



HUMAN RIGHTS IN THE EXTRACTIVE SECTOR IN TANZANIA

LEARNING BRIEF

VSO TANZANIA



HOW TO SUPPORT AN ACCOUNTABLE, TRANSPARENT AND WELL-GOVERNED EXTRACTIVE SECTOR ?

THIS LEARNING BRIEF SHARES SOME BEST PRACTICES to strengthen human rights, gender inclusion and corporate social responsibility in the goldmining industry in Tanzania. At this moment gold is one of the main export products of Tanzania.

Tanzania is amongst Africa's most mineral-rich countries, with a variety of industrial minerals, as well as gemstones. These include iron ore, soda ash, coal, clay soil, uranium, gold, diamond and Tanzanite. Despite this mineral wealth, the economic and social development of the country is slow. Income from mining operations is distributed very unevenly, with poverty still a major challenge amongst communities in areas of the mining operations.

In the run for critical minerals for the future green transition, the country has attracted new foreign direct investment, and local investment has surpassed \$1 billion. This brings new challenges for the environment and the rights of local communities. This learning brief can be used as a guidance for everybody interested in ensuring human- and environmental rights are respected within the extractive industry.

Before 1985, the mining sector in Tanzania was largely characterized by artisanal and small-scale mining activities. Since then, mining on greater scale resulted in unsustainable exploitation where local communities, for which goldmining was an economic engine and even a way of life, were affected in their livelihoods and confronted by a deterioration of their natural environment.

The government of Tanzania intends to increase mineral earnings by 33% over the next three years. It is estimated that the sector will reach \$6.6 billion in value by 2027. In addition to mining the minerals, this emerging sector provides opportunities to capture more value from critical minerals before exporting, by establishing mineral processing centers within the country.¹

50 %

of Tanzania's export value comes from the mining sector

RESPONSIBLE MINING:

Involving those affected, including local communities, is a critical part of the process.

33 %

increase in mining revenue is expected in the next years

¹ <https://www.trade.gov/market-intelligence/tanzania-rare-earth-and-critical-minerals>

CRITICAL MINERALS

To address the climate crisis and achieve the Paris agreement targets of net zero emissions by 2050, clean energy technologies, such as solar plants, wind farms, nuclear power and electric cars, will play an important role. These technologies require specific minerals, known as 'Critical Minerals' or green minerals. Tanzania has significant deposits of critical minerals. There are about 20 deposits in Tanzania, such as nickel, graphite, copper, lithium etc. The Lake Rukwa Basin is said to be the second largest helium deposit in the world. As the demand for critical minerals is ever-increasing, Tanzania has attracted new foreign direct investment in mineral development exploration, and local investment has surpassed \$1 billion in 2023.

In February 2024, the International Energy Agency (IEA) launched a critical raw materials security program. This initiative underscores the global recognition of the importance of securing access to critical minerals. It likely aims to assess the risks associated with the supply of critical raw materials, develop strategies for enhancing their security, and promote international cooperation in this regard.

With the growing interest in critical minerals and the desire for a just transition, the extractive sector faces challenges that must be addressed, in line with the UN Guiding Principles on Business and Human Rights. There is a need for an inclusive and sustainable socio-economic growth, without compromising environmental sustainability. In October 2023, EU's Global Gateway strategy was launched to strengthen economic partnerships worldwide, including securing access to critical raw materials. This was exemplified by signing MoUs with resource-rich countries like Rwanda, the DRC, and Zambia. These agreements aim to integrate sustainable raw materials value chains,

achieve responsible production and valorization of critical minerals, mobilize funding for infrastructure development, promote research and innovation, and build capacity in value chains.

THE COLLECTIVE ACTION FOR RIGHTS REALIZATION

(CLARITY) project was implemented in Tanzania from 2020-2023 with support from the European Union. The main objectives were:

- 1:** To ensure fair distribution of the mining sector's revenue.
- 2:** To promote environmental protection.
- 3:** To enhance decision-making processes addressing the needs of marginalized populations in the extractive industry.

It addressed conflicts between communities and mining companies, inadequate policy implementation, child labor, corruption and environmental degradation. It supported improving the CSR of large scale mining companies, environmental and safety awareness for small scale miners and in general challenges that exclude women and persons with disabilities from equally benefiting from the extractive sector and supported them to diversify their livelihoods.

Essential to the success of the program was supporting community- and self-organisations in their work, and creating multi-stakeholder platforms to enhance mutual trust and open communication. VSO's "volunteering for development" approach, where national and international expert volunteers work together with CSOs and community volunteers, created synergies on all levels and with all different stakeholders.

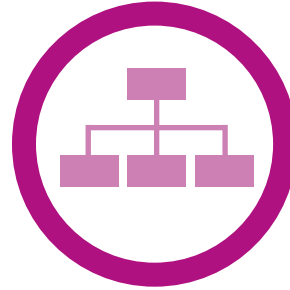
BUILDING BLOCKS TO SUPPORT ACCOUNTABILITY IN THE EXTRACTIVE SECTOR



Increase access to justice in the extractive sector for marginalised groups.



Advocate for human rights, reforestation and greening initiatives.



Empower woman and other marginalized groups to raise their voice.



Strengthen human rights and business responsive due diligence mechanisms by local CSO's partnership.



Hellena Mahindi is Social Inclusion and Gender Officer at VSO's CLARITY project.

LESSONS LEARNED

Evaluations show that CLARITY's unique achievement is the interconnected web of initiatives, support structures and relationships it has managed to broker, each playing a specific role in solving community-identified problems. While they do manage to address community problems as a system, on their own they would be unable to do so fully.

- Support local CSOs in identification of harmful practices, understanding ethical mining practice, national resource policies, due diligence mechanisms and social accountability techniques. These CSOs provide legal advice to community members as well as establish links with state-based judicial institutions and alternative dispute resolutions mechanisms.
- Dialogues and interactive theatre sessions should address key issues like the right of community participation in mineral sector governance and how to deal with human right violations, child abuse, gender based violence and natural resource abuse.
- Citizen-led monitoring on issues such as land rights, the right to clean and safe environment or scrutinizing community support projects from mining companies is a strong tool for increasing accountability in the sector. Pictures of damaged houses, pollution or land grabbing support evidence-based advocacy.
- Strengthen paralegal systems to provide legal education and legal services to community members at their locality, paralegal systems need to be strengthened.
- Strengthen regional gender desks, to support the GBV reporting system. Trained community volunteers can refer to the appropriate levels.

HOW TO SUPPORT AFFECTED COMMUNITIES

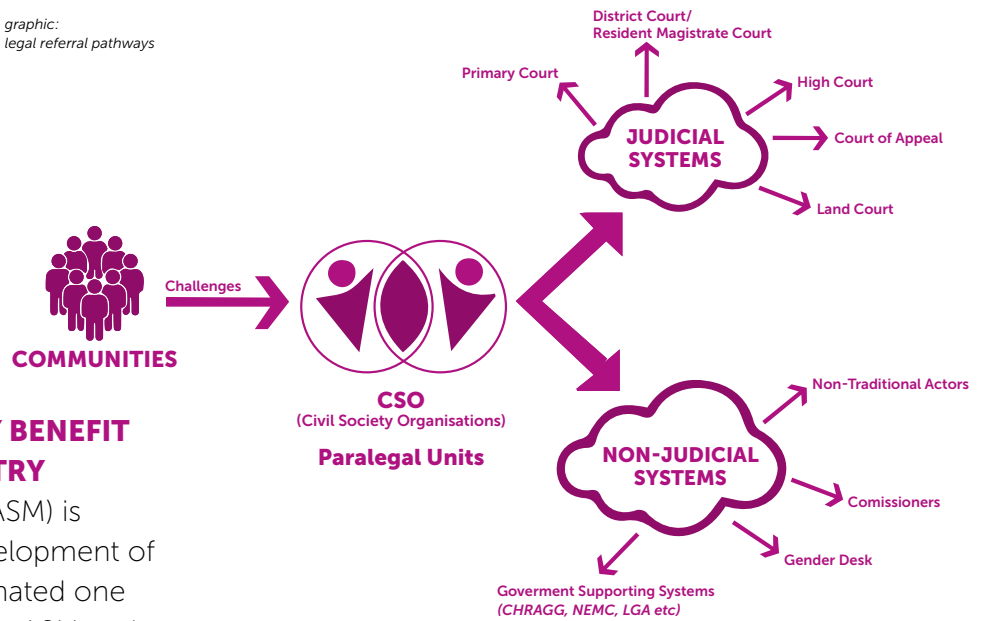
- Create local awareness of rights and regulations.
- Increase access to justice by strengthening referral pathways.
- Stimulate citizen led monitoring.
- Strengthen existing structures like gender desks.
- Bring together authorities like police or court and vulnerable communities to exchange accurate information.



*"CRITICAL MINERAL MINING:
NOW IS THE TIME TO PREPARE COMMUNITIES
TO STAND UP FOR THEIR RIGHTS"*

- CLAY MWAFWANI, LEAT -

graphic:
legal referral pathways



SUPPORT WOMEN TO EQUALLY BENEFIT FROM THE EXTRACTIVE INDUSTRY

Artisanal- and small-scale mining (ASM) is increasingly important for the development of Tanzania’s economy, with an estimated one million people directly employed in ASM and many more dependent on it for their livelihood. The government has taken steps to improve and formalise the sector but small-scale miners still face many challenges, including safety, environmental issues and difficulties to obtain licenses. For women, this is even more difficult as many do not have access to capital, are paid less for the same work and are confronted by gender based violence and harmful practices. For example, women are believed to transmit bad luck on the mining pits during their monthly period, or girls are genitally mutilated as the cut parts bring good luck when buried in the mining pit.



“WHEN I ASKED THE VICE-PRESIDENTS WHY MEN TOOK OVER OUR GROUPS LICENSE, SHE IMMEDIATELY ORDERED THE REGIONAL MINING COMMISSION TO ORDER THE RETURN OF THE LICENSE.”

- BERNADETHA FURUGENZI, MGUSU WOMEN MINERS ASSOCIATION -

HOW TO SUPPORT WOMEN IN THE EXTRACTIVE INDUSTRY

- Work with existing structures like women miners associations, local CBO’s, local governments.
- Support and mentor self-organisation by strategy development, leadership- & lobby training, access to legal support.
- Link women with small business development organisations and Women Chambers of Commerce.
- Include men in trainings that address gender-based violence and discrimination.
- Debunk gender myths through community theatre and radio plays.



Women in the mining industry face more challenges, as many do not have access to capital, are paid less for the same work and are confronted by gender-based violence and harmful practices. For example, women are believed to transmit bad luck on the mining pits during their monthly period, or girls are genitally mutilated as the cut parts bring good luck when buried in the mining pit.

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Women miners established their own mining associations, to strengthen their voice and lobby for support. They recently received mining licenses from the government as affirmative action. The licenses are governed by the groups themselves, but in some cases male dominated mining associations are taking over.

The women miners need support in standing up for their rights and taking back what is theirs. Women and girls affected by gender based violence need safe houses to go to. And as many women cannot live from mining alone, and mining is by nature finite, they also need support in finding alternative livelihoods.

ENHANCE CORPORATE SOCIAL RESPONSIBILITY

In 2023, the Tanzanian Minister for Minerals published the Mining (Corporate Social Responsibility) Regulations via the Government Notice No. 409 of 2023. The Regulations provide guidance to mineral right holders for formulating an effective corporate social responsibility plan for the host community. The plan must be jointly agreed with the local government authorities and reviewed each year.

There are issues around lack of transparency and weak implementation of these regulations. The law does not provide clear regulations, there is no fixed percentage for CSR and communities are not aware and not involved in CSR decisions. Criteria used by the local government authorities to determine the amount and monitor the implementation, should be known to the public. To avoid negative community perceptions and ensure the effective functioning of CSR activities by the company within local communities, the company should set up strategies for effective

² <https://www.trade.gov/market-intelligence/tanzania-rare-earth-and-critical-minerals>

community engagement as an important part of the sustainable development process within CSR. Clear communication channels at all levels are essential in this regard. Both mining company and responsible authorities should also make clear arrangements to support the long-term sustainability of development projects to support adjacent communities even when the mines are closed².



"IT WOULD BE GREAT IF WE CAN ASSESS, TOGETHER WITH THE COMMUNITIES AROUND THE MINE, THE CSR PRACTICE OF LARGE SCALE MINERS BY USING VSO'S COMMUNITY SCORECARDS."

- JORAM MICHAEL, VSO -

RECOMMENDATIONS FOR CSR

- Publish CSR policies in an accessible way, including the percentage allocated to community projects.
- Involve communities in all stages of the mining operation
- Involve community representatives in crucial decisions over allocations.
- Support community-led monitoring of utilization of CSR budgets..
- Facilitate joint evaluation and reflection.

MULTI-STAKEHOLDER PLATFORMS

To promote accountability and transparency mechanisms at the community, private sector and government levels, all relevant stakeholders acting in the extractive sector need to be brought together in regular meetings: large and small goldminers, community organisations and local government authorities. This opens a common space of interaction and breaks barriers.

Multi-stakeholder platforms involve women forums, youth platforms, mining companies, local government authorities, business service providers, small enterprises, mining associations, paralegals mining commissions etc. Many issues of common interest can be addressed in these forums like employability skills in the extractive industry, environmental conservation, land conflict mitigation, child labor, gender equality and safety at mining sites, environmental management, and supporting environment for SMEs.

CSOs are crucial in moderating these forums and implementing joint mitigation strategies in addressing discussed issues. In Clarity, dialogues resulted in designating land and budget for construction of SMEs premise, crucial for certification and access to markets., in improved work of the environmental management committees at village levels, successful trees planting campaigns, enhanced equality, reduced child labor and improved safety at mining sites. Different stakeholders in the forum can also strengthen each other. For example, during a forum, large gold mining companies were asked by CSOs to be open about the places where they process the ore. The government would like to see them processing it in Tanzania, boosting local employment, but didn't receive full data before. CSOs also called the government to facilitate international accreditation of the domestic refineries.

3 Siri Lange: Land Tenure and Mining in Tanzania

THE IMPORTANCE OF MULTI-STAKEHOLDER PLATFORMS

- Multi-stakeholder platforms strengthen equitable and responsive due diligence mechanisms and responsible business practices within the extractive sector, including access to justice.
- Local CSOs are crucial in moderating these platforms and have a leading role in developing and implementing joint mitigation strategies of discussed problems.
- Engagement with Local Government Authorities provide room for smooth implementation of activities and sustainability of the interventions
- CSOs and government officials can strengthen each other in addressing large mining companies.

EVIDENCE BASED LOBBY AND ADVOCACY

The main challenge with current legislation in the extractive sector is that there was little or no coordination between the lawmakers at the time when the land and mining laws were drafted in the late 1990s. The Village Land Act goes far in providing ordinary people with customary rights to land – but since there has been no surveying or registration, these rights are fluent and unclear³.

Moreover, since all land is under the state, people don't own land, but have use rights. In cases where the government needs the land for "development purposes" like mining, the law allows the government to order people to move. According to the law, occupants of the land will be paid compensation for the investment that

they have done on the land, but not for the land itself. In short, land rights are only valid for surface land, while rights to minerals are secured through prospecting and mining licenses. There have been many conflicts concerning small scale miners who protest against foreign mining companies being given mining rights to areas that they claim to have discovered themselves and which they have obtained mining licenses for.

As a requirement of law, every mining license holder shall plan and execute Corporate social responsibility (CSR)⁴. Studies suggest that CSR was a response to the public outcry and criticism towards the industrialization that increased community poverty, crimes, child labor, labor strikes and environmental degradation.⁵ In response to the criticism, industrial owners developed policies that allocated part of their earnings for community development projects.⁶

⁴ Section 105 of the Mining Act ⁵ Wilburn, K.M., & Wilburn, R. (2011), loc cit, at 11. ⁶ Wilburn, K.M., & Wilburn, R. (2011), ⁷ Section 105 of the Mining Act

However, the law⁷ does not provide for specific criteria to determine the contribution of Corporate Social Responsibility, and there is a lack of involvement of local communities in the decision making.

The Clarity program found that when communities are educated on their rights and supported in monitoring their environment, they are a key provider of evidence as a basis for local, national and international advocacy. Extensive networking with other key stakeholders and institutions is key. In Tanzania, these are particularly various government agencies, such as the Commission on Human Rights and Good Governance (CHRAGG), the National Environment Commission (NEMC), the Mining Commission, and the Village Environment Committee.

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Opportunities for lobby and advocacy to enhance accountability of the extractive sector in Tanzania

The Constitution of the United Republic of Tanzania (article 9) states that the use of national wealth is geared towards the eradication of poverty, ignorance and disease. Therefore, the governments mandate is to establish and implement a governance system that ensures this wealth is used equitably for the development of all Tanzanians. Over the years, a series of laws, policies and supporting regulations have been put in place for this. Improving some of these policies and procedures, institutions and capabilities will ensure that all Tanzanians gain as much value from the extractive industry as possible.

1. Harmonization of land - and mining laws

In the light of the future growth of the extraction sector in Tanzania, there is a need for **a comprehensive harmonization of land laws and mining laws**, and their respective regulations to protect community land rights. These harmonisations would extend from a fair process of land acquisition to enhancing gender equality, strengthening resilient livelihoods, and earning mining companies the social license to operate.

2. Transparency on critical mineral mining licenses

Critical minerals like any other mineral should go through the same procedures and compliance. There is a need for **transparency on critical mineral mining licenses**.

3. Communities need to be involved through all stages of mining activities

Responsible mining requires stakeholder engagement throughout all operational stages. Participation of the community in the mining activities has been provided in the constitution of the United Republic of Tanzania, Mineral policy, and the Environment Management Act. Therefore, with new mining activities in the foreseeable future, **communities need to be involved during**

Environment Impact Assessment (EIA) or the Environment Management Plan (EMP). There is a need for regulation that will **not allow any mining license holder to start its operations without public participation**.

4. Establishment of an extractive arbitration center

The Mining dispute Resolution Rule provides for the procedure to resolve disputes arising from mining prospecting. In many cases, these rules are useful for those who are prospecting mining activities, and not to the third parties or victims of prospecting mining. We call for the establishment of **an extractive arbitration center with competent and integer staff**, that will deal with disputes that arises from dealing, engaging or affected any one or environment during its operations.

5. Misuse of public money needs to be prevented and accounted for

The Extractive Industries Transparency Initiative (EITI) is a global standard for improving transparency and accountability in the sector. It encourages citizens to monitor how benefits from the extractive industry sector are generated, distributed, and utilized. Tanzania has taken an

important step forward by becoming the first African country to join the EITI. Since 2015, reports from the Tanzanian EITI show material discrepancies of billions of amounts of money at the ministries. Those discrepancies are of public money that needs to be accounted for. **The Pevention and Combating of Corruption Bureau (PCCB) needs to investigate and publicly disclose the matter and the appropriate legal remedy.**

Besides this, the Tanzania Extractive Industries Transparency Initiative needs **to customize its yearly report to indicate the local governments authority contribution on its revenue and its reconciliation**, to facilitate accountability from lower level of governments institutions.

6. More clear regulations and transparency in Corporate Social Responsibility

The Tanzania Mining Act requires every mining license holder to prepare a CSR plan and submit it to the Local Government Authorities (LGA) to set guidelines. Criteria used by the LGA to determine the amount and monitor the implemenation, should be known to the public. There should also be clear **guidelines supporting local government authorities to determine the amounts to be set aside for CSR. Besides, communities should be involved in CSR through their LGA and otherwise, to choose development projects they desire.**

7. Include all minerals in the Tanzanian Sovereign Wealth Fund

Last but not least, there is the Tanzanian Sovereign Wealth Fund. Following Norway's example, Tanzania wants to keep a percentage of the revenues from oil and gas into a fund for future generations. So far, this fund does not include revenues from mining. **Legal reforms are needed to enforce the principle of intra and intergenerational equity**, ensuring that the mineral wealth can be passed to future generations in terms of sustainable wealth.



THIS IS THE MOMENT!

In the light of the rush for critical minerals, now is the time to support communities to stand up for their rights:

RECOMMENDATIONS

- Involve **communities in all stages** of the mining operations. **Local CSO's** understand local concerns and how they could be effectively addressed, via local practices and remedies.
- **Strong bottom-up referral pathways** support communities to participate in decision making processes and to hold governments and extractive companies accountable.
- Civil Society Actors need support to **monitor, prevent and respond** to human right- and gender violations and abuses.
- **Multi-stakeholder platforms** strengthen equitable and responsive due diligence mechanisms and responsible business practices.
- **Women** can be effectively supported through self-organisations, business mentoring, local civil society organisations and gender desks.
- **Corporate Social Responsibility** policies and procedures need to be transparent and developed in **collaboration with all extractive actors**; civic, corporate and public.
- **Citizen led monitoring** is an effective way to address environmental issue and budget misuse.
- Information collected by citizens can be used in **regional and national advocacy**.

The **Collective Action for Rights Realization** (CLARITY) program was funded by European Union (2021-2023) . It was a cooperation between VSO, Lawyers Environmental Action Team – LEAT, Tanzania Women Chamber of Commerce - TWCC.

Linking with the Legal Human Right Centre - LHRC, National Economic Empowerment Council (NEEC), the Small Industry Development Organization (SIDO), the Tanzania Social Action Fund – (TASAF) who are targeting the same beneficiaries in the sector, has provided the project to maximize its potential, share experience and knowledge in addressing key highlight challenges related to extractive sector.



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*"THERE IS A LOT OF POTENTIAL FOR CSO'S WORKING
AROUND THE MINING INDUSTRY TO INFLUENCE LONG
LASTING REFORMS FOR THE WELFARE OF THE PEOPLE"*

*- CLAY MWAIFWANI -
LAWYERS' ENVIRONMENTAL ACTION TEAM (LEAT)*

