com/2017/11/17/scale-financial-support-climate-change-related-commitments-jean-kapata/>

²⁴ <https://www.lusakatimes.com/2018/07/05/zambia-seeks-to-raise-400-million-for-climate-change/>

²⁵ www.qfmzambia.com/2018/11/14/zema-affirms-its-commitment-to-addressing-climate-change/

The government along with Civil Society should, therefore, work together with the mines to ensure that communities and their leaders are brought into the equation, aligning their developmental plans so as to fully benefit and develop these affected communities.

5.0 BIODIVERSITY, CLIMATE CHANGE AND ENVIRONMENT:

Mining, though a very viable business that for many countries has been a main source of income, is also one of the biggest destructors of the environment and contributor to one of earth's greatest problems, climate change. Problems of erosion, sinkholes, deforestation, loss of biodiversity, the contamination of groundwater and surface water by the chemicals emitted from mining processes, are all negative effects of mining. Additionally, emissions of carbon from mining processes negatively impact the atmosphere, which in turn has effect on the quality of human health and biodiversity.

It is, therefore, for good reason that the ZAMI has so often spoken out about environmental issues. While recognising and appreciating the work of the Zambia Environmental Management Agency(ZEMA), the ZAMI still continues to note with concern the high levels of degradation caused by mining sector activity and the weak set of environmental protection rules and regulations that still lack proper enforcement. Most mining companies have been found non-compliant to environmental laws and this leaves the environment generally at risk.

Most rural communities that are dependent on natural resources, particularly forests, for their livelihoods also face difficulties resulting from the mining sector. Many have faced land dispossession and unjust relocation, with little or no compensation, alienation from their way of life and increased poverty as a result.

Realizing the damage this particularly undermined problem continues to cause, the ZAMI suggested the following:

- a. That government review statutory instruments on Environmental Impact Assessment(EIA) and Strategic Environmental Assessment(SEA) and strengthen financial, institutional and legal capacities of its agencies (i.e. ZEMA) to ensure monitoring of extractive activities and compliance to environmental laws.
- b. That government, through its regulatory authorities, ensures that all mining companies are obligated beyond the Polluter Pay Principle, to contribute to an Environmental Protection Fund to help mitigate environmental degradation. They must also facilitate and fund individual research on cumulative effects of pollution from mining in the communities.
- c. Government to take urgent measures to fully fund and improve forestry department in order to curb the issue of deforestation. Other stakeholders should also join the government in taking steps towards reforestation by taking part in tree planting programmes





- d. That an independent monitoring system that includes CSOs, other stakeholders and affected communities, be set up to conduct monitoring prior to mining activity in the area. This should also give mandate to traditional leaders and the communities on issuance of land to investors so as to better protect them from unjust displacement and alienation from their environment.

WHAT WAS THE RESPONSE

The Zambian government, through its environmental protection bodies, has had the following actions in response:

- a. Zambia's clear commitment to fighting climate change in the country was reaffirmed when in December 2015, Zambia joined 175 other UN Member countries in signing of the Paris Agreement on Climate Change. The signing of the Agreement in New York was presided over by UN Secretary General, Ban Ki Moon, who stated that the agreement was a move to intensify efforts to decarbonise economies and to assist developing countries to make required transitions to achieve the same goal, especially in line with the Sustainable Development Agenda 2030.
- b. In 2016, Zambia went ahead with formulating and introduction of the National Policy on Climate Change, a programme that provided a framework for coordination and implementation of Climate Change mitigation measures.
- c. Speaking at a High Level Panel Discussion on Climate Change (COP23 meeting) in Bonn in 2017, The Minister Of Lands and Natural Resources Hon. Jean Kapata, called for an upscale of funds allocated for Zambia and other developing countries to push forward Climate Change related projects . This would constitute the assistance required by these countries to make necessary transitions and maintain continued efforts towards the Global goal on Climate Change.
- d. On Monday 18th June, 2018, a National Consultative Stakeholders Meeting on formation of a National Climate Change Fund was held in Livingstone. The National Climate Change Fund was formed in 2017 as an initiative to raise revenue from both public and private sources domestically and internationally to fund Climate Change Mitigation Projects. The meeting, which brought together stakeholders from all sectors, was officially opened by the spokesperson and assistant to the Permanent Secretary of the Ministry of National Planning and Development, Mr. Chola Chabala who called for consented efforts and innovation from all stakeholders to help this cause.
- e. In that same year, government through the National Designated Authority(a department of the Ministry of National Planning and Development)expressed intent to raise \$400 Million over a period of three years to combat

²⁶ <https://www.daily-mail.co.zm/resettlement-policy-vital-development/>

²⁷ <https://www.lusakatimes.com/2012/08/14/give-zambians-priority-mines-minister/>

²⁸ Mopani Copper Mines injects US\$15 million in artisanal training scheme

²⁹ <https://www.znbc.co.zm/share-profits-with-communities-mp-urges-mines/>

climate change effects in the country through implementation of adaptation and mitigation interventions. The NDA National Coordinator, Mr Mainga Lawabelwa, said that government was developing strategies and proposals to address the increasing frequency and intensity of climate induced hazards in the country.

- f. The Zambia Environmental Management Agency(ZEMA), along with the Ministry of Lands and Natural Resources, has continued to fight Climate Change and create dialogue space for it through capacity building workshops intended to bring together various stakeholders in identification and implementation of mitigation actions. ZEMA affirms its commitment to fully addressing climate change issues in order to reduce the vulnerability of people to the effects of climate change through adaptation and mitigation, and capacity building .
- g. Zambia's 7th National Development Plan (2017-2021)also highlights the efforts against effects of climate change. Realizing the increasing effect of Climate Change induced events on Zambian communities and its economic system, the government has mainstreamed Climate change adaptation and mitigation in this plan, therefore, promoting social wellbeing, including better health, growth of the economy and at the same time reduce environmental risks, such as shortage of water, air pollution and other effects.

It can be seen from the above examples, and many more, the efforts that the Zambian government has been putting into alleviating the effects of destruction to Biodiversity and Climate change and slowing down Environmental Degradation as not only an effect of bad mining, but also as an effect of all other sectors. It is notable still, that there is more the government can do in ensuring that more stakeholders, community leaders and their communities are involved in monitoring of the impact of mining in the various communities.

6.0 FREE, PRIOR AND INFORMED CONSENT (FPIC) AND TRADITIONAL LEADERS INVOLVEMENT:

The concept of Free, Prior and Informed Consent is basically a right pertaining to indigenous people that promotes their inclusion in a bottom-up participation and consultation prior to the beginning of a developmental project on their land or using resources within their territory.

The Indaba noted that in many cases in the Zambian scene, there has been continued violation of this human right in natural resource rich communities through displacements, poor compensation, land alienation and lack of consultation.

Another issue is lack of respect shown to Traditional Leaders of mining host communities in land allocation and management of resources. It has been noted that mining companies, in various cases, have been allocated land without the prior consent of the traditional leaders. And after they begin operation, they still show disrespect by not including the chiefs in activities regarding management of the land and of the resources in their areas.





In line with these issues the ZAMI proposed that:

- a. The Government and private investors obtain and respect the Free, Prior and Informed Consent of the local people, and especially their traditional leaders, for decisions that may require allocation of land and may result in displacement of people to pave way for mining development projects.
- b. The government protect the people by developing specific policies to address cases of involuntary displacement. The communities' interests must always be prioritized and protected, and their heritage and way of life respected and put into consideration.
- c. Negotiations of lasting agreements on the use of natural resources should recognize the rights of the locals communities and the FPIC principle embedded in the policies and legal framework.
- d. Companies train hosting community members in mining so as to give back by according them the chance of employment opportunities in a high intensive and technology driven mining investment. The community should also be collectively allocated a proportion of mining royalties as a primary principle to ensure future generations can still be sustained.
- e. Civil Society to lobby tribal authority and advocate for the Communal Property Act to assist the chieftaincy in the administration of the community trust, have a right to decide and influence the land.

WHAT HAVE THE RESULTS BEEN?

- a. In 2016, the Zambian government launched the National Resettlement Policy to help provide a mechanism for dealing with both voluntary and involuntary resettlement. The policy which was launched by Vice President Mrs. Inonge Wina, would focus on employment creation, access to public and social services, increased food security, empowerment of Zambians to own and purchase land, security of land tenure, stimulating economic growth in rural areas and compensation and resettlement for internally displaced persons .
- b. The Minister of Mines at the time, in the year 2012, Mr Yamfwa Mukanga, took a stand for Zambia when he implored the mining companies to give priority to Zambians for employment in the mines. Mr Mukanga highlighted that Government appreciates the investment coming into the country but that it should benefit the Zambians, who own the land being mined, by giving them employment.

³⁰ <https://www.lusakatimes.com/2017/12/04/government-continue-scaling-social-protection-programmes/>

³¹ <https://www.lusakatimes.com/2019/01/05/president-lungu-confers-with-women-in-mining/>

³² <https://www.znbc.co.zm/help-women-small-scale-miners-upscale/>

³³ www.extractives-baraza.com/assets/content/PDF/Publications:%20Donor%20Programs/UN%20Women%20Policy%20Brief_Gender%20Equality%20in%20Extractive%20Industries_14%20July%202014.pdf/

- c. In effect to the requests for prioritized employment of local labour, many of the mining companies have taken the initiative of training youths in mining skills and other vocations as part of their CSR works and have been able to employ them. One such example is Mopani Copper Mines which in 2018 injected \$15 Million, amounting to about K90 Million, into reviving an artisan training school in Mufuilira district, one of its operational areas following calls by the Government to improve skills training in the country and reduce on the industry relying on expatriates . Other mines that have been involved in similar projects are the Roan Consolidated Copper Mines, Nchanga Consolidated Copper Mines and others.
- d. The Traditional Leaders Act CAP 29:17 gives Traditional leaders, specified as village heads, headmen and chiefs, the important role in safeguarding and protecting the environment in their areas of jurisdiction as provided for in the Act. This, in its own right, accords the traditional leaders some involvement and control over what occurs in their communities.
- e. Local government has also taken a stand for the chiefs. In March, 2019 Kantanshi Member of Parliament, Anthony Mumba, while urging mining companies to share revenues earned with local communities also called out the disrespect rendered to the local traditional leaders of these communities. This was in response to the calls by chiefs for shared revenues to benefit host communities .
- f. The Resettlement Policy Framework published in June 2018 by the Ministry of Commerce, Trade and Industry under The Great Lakes Trade Facilitation Project, reiterated government efforts to this cause. Implementation of the GLTF Project aimed at minimizing displacement and resettlement of people and would put into consideration Zambian cultural law, national law and also apply provisions of the World Bank Policy OP4.12 on involuntary resettlement.

There has been considerable effort on the part of the government and others. However, with issues of land displacement still occurring, and traditional leaders and locals still asking mines for consideration and employment opportunities, the government has more to do in ensuring that communities are fully included and beneficiary of mining development projects in their areas.

7.0 THE EXTRACTIVE INDUSTRY: WOMEN, YOUTH AND CHILDREN INVOLVEMENT AND BENEFIT:

The 21st century has proved to be an era of challenges for change. Whereas women and men were often separated by gender and restricted in what they could do, this era advocates for gender equality and empowerment for people of all age groups. It is in this light that women and youth empowerment through participation in the mining industry is of importance.

The benefits of this empowerment could be numerous. Through these works, many women are able to get employment and provide for their children and families, and also to educate them. Many women are given the chance to independence in a world where, for so long, men ran everything. In a way, they are saved from poverty.

The youth too are unrestricted in what they can do and achieve, this industry giving them education and employment where they could have had none, and also according them the chance to be well-meaning and beneficial citizens to the country.

However, the issues that emanate from this very industry are also worth consideration. The ZAMI delegates noted with concern the negative impact of the extractive industry on women, children and the youths in the host communities of

³⁴ <https://www.state.gov/e/eb/rls/othr/ics/2017/af/269795.htm/>

³⁵ www.worldbank.org/en/topic/extractiveindustries/brief/artisanal-and-small-scale-mining/

extractive industries. The ZAMI listed that mining activity has often disrupted the social context of communities and has had such results as breaking up of families, Gender Based Violence, prostitution and the increased spread of HIV/AIDS, food insecurity due to land displacement cases and in some cases, child labour leading to high school dropout rates, increased criminal activity and drug abuse.

If left unchecked then, these issues would act as a barrier to the development of not only the communities, but the country at large. The ZAMI recognizes this and, thus, made the following proposals towards the same:

- The Government take deliberate steps towards ensuring that the revenue from mining activities is used to respond to the needs of women, youth and children in mining host communities.
- That government set minimum standards for housing to address impact that mining has on community members, especially women and children.
- Mining companies to develop and adopt company policies aligned to the United Nations Guiding Principle of Business and Human Rights to carry out due diligence and conduct Social Impact Assessments to address and best try mitigate effects of the extractives industry on the communities.
- That government ensure that commensurate compensation practices that take into account the cultural and social context of the communities are undertaken by mining firms to address displacement issues. Government and CSOs should also work to educate the communities of these policies so that they are aware of their rights.
- Implementation of the Decentralization Policy to ensure creation of a direct link of policies to the community to enable their participation in the selection of mining projects to be undertaken in their areas.

WHAT HAS BEEN THE RESPONSE/ ACTIONS?

The government, and other key bodies, in their capacity to mitigate issues affecting women, children and youths in mining communities have taken action in the following ways:

- Commitment to domestication of the Africa Mining Vision (AMV), a framework on extractives industry operation to which Zambia adheres, aims at creating equal opportunities for men and women in mining. Where there is mining activity, women are often subjected to seasonal work and jobs in the service sectors which leaves them vulnerable to any changes and living poorly. The AMV supports women in mining and aims at substantially reducing the gap between men and women in mining.
- The Ministry of Community Development and Social Services, headed by Honorable Minister Emerine Kabanshi, in 2017 launched the Support Women Livelihood programme, an initiative showing government commitment to ensuring that womenfolk are not marginalized in society by improving their social status .
- The creation of a women's mining and advocacy body known as the Association of Zambian Women in Mining (AZWIM) to focus on key issues facing women in mining has been key. They have been able to identify the many sufferings of women in the extractives sector and on 4th January, 2019, they had an interactive session with the President, Mr. Edgar Chagwa Lungu, on the same. The President said government recognizes the many problems faced by these women and pledged to do everything possible to help women in small scale mining upscale and mechanize their operations in order to contribute to socio-economic growth in the country .

³⁷. <https://www.lusakatimes.com/2018/12/27/pf-governments-performance-under-development-outcome-number-2-a-diversified-and-export-oriented-mining-sector/>



- This effort to lobby assistance and support for the Women In Mining was reiterated by Zambia's High Commissioner to the United Kingdom, Mr Muyeba Chikonde, at a meeting with representatives from the UK Department of International Trade, to introduce AZWIM to the International Women In Mining. The UK-DIT offered to openly assist the AZWIM to connect to a chain of international associations of the same cause to work together for a common benefit. AZWIM also met Dr. Dan Hart of Tracks of Peace, a UK registered charity that is eager to work and partner with the women in mining and expressed will to facilitate the opening of an AZWIM office in London that will service Europe and grow the association's reaches for the benefit of the women in the sector .
- Zambia is also one of the member countries of the UN Women organisation and UN Women Organization ESARO, an initiative that supports the betterment of women in all areas and closing the gender gap, and that has engaged a number of East and Southern African countries in a quest to ensure Gender equality in the Extractive Industries of Africa .

There are many other recognizable actions by Civil Society and other key bodies - e.g. The UN Women's work with Publish What You Pay, Diakonia's Strengthened Accountability Programme etc; that pay key attention to making women aware of their rights and improving their beneficial standing in the extractives sector.

However, little has been done with particular attention to children and youths. A report by the U.S. Department of State Bureau of Economic and Business Affairs on the 2017 Investment Climate Statements in Zambia, revealed that while internationally recognized fundamental labor rights such as elimination of forced labor, child labour, discrimination etc. are recognized under domestic law, implementation if often weak. There is no documented figure of children in Zambia engaged in child labor, but studies point to a yearly increase in number of these children, who work primarily in the agriculture and mining sectors either farming cotton, tobacco, herding cattle or mining gems and gemstones .

A good example worth mentioning is the case of manganese mining in the rural areas of Mansa district in Luapula Province. On typical days when children should be in school, they are gathered at mining sites with their mothers and are actively involved in the works because they have no schools nearby or simply because their parents are unable to afford them an education from their meagre earnings. As a result, many children and youths are illiterate, underage miners and turn to alcohol abuse and premature marriages. This again is a situation in which female children bear the brunt.

We thus recognize the need for government, Private Sector, CSOs, INGOs and other bodies to come together and do more to assist this situation and ensure women, children and youths too are beneficiaries of the extractive activities in their communities.

³⁸. <https://www.lusakatimes.com/2015/04/03/zambia-prioritizes-economic-diversification/>

9.0 ARTISANAL SMALL- SCALE MINING, OIL AND GAS:

As can be evidenced by the mushrooming of many smaller mines with undocumented workers in rural areas, a large number of miners in Zambia are in the Artisanal and Small Scale Mining Sector. Much of this type of mining is of gemstones and is facilitated by poverty which has the poorer people, with fewer options to earn an income, mining stones without proper equipment, documentation or aid.

The World Bank has documented that Artisanal and Small-Scale mining occurs in over 80 countries worldwide, Zambia inclusive, and accounts for about 100 million beneficiaries . However, despite the benefit of job creation and rural development from this sector, ASM workers face much more difficulty than industrial miners.

The ZAMI has observed that there is poor monitoring of Artisanal and Small-Scale Mining. The miners also suffer lack of skills, finance, marketing and technology and as a result, Zambia has failed to optimise ASM in line with best practice.

Also concerning a smaller less recognized part of mining in Zambia, the Zambian government has reviewed Petroleum and Gas exploration in the country. However, the ZAMI noted that there were huge capacity and technological gaps resulting in the absence of proper and accurate information on potential deposits of oil and gas or base minerals in Zambia.

In light of this, the following proposals were made:

- That the government strengthen institutions that should monitor ASMs and come up with deliberate policies to facilitate empowerment of artisanal and small scale miners to play a major role in the growth of the Zambian economy.
- That the government improve capacity of the Ministry of Mines and other necessary bodies by creating an adequately staffed and resourced exploration department that will carry out exploration activities of oil, gas and base minerals without leaving it to the foreign investors.
- That government involve stakeholders in the the review of petroleum and gas, the mines and minerals development acts and also in issuing of exploration licenses in a bid to transparency.

ACTIONS TAKEN

- In the year 2017, the Zambian government in its efforts to empower small scale miners to increase their contribution toward national development was able to attain a \$2 Million grant from the European Union that would help small-scale miners countrywide to enhance their operations. This grant would be given out as loans to the miners to tackle such issues as lack of equipment and resources to develop and sustain operations.



³⁹ <https://www.lusakatimes.com/2015/11/21/107223/>

⁴⁰ <https://www.lusakatimes.com/2017/12/01/zambia-promoting-diversification-within-mining-sector-yaluma/>

⁴¹ <https://www.worldbank.org/en/country/zambia/overview/>



The grant also covered a project taken up by government to facilitate growth of developmental minerals such as sand and stones .

- In their 7th National Development Plan, the Zambian government has prioritized the promotion and production of Artisanal and Small-Scale Mining in order to create employment and accelerate development. It should be mentioned that the ZAMI attempted to influence the drafting process of the SNDP in relation to mining
- The government, through such programmes as the Development Mineral Capacity Building Programme, an African Caribbean Pacific and European Union (ACP-EU) Development Minerals Programme, facilitates financial access to small-scale miners . The programme is a three year €13.4 Million capacity development initiative supporting key stakeholders such as local governments and regulatory bodies and private stakeholders such as small-scale mining enterprises, CSOs, communities etc.
- The response to empowerment of the ASM sector by government and other key bodies is evidenced by the significant actions taken. However, though there has been steps by the government towards promotion of oil and gas extraction in the country (i.e. the Tullow Oil exploration of the Northern and Luapula Provinces), there still remains the issue of how transparent the process has been. Exploration is also still largely in the hands of foreign investors which is an indication of the lacking capacity of Zambian bodies to do the same. 4 of the ZAMI steering committee members were invited to a meeting reflecting on the petroleum act.

With strengthened capacity of locals in small-scale mining and oil and gas extraction, there is no doubt the country would benefit more. One of the aims of the 7th NDP is to deliver a diversified and export-oriented mining sector through Implementation of projects and programmes to diversify, capacitate and industrialize the sector and other related sectors. There is still more to be done in ensuring optimal local beneficiation from the ASM sector and petroleum extracts.

10.0 VALUE ADDITION AND ALTERNATIVE TO MINING:

For many decades as far as Zambian history is concerned, copper mining has been Zambia's greatest asset. It was originally started in the early 1920's and has facilitated the building of Zambia's economy, development of cities and infrastructure and has sustained the citizenry through it's employment potential. Coupled with the other minerals that Zambia now extracts, we have a mining industry that can truly live up to being the backbone of the Zambian Economy.

The Zambian mining industry is, however, not invincible. Copper and all other minerals are depreciating resources. Over the years, mineral deposits have dwindled, something that in it's inevitability will continue to happen.

In addressing this issue, two things have been prevalent - value addition and an alternative to mining. Value Addition, in this context, is a scenario that facilitates obtaining the optimal rewards from a mining or related mining entity. It may be



value addition to mining practice or to the finished product that results in enhanced quality and quantity of the chain of production and increased benefits.

The issue of depleting minerals has made Value Addition a key instrument that the ZAMI has brought to the fore. They noted that there was need for strengthening of policies and legislation to encourage value addition in order to increase employment opportunities and revenue from the natural resources exploitation and development in Zambia. The ZAMI further highlighted the fact that the country is heavily dependent on the mining industry as a main economic activity, an issue that has contributed not only to the accelerated depletion of minerals, but also to less returns as the country depends on export of raw products which generally sell for less. There is, therefore, need to diversify economic scope to better include other sectors such as Agriculture and Tourism.

The ZAMI made the following proposals:

- a. That government develops policies and incentives that would encourage extractive industries to focus on value addition.
- b. That government sets up mineral development funds (from mineral revenues earned) to be invested into apt knowledge-creating capacities such as human resource, research infrastructure and innovation systems to support value addition.
- c. Introduction of policies that support diversification into other non-traditional exports, i.e. agriculture and tourism, to ensure that the country does not suffer setbacks when copper prices are low. They particularly suggested an increased investment in tourism sector as one with substantial potential for contribution to the country's economy.

WHAT HAS BEEN THE RESPONSE?

The following has been the response so far:

- a. In 2015, the Zambian government begun taking more deliberate steps to prioritize diversification of the economy. The Zambia Development Agency (ZDA) reported that government had identified and was looking into priority sectors for investment which included manufacturing, tourism, agriculture, mining of development minerals, transportation and construction . Among other efforts, the government introduced Multi-Facility Economic Zones (M-FEZ), to be rolled out to all Zambian provinces, for the main purpose of facilitating economic diversification and growth of all sectors.
- b. The Zambian government took further steps towards Value addition and diversification through their active participation in the Common Market For Eastern and Southern Africa(COMESA) Adjustment facility aimed at fast tracking the diversification of exports in the country. The expected outcome of this facility was accelerated effort toward economic diversification and macroeconomic stability for the member states.

- c. In 2017, Zambian government through the Ministry of Mines and Minerals begun promoting the diversification within the mining sector by focusing on value addition to development minerals which include amethyst, emeralds, garnet, tourmaline and aquamarine .
- d. Zambia's 7th National Development Plan(2017-2021) mainstreams economic diversification and conducive governance environment for economic diversification as main pillars of it's strategy. The strategic goal of the seventh National Development Plan is to create a diversified and resilient economy for sustained growth and social economic development. It will also include a results-oriented, performance management system to be used to measure the progress of its implementation .
- e. Zambia is currently in the process of finalizing it local content policy. This too had taken consultation form ZAMI affiliated organizations.

CONCLUSION

After a eight year run, much question is brought to what good has come from the Zambia Alternative Mining Indaba and whether it is necessary. Former ZAMI chairperson, Fr. Leonard Chiti, brought out that the initiative and CSOs have generally been misunderstood and are perceived as pro-imperialists driving the agenda of their western donors. Regardless, the ZAMI has managed to provide a platform for marginalized communities to voice out their concerns and be considered, foster constructive dialogue among key stakeholders in a safe space and come up with proposals for solutions to issues faced. The highlight of each ZAMI has also been the presentation of the proposals made in their communiqué to the Minister of Mines for consideration.

Though it is arguably true that even after seven years of the indaba there are still so many issues faced by the mining industry, there is much needed progress in the right direction.

Leading up to the 8th Zambia Alternative Mining Indaba to be held in June of 2019, although the ZAMI cannot solely claim these scores, there is a lot to look back on. To answer the question of what good has come of it, the ZAMI has been a key player in creating awareness, educating and giving a voice to the otherwise marginalized. It has enabled citizens to feel a sense of belonging, allowing them to ask the right questions and demand answers. It has pushed for transparency and accountability and demonstrated just how much can be achieved through collective engagement to ensure the people have a say in what directly affects them. It has proved to be a necessary cause.

Noteworthy also, is that during the 7th Zambia Alternative Mining Indaba in 2018, the Minister of Finance after his opening speech welcomed the ZAMI to sit on the Mining Tax Reforms Team. This was a recognition of the very important space that the ZAMI has become, and an invitation to have direct input on the tax reforms that would be made to taxation on mining. This entails a broader and more direct influence on extractives sector governance that the ZAMI has been accorded.

The theme for the 2019 Zambia Alternative Mining Indaba, therefore, very appropriately reads *"Our Resources. Our Future! Moving Towards Meaningful Transparency And Accountability in Zambia's Extractive Sector."* The platform has been set, the voices are being heard. Now is the time to steer the conversation into more meaningful actions and attainment of a truly accountable mining industry and a fully benefiting, flourishing citizenry.



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ZAMBIA ALTERNATIVE MINING INDABA

PROGRESS AND ACHIEVEMENTS 2012-2019