



Submission by Caritas Zambia to
COMMITTEE ON CABINET AFFAIRS: ON CONSIDERATION OF THE MINERALS REGULATION
COMMISSION BILL NA. B. 1/2024 &
THE INVESTMENT, TRADE AND BUSINESS DEVELOPMENT (AMENDMENT) BIL NA. B3/2024

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1.0 Introduction

Honorable Members of Parliament, the chair

We stand before you today to make submission on the matter of critical national importance—a matter that holds the potential to shape the economic future of our beloved country, Zambia. Our nation is endowed with a wealth of mineral resources, resources that have the power to drive development, create jobs, and secure a prosperous future for all Zambians. The backbone of our economy, mining, is not merely an industry but the cornerstone of our national growth and progress. It is in this context that we want to make this submission on Minerals Regulation Commission (MRC) in Zambia.

The MRC is designed to be an exemplary pillar of governance in the mining sector, providing comprehensive oversight, ensuring adherence to international best practices, and fostering sustainable development. The Commission is not just a regulatory body; it is a custodian of our natural wealth, an enabler of fair business practices, and a protector of our environment. Its establishment is a testament to our collective commitment to harnessing our mineral wealth responsibly and equitably.

Mining is an intricate and complex sector that requires meticulous regulation and proactive management to prevent exploitation, environmental degradation, and conflict. The MRC's role is instrumental in ensuring that mining activities contribute to the economic development of Zambia, while simultaneously safeguarding our environment and ensuring that the benefits of mining are widespread, reaching all corners of our society.

The importance of the Minerals Regulation Commission cannot be overstated. It is the linchpin that ensures mining companies operate within our laws, that they pay their fair share of taxes, and that the wealth generated from our minerals is reinvested into our communities. It is the MRC that will ensure that our mineral resources are developed in a manner that is both sustainable and beneficial to every Zambian.

As Members of Parliament, your support for the MRC is crucial. It is through your legislative power, your voice, and your representation of the Zambian people that the MRC can be empowered to fulfill its mandate. By supporting the MRC, you are supporting the very foundation of our country's economic development. You are ensuring that Zambia can competitively and responsibly participate in the global mining economy, and that the bounty of our land is enjoyed by not just the present generation, but also preserved for the generations to come.

The Minerals Regulation Commission is not merely a regulatory authority; it is the vehicle through which we can achieve a balanced, sustainable, and inclusive development story—a story in which every Zambian is a beneficiary of our mineral wealth. Your support for the MRC is a vote for a brighter, more prosperous future for Zambia.

Thank you for giving us the opportunity to make our submission.

2.0 Who are we - Caritas Zambia

The Zambia Conference of Catholic Bishops initiated the establishment of Caritas Zambia in the year 1986. (ZCCB). Caritas Zambia is a faith-based development and social agency in Zambia that is affiliated with the Catholic Church. The organization's overarching goal is to create "a Zambian society in which every person attains integral human development."

Caritas has a presence across the entirety of Zambia, with locations located in each of the Provincial Capitals as well as in Lusaka, which serves as the organization's National Office. Caritas Zambia is an organisation that strives to improve the dignity of the people of Zambia, particularly those who are less fortunate. Their work is guided by the principles of Catholic Social Teaching.

In Zambia, the frameworks of Caritas can be found all the way down to the level of individual parishes (communities), which is in line with the organizational structure of the Catholic Church. At the next level down are the Parishes, each of which has its own outposts, as well as the smaller Christian communities. Caritas Zambia has 4 initiatives

Caritas Vision Statement *“A Zambian society where every person attains integral human development”*.

Caritas Mission Statement *“ Inspired by the Word of God and Catholic Social Teachings, Caritas Zambia, a department of the Zambia Conference of Catholic Bishops is dedicated to the promotion of integral human development through witnessing, animation, conscientization and institutional strengthening”*

3.0 Caritas Zambia Input submission and comments

PART 1: PRELIMINARY PROVISIONS

Section 2 contains the definitions of the various technical words used in the Act. These definitions include those words that have a special meaning assigned to them in the Act. However **Definition of** ;

- **“license” is missing.**
- **“reasonable “is missing.**

These need to be included.

These are terms that have been used in the Bill many times and it would be good to know what the terms mean and imply. For instance, an inspector can inspect person or premisses with “reasonable” cause.

PART II THE MINERALS REGULATION COMMISSION

Section 6: Functions of the commission

Include:

1. The Commission shall be accountable for the regulation and functional management of the utilisation of the mineral resources and the coordination of the policies in relation to them.
2. Formulate recommendations for the national policy regarding the exploration and exploitation of mineral resources, paying particular attention to the establishment of national objectives while taking into account the effects on the national economy; advise the Minister of mines on matters relating to minerals.
3. Report to the Minister in charge of Mining on the status of monitoring the implementation of government policies regarding resources that have already been established.
4. report to the Minister on your findings after monitoring the activities of any and all bodies or establishments with accountability for minerals.
5. receive and evaluate public agreements pertaining to mining, and report to Parliament on the findings of these processes.
6. secure a firm basis of comprehensive data collection on national mineral resources and the technologies of exploration and exploitation for national decision making; and
7. perform such other functions as the Minister may assign to it

Reasons/justification

- The commission needs to also be responsible for ensuring that the mining policies are observed and adhered to.

- Zambia has a challenge of information – we need to state in principle that the information of collection beyond research. This will also give initiative like Extractive Industry Transparency Initiative (EITI) to collect information and help government to make decisions.

Section 7: Board of Commission

- **INCLUDE**
 - Ministry of local government and traditional affairs
 - Civil society organisations
 - Anti-corruption commission

Reasons/justification

- The commission is very important because it will serve as a regulator of mineral and extractive industries in the country; consequently, the compositions of the missions need to be exhaustive and inclusive of the primary players.
 - Their presence on the commission is important because extraction and mineral activity have a significant impact on traditional lands and are responsible for the majority of mineral extraction's adverse impacts.
 - Local governments, which are responsible for maintaining local development plans and PDCC/DDCC plans, have a responsibility to be involved in the decision-making process and must also monitor mining activities at the local level.
 - It is very essential that mine representatives and community support organisations (CSOs) are involved because CSOs are close to the communities and are very aware of what is happening in the communities. Mine representatives are present.

Section 7: Appointment of members of the commission

Mining is very strategic in the country and the appointment of the members of the commission should be the appointed by the President NOT the Minister.

So, the bill should include:

- The members of the Commission shall be appointed by the President.
- The President should make the appointment under this section considering the integrity, knowledge, expertise and experience of the person and in particular his knowledge in matters relevant to the functions of the Commission.

Reasons/justification

- There has been a lot of corruption in the mining sector and the need for the commission members not loyal to the minister but to the country.

Section 9: appointment of the Chief Executive

Section 9: The Board shall appoint a Director-General.

Our submission:

- This should change to

- The commission shall have a Chief Executive shall be appointed by the president in consultation with the public service commission and the minister.

Reasons/justification

- The President not the minister should appoint the Chief Executive. Mining in Zambia is a strategic sector, and we need to be strategic and deliberate in the country in appointing people in this position. This will also ensure that the CEO is not manipulated by the minister or any other Minister.

In addition

- The Chief Executive shall be a member of the Commission.
- The Chief Executive shall hold office upon such terms and conditions as the President may with consultation with the Minister of Mines and Public Service Commission.

PART III EXPLORATION, MINING, PROCESSING AND TRADING

Section 22: Mining license renewal

The ASM is one of the biggest potential sectors that can play a crucial role quest to unlock Zambia potential and economic development. However, to unlock its full potential, a comprehensive and strategic thought through approach is needed, combining capacity building, market access, employment creation, financial support, regulatory reform, market access, technological innovation, and infrastructure development. By promoting ASM and being strategic, Zambia can diversify its economy away from the traditional sectors, which may be vulnerable to global market fluctuations.

Zambia has is not really seeing the contribution of the sector, we propose that before ASM mining license renewal, there is need to be proof of having contributed atleast K15,000 to Zambia Revenue Authority through mineral Taxes per year. This will also help the sector contribute to the revenues of the government otherwise there is no point of mining license renewal if the are not getting any profits.

PART IV MINING RIGHTS AND SURFACE RIGHTS

Free Prior Informed Consent should be emphasized and should be deliberate.

Include in this section.

- The affected community shall have the right to grant consent unconditionally or subject to conditions that the community considers necessary to protect their socio-economic rights or interests, or their natural or cultural heritage.
- The affected community shall have the right to refuse to grant such consent. Should the affected community's consent not be granted, the State shall not permit the proposed mining activity to proceed until such consent is granted.

- Should mining commence or a mining right be granted without the consent of the community, the community shall have the choice to:
 - have the right set aside and to be paid compensation for the full damages suffered by the community including the value of any minerals extracted and the value of rehabilitating the land to the condition it was in prior to any mineral exploitation; or
 - consent to the mining and be able to negotiate of compensation, and to recover all compensation that would have been owed to it had the community's consent been received from the outset.

PART VIII INSPECTORATE

- Under section 76 makes provision for the appointment of honorary inspectors by the Minister in consultation with the Directors. The requirement for appointment is that a person must be suitably qualified. The appointment of an honorary inspector may either be on a general or limited basis. Inspectors appointed on a general basis are empowered to act in any part of the Republic, in either a mining area or other area specified in the notice of appointment. Inspectors appointed on limited basis on the other hand are empowered to act in areas of the honorary inspector's residence including a mining area as may be specified in the notice of appointment.

Reasons/justification

- *It is observed that the term 'suitably qualified' has not been defined and that this may lead to subjectivity. It may be important to specify that the person must have some mining related qualification or experience.*

Section 77 (b): Powers of inspectors

- The bill gives an inspector power to "search any person on the holder's premises if the inspector has reasonable grounds"
- **Comment:** This is having potential to being abused which is not the norm that should be encouraged. This is a democracy that is susceptible to exploitation. Please reword this or **this should be removed.**

PART IX MINING APPEALS TRIBUNAL

Section 80 provides for the establishment of a Mining Appeals Tribunal. The Committee may wish to note that the aggrieved persons is appeal to the Minister, which is not ideal because the Minister is the supervisor of the decision makers. The minster should not appoint the tribunal but the president in consultation with the Minster and the public service commission.

The Tribunal shall comprise five members appointed by the Minister. Of these, at least two (2), the Chairperson and the Vice-Chairperson need to be legal practitioners with at least ten (10) years legal experience. The Committee may wish to note that this qualification is equivalent to that of a High Court

Judge. It is, therefore, surprising that appeals from the Tribunal shall lie to the High Court. Other pieces of legislation that have established a tribunal with some members who qualify to be High Court judges have made appeals to lie to the Supreme Court. For an appeal to lie with the High Court, will merely prolong the process and as mining is a business it may have a negative effect on the industry. The Committee may, therefore, consider making the appeals from the tribunal to lie to the Supreme Court as is the case for the Tax Appeals Tribunal established under the Tax Appeals Tribunal Act

4.0 Conclusion

This is a forward-thinking bill that will establish the commission, provide for its composition and responsibilities related to the regulation and management of the utilisation of minerals in Zambia, as well as provide for matters related to those functions, and advance related matters forward. We are hopeful that the commission will restore rationality to the industry.

The government needs to deal with the element of corruption in the mining sector. Like any other market, corruption is based on a contract between different interests. Firms, pressure groups, and citizens try to maximize their gains by paying bribes, while public officials try to maximize their illegal earnings and politicians their power and wealth. Multinationals and Bribe payers may seek to avoid or reduce costs, by obtaining licenses in areas they are interested in and also through illegal reductions in taxes, lax enforcement of regulations, reduce the possibilities of other parties getting a license. Multinationals and Bribers may even be coerced to pay, extortion. The licensing process of mining and exploration licenses in Zambia has vulnerability elements that need to be examined so that the likelihood of corruption in the mining value chain is reduced to almost impossible. Acknowledging that corruption breeds poverty, inequity, cost the government sums of revenue, decreases incentives for investment and also to a large extent brings limitations to public service and infrastructure development and the public and the citizens lose confidence in the whole system.