

MANAGEMENT OF NATURAL RESOURCES: A COMMUNITY- BASED APPROACH

WORKSHOP REPORT

NATURAL RESOURCE GOVERNANCE NETWORK

Coordinated By

CENTRE FOR RESEARCH AND DEVELOPMENT

Hellenic Community Centre – Mutare

30th January 2012

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Papers presented at the Workshop:

1. Integrated Water Resources Management, by L. Nyamangodo (Zimbabwe National Water Authority – ZINWA)
2. Sustainable utilisation and protection of natural resources in rural communities affected by the extractive industries in Manicaland, by Ms Rutsvara (Environmental Management Agency – EMA)
3. The linkages between peace/conflict and environmental integrity, by Mr. Matimura (PACDEF)
4. Promoting economic development through environmental management in rural communities, by Mrs Tembo (Environment Africa)

5. Relationship between CBOs, CSOs, Faith Groups, Rural District Councils, and government in natural resource management in rural communities, by Reverend Nyarota of the United Methodist Community Projects

EXECUTIVE SUMMARY

Seeing that communities living near extractive industries in Zimbabwe rank among the poorest in the country and realizing that majority of civil society organisations mainly work to promote civil and political rights and have less activities that promote 2nd and 3rd generation rights, Center for Research and Development (CRD) launched the Natural Resource Governance Network in February 2011 to raise awareness on the challenges being faced by communities in resource rich areas in Zimbabwe and to build a strong coalition of civil society organisations advocating for community participation in natural resource governance as well as to promote transparency and accountability in the extractive sector. Launched under the name Natural Resource Dialogue Forum, the network has grown to include community based organisations affected by extractive industries and academic institutions with an interest in natural resource governance and environmental protection. The Center for Research and Development is one of the leading organisations calling for transparency, accountability and respect for human rights in the extractive sector.

This workshop was convened in order to highlight the multiplicity of challenges being faced by communities living near extractive industries, and to find alternative solutions to these challenges. Further, the workshop sought to unbundle the legislative and policy inconsistencies that prohibits Zimbabweans from maximizing benefits from natural resource extraction. Participants were drawn from members of the Natural Resource Governance Network which include Community-Based Organisations living in areas affected by gold and diamond mining in Manicaland Province and civil society organisations, government representatives from the Zimbabwe National Water Authority (ZINWA), Environmental Management Agency (EMA) and academic institutions in Manicaland Province. The theme of the workshop was: Management of Natural Resources: A Community-based Approach. This report describes the **objectives** of the Workshop, **background activities** to the Workshop, **proceedings** at the Workshop and the **conclusions** that were reached.

INTRODUCTION

There is widespread agreement that local communities should be involved in all initiatives of natural resource management in their locality if such initiatives are to succeed. The issue of natural resource management is closely related to the issue of resource ownership. Unfortunately, extractive industries, especially those involved in gold and diamond mining have neglected local communities in pursuit of profits. In response to this problem, Natural Resource Governance Network, which is being coordinated by Center for Research and Development, has started a process that is aimed at strengthening the capacities of local communities in demanding participation in the management and ownership of natural resources. The Workshop on “Natural Resource Management: A Community-based Approach” is the first of a series of envisaged workshops that are aimed at capacitating local communities to demand maximum

participation in natural resource extraction. The Natural Resource Governance Network will soon launch regional chapters that will champion the cause of local communities in natural resource governance

The Workshop **objectives** were therefore:

- To capacitate Community-based Organisations (CBOs) and Civil Society Organisations (CSOs) on issues related to natural resource management, especially in areas that are affected by the extractive industries
- To provide a forum for participants to share ideas and experiences, and to discuss and formulate integrated approaches in the management of natural resources
- To give community voices a platform to share experiences on the impacts of extractive industries on local communities
- To strengthen and capacitate the Natural Resource Governance Network on issues of natural resource management.

Workshop **preparations** included visits to mining town of Penhalonga, Chimanimani and Marange Districts where communities are affected by “alluvial” gold and diamond mining activities. The visits culminated in a half-day preparatory meeting with Penhalonga Development Committee which was registered with the assistance of CRD in 2011. The meeting was also attended by the local Member of Parliament Hon Misheck Kagurabadza who shed some light on a number of policy issues but concluding that there was need for a Memorandum of Understanding between the companies mining in Penhalonga and the local communities through Mutasa Rural District Council. He said it is important to understand mining contracts so as to effectively monitor whether all parties are fulfilling their contractual obligations. It was however noted that obtaining a mining contract was near impossible under the current legal regime which favours and protects mining companies from public scrutiny.

Workshop presentations and discussions dwelt on community participation in natural resource management, resource ownership and the need for local communities to benefit from the resource endowment in their locality. The following topics were covered:

1. “Integrated Water Resources Management (IWRM),” by L. Nyamangodo, Zimbabwe National Water Authority (ZINWA)
2. “Sustainable Utilisation and Protection of Natural Resources in Rural Communities Affected by the Extractive Industries in Manicaland,” by Ms Rutsvara Environment Management Agency (EMA)
3. The linkages between peace/conflict and environmental integrity, by Mr. Matimura (Peace Building and Capacity Development Foundation (PACDEF)
4. “Promoting Economic Development Through Environmental Management in Rural Communities,” Mrs Tembo, Environment Africa
5. “Relationship between Community-based Organisations, Civil Society Organisations, Faith Groups, Rural District Councils and Government in Natural Resource Management in Rural Communities,” Reverend Lloyd T. Nyarota, -----

NB: There was no presentation on “Challenges and Opportunities for communities living in areas where mining operations are taking place in Manicaland,” as the representative from the Ministry of Mines could not make it to the Workshop due to unforeseen commitments at the time of drafting the program. There was however a filler presentation that dwelt mostly on the Mines and Minerals Act and supporting pieces of legislation.

After each presentation there was a discussion that focused on a variety of issues including gaps, challenges and opportunities in local community management and utilisation of natural resources; how to engage policymakers and indeed government to create an enabling environment for local communities to manage and benefit from natural resources in their locality. The following are the main outcomes of the workshop:

1. The idea of Integrated Water Resources Management (IWRM) is plausible but it is flawed in that there is no enforcement mechanism, some water users are more favoured than others, for example miners are favoured more than any other water user such as the surrounding and downstream communities.
2. Invariably the small unregistered miner is said to cause environmental degradation but if the same act is done by a multi-national company or big company there is no comment and in most cases the activity is condoned.
3. The secrecy shrouded in gold mining operations makes it difficult to make concrete statements on environmental impact unless EMA carried out routine and publicised inspections and tests.
4. Members of the community should establish facts about an activity before apportioning blame. For example water tests downstream and upstream of DTZ-OZGEO seem to suggest that the mining operations are not as polluting as seen from the outside. Environmental management and policing in mining is quite complex and EMA does not administer all the 31 pieces of legislation controlling mining although some have environmental implications. Members of the community should be acquainted with EMA procedures so that they can be assisted
5. There is scope in promoting economic growth through natural resource management as is evidenced by the successful projects that Environment Africa is implementing.
6. There is need to revise the current laws governing mining in Zimbabwe so that local communities can also benefit from the minerals in their area. Local communities should work closely with Rural District Councils since these are mandated to oversee development issues at the local scale
7. Despite mining having been going on for some years now without communities benefiting in both Penhalonga and Chimanimani, communities should work hard to establish a Memorandum of Understanding with the miners so that they can also benefit from “their” natural resources.
8. CBOs, CSOs, Faith Groups and government departments should all work together to promote natural resource protection, local economic growth and local control and ownership of natural resources. In this regard, local communities should work closely with the Rural District Council (RDC)

WORKSHOP PROCEEDINGS

Workshop Context and Goals

CRD contextualised the Workshop stating the issues that the Workshop was supposed to address and the intended achievements. The Workshop was going to examine natural resource management especially in communities affected by extractive industries (gold and diamond mining), sharing of benefits and ownership of the resources. In terms of procedure, the Workshop process was going to be participatory in that every participant was expected to contribute

equally and each participant's point of view would be respected. It provided a forum for people from different backgrounds to share ideas on natural resource management, ownership and utilisation and to build a way forward on how communities should manage natural resources in their areas.

It is important when discussing natural resource management to also talk about community ownership and local development issues as these have a bearing on the management of natural resources. A reading from the Bible reminded participants of how different areas were differently endowed with resources, some with gold, and others with diamonds and yet others with good soils and water. Such a distribution means that each community was given specific resources for their protection and their use and that it is the local communities with responsibility of determining their use.

In terms of procedure, it was announced that there were going to be a number of presentations. Each presentation would be followed by a discussion on the issue raised in the presentation, but most importantly there should be focus on issues that relate to natural resources management, resource ownership and sharing of benefits.

Presentations

Integrated Water Resources Management

This is a summary of the presentation by ZINWA on Integrated Water Resource Management, (Annex I). The presentation on Integrated Water Resources Management (IWRM) explained to participants what the concept meant and the importance of the approach in water resources management. The concept was defined as “an approach that promotes the co-ordinated development and management of water, land and related resources in order to improve access to water for all uses in an equitable manner without damaging the environment.” There are many water users from domestic use, through industrial and commercial uses and agricultural and mining uses. According to the principle of IWRM, all these uses should have equitable access to water and that the interdependence of these uses should always be taken into account in all cases of water development.

The need for an integrated approach to water management is because of the fact that fresh water is getting scarcer worldwide due to a number of factors that include population growth, global warming and pollution. For example in the Save Catchment area water demand is expected to rise from 4,114Mm³yr⁻¹ in 2010 to 6,311Mm³yr⁻¹ by 2030.

Pollution from a wide variety of sources was said to be a contributing factor to water scarcity. This is exacerbated by climatic variability and climate change. In particular it was noted that downstream water users were bearing the brand of water pollution from upstream pollution sources. Of note was water pollution from gold panners who, not only cause the water to be turbid, but also cause river and dam siltation. If such polluting activities were taking place in upstream areas, then downstream users would experience water scarcity in addition to being exposed to polluted water. It should however be noted that panning methods have been developed that minimise environmental damage. Rather than criminalizing artisanal miners and subjecting them to inhuman and degrading treatment, government, mining companies and civil society ought to devise methods of engaging artisanal miners so as to educate them on safer panning methods.

There is therefore need for an integrated water resources management approach, which is about, “coordination and collaboration among the individual sectors, involvement of stakeholders’ participation, transparency and cost-effective local management of water resources.” In other words IWRM emphasises a participatory approach that involves all water users in a catchment area, planners and policymakers in order to address issues of inequitable access, water pollution, siltation, lack of infrastructure development, water use conflicts, tariffs, and gender inequality.

Despite being based on sound principles which were developed at a meeting in Dublin in 1992, there are some hurdles in the implementation of IWRM as it challenges the status quo and strengthens the voices of the community as opposed to the norm where downstream victims of water pollution and scarcity have no voice. This approach tries to bring together people with divergent thinking and interest. However, it is not always possible to find an easy solution to making these people work together. For implementation to succeed, IWRM must be placed in an enabling institutional framework that include setting up of institutions to deal with the functioning of heterogeneous stakeholders involved in decision-making, organisational structures to look into water resources issues at the community level and taking into account the fact that government has the overall coordination role of all water resource issues.

Discussion

The discussion that followed sought explanation and clarification of how communities can be involved in IWRM, to evaluate whether what IWRM is meant to do is really happening in practice and bring out the good and bad points about the IWRM approach.

Participants noted that the principles on which the concept of IWRM was based were highly commendable since they considered participation in all issues of water use and management by all users and stakeholders. In particular the recognition that local communities had a role to play in water resources management was very important in effective management of water resources. However, it was noted that there was need to explain why the concept was not successful throughout the country. Participants raised concern with the massive pollution of Sakubva river by industries in Mutare. They argued that water from Sakubva river was no longer good for any use except for dumping refuse and toxins from industries.

Inequitable access to water: Despite being based on the principle of equity, participants felt that on the ground there was no equitable access to water especially in communities affected by extractive industries such as gold mining. It was pointed out that in cases of water deficits created by, say a seasonal drought, water allocation to all other users including agriculture would be adjusted but allocations to mines will not be affected. This was heavily criticised particularly in view of the fact that in most cases the community would not be benefiting in any way on the mining enterprise.

Water pollution from gold production: It was noted that gold production caused a lot of water pollution from exploration activities, ore extraction and crushing and the beneficiation process. It was observed that, despite this general knowledge, nothing was being done in order to ascertain the degree of water pollution by the gold miners as there were no routine water tests downstream of the mining operations. It was however explained that ZINWA did not have the mandate to carry out water tests, pointing out that the Environmental Management Agency (EMA) was mandated to carry out such tests. It was agreed that the issue will be discussed when EMA made a presentation.

There was also concern amongst participants that whenever the issue of water pollution by mining operations is mentioned, blame is always apportioned to gold panners and not the big multinational companies. This is the reason why despite water pollution from nearby big mining companies being used as an example of how mining can pollute water, examples were drawn from Nyamukwarara where gold panning / small scale mining is taking place. It was pointed out that perhaps the reason why gold panners drew attention is because their operations are deemed illegal. Water pollution from gold mining in Chimanimani has become so acute that members of the community would like bore holes to be sunk as water in the rivers passing through the mining areas is no longer suitable for human consumption. Participants also wondered why companies, which pollute water sources are not being fined, wondering whether the Polluter Pays Principle applied in some cases and not in others. All polluters, small or big should be treated in the same way and the fines should be commensurate with the levels of pollution.

Lack of capacity and resources: Participants also wondered whether ZINWA had capacity to implement IWRM. ZINWA explained that the use of catchment and sub-catchment councils would partially solve the issue of under-staffing. However participants felt that the catchment and sub-catchment councils did not have power and capacity to implement IWRM. The general feeling was that ZINWA was poorly resourced to implement IWRM successfully. Whilst some participants felt that the issue of lack of resources was a real constraint, some felt that it should not be over-emphasised pointing out that many activities in the country had come to a standstill because, it is argued, there are no financial resources for the activities but there is no one who has ever indicated when the resources would be adequate. Indeed in Mutare it is argued that the sewage system is completely dysfunctional because of lack of money to carry out the necessary repairs. However it was not always the case that money is needed to implement certain activities. For example, in the case of water resources management, financial resources were secondary as people needed knowledge of how to do things on their own and to give them ownership of the water resources.

Sustainable Utilisation and Protection of Natural Resources in Rural Communities Affected by the Extractive Industries in Manicaland

The presentation by the Environmental Management Agency (EMA) on “Sustainable utilisation and protection of natural resources in rural communities affected by the extractive industries in Manicaland” (Annex II) started with warning shots to community members that they should check their facts first before making accusations or demands to government. This came in the wake of community members making accusations that DTZ-OZGEO was heavily polluting Mutare River through its mining operations and the processing of the gold using cyanide, a highly toxic substance. Participants were however informed that EMA had carried out an analysis of water samples taken upstream and downstream of the mine. Apparently the results showed that the water downstream of the mine was less contaminated than the water upstream of the mine. This seemed to suggest that the accusations by members of the community were based on assumptions. Furthermore, participants were reminded that DTZ-OZGEO was not the only company mining gold in Penhalonga but there are also companies such as Redwing Mine and many small-scale miners. For this reason, there was no need to single out DTZ-OZGEO, argued EMA.

Roles and responsibilities of EMA: EMA is mandated by the Environmental Management Policy and Environmental Management Act (Chapter 20:27) to coordinate all conservation and environmental matters. It has the role of ensuring the sustainable use of natural resources. This is done through information dissemination to empower people to protect their natural resources and the environment. It is also a policing organisation, making sure that individuals,

organisations and companies do not engage in activities that have deleterious impacts on the environment. Any transgressor is fined on the basis of the Polluter Pays Principle. EMA also implement environmental rehabilitation and restoration programmes.

Establishment of the Agency: EMA was established through an Act of Parliament following realisation that unchecked environmental degradation was taking place in the country. There was therefore need for a government department that would arrest or even reverse the trend. Problems of deforestation and overgrazing, soil erosion and siltation of dams and rivers, and water pollution are all issues of concern in rural areas. While most land degradation in the rural areas is related to poor farming methods, both formal and informal mining have caused heavy environmental damage and they are the main sources of water pollution of the major rivers in Manicaland Province. Environmental degradation and loss in biodiversity have also been caused by veld fires, majority of which are created deliberately by humans.

EMA's environmental protection and rehabilitation activities: EMA is carrying out a number of environmental protection and rehabilitation activities that include:

- Reforestation programmes being carried out together with the Forestry Commission with the aim of promoting the establishment of woodlots and conserving indigenous wood resources
- Gully reclamation activities
- Awareness campaigns including dissemination of information on protection and sustainable utilisation of natural resources through schools and farmer to farmer extension
- Awareness campaigns on veld fires.

Discussion

The issue of fines: Participants suggested that the fines that EMA received should be ploughed back to the community in order to restore/rehabilitate the environmental damage. It was noted that the issue had never been raised with the Agency or with government and therefore currently the money raised was given to government. Participants felt it made sense to hand over the fines to the communities whose environments had been polluted or whose right to live in a clean and safe environment had been violated.

Environmental Impact Assessment (EIA): There was prolonged discussion on the issue of EIA as participants wanted clarification on the following issues: (i) whether it was not mandatory for an EIA to be carried out before mining operation commenced; (ii) if this was the case, why miners still carried out environmentally damaging activities; and (iii) the role that members of the community played in the EIA process. Participants were informed that indeed an EIA was mandatory before mining operations commenced. As far as DTZ-OZGEO is concerned, an EIA was carried out and the document suggests that community members were involved and agreed with the outcome despite members of the community claiming that they knew nothing about the EIA. Some participants raised concern with the manner in which the communities were consulted. It was argued that in most cases a few influential persons such as traditional leaders and councillors are bribed so as to misrepresent views of the community or are deliberately misled into believing certain mining activities will benefit their communities.

Related to EIA, participants wanted to know whether mining companies ever carried out environmental audits in order to ensure compliance and also to make sure that EIA recommendations were being implemented. There were calls for EMA to carry out regular environmental audits, which are not being done currently. It was reported that DTZ-OZGEO however had requested for a chemical analysis of the water in Mutare River to establish the extent of the impact of mining operations and processing of gold. Participants noted with regret that no mitigation measures were being carried out despite the visible environmental degradation.

Environmental degradation: There was no way of telling the extent of chemical contamination since the only tests reported are those of water in Mutare River, which are said to have been requested by DTZ-OZGEO. The results were given to the miners and since members of the community had not requested the tests, there was no need for EMA to share the result with them. Huge open pits that are left behind in open cast mining areas are the most visible form of environmental degradation. Members of the community from Chimanimani District pointed out that the unsightly open pits posed a great danger to both human beings and animals, urging EMA to intervene as soon as possible before a disaster occurs.

EMA challenges: Although EMA had been criticised for neglect of duty it became clear that this was because of a number of challenges that the Agency faces. EMA's task to enforce environmental protection regulations on miners is complicated by the fact that it is not the Agency that grants mining licences but the Ministry of Mines. EMA is then asked to police activities that the two parties, the miners and the Ministry of Mines would have agreed upon. This makes it very difficult for EMA to intervene in cases where it is felt the mining operations are not taking into account environmental considerations. For example, EMA could not intervene in the case of Mutare River diversion by DTZ-OZGEO.

A second challenge the Agency faces is that it is working with too many line ministries, which include the Ministry of Agriculture (AREX), Ministry of Water (ZINWA), Ministry of Agricultural Mechanisation etc. In cases there is too much overlap of responsibilities making it difficult for EMA to carry out its mandate.

A third challenge the Agency is facing in the Province is staff shortage. Apparently there is only one officer in each district who is under resourced. All the district officers do not have transport, relying on those who would have asked them to perform a task to provide the transport. Because of this, EMA's contribution to environmental protection activities is way below its potential.

Linkages between peace/conflict and environmental integrity by Mr Matimura from Peace Building and Capacity Development Foundation (PACDEF)

The presentation by PACDEF (Annex III) on "The linkages between peace/conflict and environmental integrity" brought in three related questions:

- i. Does the presence of peace enhance environmental integrity?
- ii. Does conflict threaten environmental integrity?
- iii. Does environmental integrity enhance/prevent peace and conflict respectively?

The questions were answered by examining some specific peace/conflict situations in order to demonstrate the complexity of the relationship between peace/conflict and environmental integrity. The case of two chiefs who had agreed that a dam is constructed across their common border river but later disagreeing on the name of the dam, each wanting the dam to be named after his name is case of conflict between two people that ended affecting the whole community when the dam was eventually not constructed. The lesson to learn is that conflict can hinder development through failure to cooperate on issues of common good. This can have negative consequences in cases where leaders fail to find common ground on matters pertaining to environmental protection and land reclamation.

Armed conflict is different in that the damage to the environment is serious. Whilst armed conflict can lead to environmental problems, peace does not necessarily guarantee environmental integrity. There can be uneasy peace as in cases where the leadership does not have integrity. If leaders are corrupt with a tendency to grab all resources for themselves at the expense of the community, it can lead to environmental degradation in spite of the fact that peace normally protects the environment. There is further threat to the environment if communities are impoverished as poverty normally promotes destructive behaviour.

It is crucial that the importance of the environment is clearly defined. The environment is the source of wealth, health and livelihoods. The few facts about the environment are that some elements of the environment do not know territorial boundaries. For example, air and water can flow freely from one state to another. At the local level, the environment is the local economy and hence the need to look at issues of ownership, allocation and distribution. These determine the distribution of wealth and power. Ownership of resources has implications on management bearing in mind that the environment is fragile to the extent that degradation and pollution will cause failure of the environment to provide ecosystem services.

Discussion

The discussion that ensued emphasised the need for community participation in environmental management and utilisation. As far as those companies involved in gold mining, as is the case with those mining gold in Penhalonga and Chimanimani, it would have prudent if they had a Memorandum of Understanding (MOU) with the local communities that clearly spelt out *modus operandi*. It appears the much talked about community rights, community participations or indigenisation are only theoretical concepts without specific ground applications. This is a possible source of conflict over resources.

An important issue that was raised was the need for communities to learn to voice their concerns and interests in order to become stewards of their environment. It was suggested that for this to happen there was need to educate the local communities on how they can claim ownership of resources in their locality or at share the benefits with the outside developers. A question that could not be answered was who has the mandate for this type of education?

The problem of corruption and nepotism in resource utilisation was singled out as one of the most important factors militating against CBNRM and a factor likely to cause conflict over resources. It was however concluded that the potential conflict can be reduced if there is adequate consultation with the traditional leaders.

Promoting economic development through environmental management in rural communities

The presentation by Environment Africa on promoting economic development through environmental management in rural areas (Annex VI) demonstrated the feasibility of integrating natural resource management and economic growth. Some environmental management activities can be profitable business for some. For example, some by-products of our consumption, which are normally considered as waste, can be turned into useful and saleable products. Through innovation, rural communities are no longer seen as consumers only, but as employers and small investors as well. The main issue is identifying business opportunities arising from environmental management activities including beekeeping, solid waste management, and establishment of nurseries for reforestation purposes, conservation farming and energy saving activities.

It is recommended that communities should be involved more and more in these activities that relate to economic growth but at the same time they lead to the protection of the environment. In order for such projects to succeed, the principles that guide and promote economic growth in rural communities include: (i) accountability, (ii) transparency, (iii) respect for stakeholder interests, (iv) respect for human rights and culture, and (v) sense of belonging of the project in the rural communities.

Discussion

Participants commented Environment Africa for combining environmental management and protection through activities that also generated an income for households. It was agreed that the approach followed of carrying out baseline surveys, community and other stakeholder consultations, and giving members of the community ownership of the project guaranteed project success.

Participants however also observed that, although Environment Africa was involved in income generating activities using locally available resources, it had not to date been involved in any project that had something to do with mining. Mining is an activity where local communities have generally been excluded despite being an activity that has potential of raising the standard of living of rural people.

Since the projects are mostly income generating projects, there is need for gender equity. It was pointed out that, although this was the desired ideal, unfortunately it is not achieved in all cases because of the nature and locality of the project. For example, most urban projects attract a large number of females than males.

Environment Africa took the opportunity to explain to participants that the organisation did not tackle environmental issues directly. They let EMA deal with environmental problems. The organisation was more concerned with issues of sustainable development, which *inter alia* involved issues of environmental management and protection. There was need to distinguish between the **environment** and **natural resources**. The environment is all inclusive but natural resources apply specifically to those elements of the environment that are of use and are being used.

Challenges and opportunities for communities living in areas where mining operations are taking place in Manicaland

Since the Ministry of Mines, which was supposed to give a presentation on challenges and opportunities for local communities living adjacent to mining operations in Manicaland was not represented there was a filler presentation. The presentation touched on a few issues related to the laws that govern mining in Zimbabwe. The aim of the presentation was to explore challenges and opportunities posed by the current laws in relation to local communities' participation in mining.

The principal law governing mining in Zimbabwe is the Mine and Minerals Act Chapter 21:05. The Act has been in force since 1961 and it is supported by 30 other pieces of legislation (Annex . It is now generally agreed that there is now need to amend the Act in order to simplify it, and so that it takes into account environmental management of mining operations. It is also hoped that the amendment will provide for broad based economic empowerment of indigenous Zimbabweans.

There is indeed need to amend the Act since as it stands currently it has a number of flaws. Mineral rights are vested in the President and although the Act says any local or international investor can acquire mining title, some of the provisions make it impossible for local communities to participate in mining activities. Only those with money, local business people and multi-national companies can afford to pay the fees one is expected to pay in order to establish a mining claim.

To begin with, one has to pay a fee for a Prospecting Licence that entitles one to peg and register claims. One can go for the more expensive Exclusive Prospecting Order (EPO) which confers the exclusive right to prospect for specified minerals in any defined area in Zimbabwe. Finally one has to pay for the permit, which is called the Mining Claim. The Mining Claim confers on the holder the exclusive right to mine the mineral resource for which the claim was registered and prospecting for other minerals on the claim.

It was pointed out that the mining legal system is quite complex and that there is need to adequately study it before making meaningful contribution to the proposed amendments. Because of this, the need to simplify the Mine and Minerals Act cannot be over-emphasised. At the same time the Act should make provision for indigenisation.

Discussion

From the little that said about the laws governing mining in Zimbabwe participants did not see any prospects or opportunities of local communities participating meaningfully in mining operation. The amount of money needed for one to register a claim and the subsequent operating cost precluded local communities from mining. The current laws favour those who already have money, big companies and multi-national companies. Unfortunately the big companies do very little or nothing at all to the local communities despite the latter suffering the consequences of environmental degradation due to mining operations. Participants expressed concern over the EPO pointing out that it subject to abuse as one company can buy exclusive prospecting rights for a particular mineral over a very large area. This will exclude others who might be interested in that mineral.

Participants were also worried that despite the law saying that gold and silver shall be marketed through the Reserve Bank only, there is no guarantee that companies were declaring all their gold. If this is the case, the state is being prejudiced of large sums of money which could have been used social development. It is therefore not only the local communities who have lost out, it seems the country in general is also losing revenue.

There is need to revisit the laws governing mining in Zimbabwe especially the Mine and Minerals Act. In doing so, there must be full participation by local communities who should be involved in the formulation of the laws and regulations that govern mining in the country. In the meantime though, Penhalonga and Chimanimani communities were urged to address the MOU issue with the companies mining gold in their areas. In order to do so, they were urged to work with their respective Rural District Councils.

Relationship between CBOs, CSOs, Faith Groups, Rural District Councils, and government in natural resource management in rural communities

The presentation on “Relationship between CBOs, CSO, Faith Groups, RDCs and government in natural resource management in rural communities” (Annex VI) began with giving a biblical interpretation of the need to protect and to use natural resources sustainably. Natural resources were given to humankind for use and it is the duty of humankind to protect natural resources because they belong to God and not only because they are of use to humankind. The current consumption patterns are wasteful and do not lead to sustainable utilisation of natural resources. There is therefore need to change lifestyles and consumption patterns in order to attain a more equitability and sustainability in resource use.

In addition, there is need for a change in ways of thinking in connection with natural resource conservation and protection. The assumption that natural resource protection can best be achieved through advocates from outsiders should be abandoned in favour of a philosophy that recognises the important role of local communities in natural resource management. There is therefore need for partnership between government, local communities and all stakeholders.

Participants were reminded of the distinction between larger ecosystems and local or village level ecosystems as the later are subject to appropriation by a few and they can be depleted. Their management therefore should be at the community level. Community-based Natural Resource Management (CBNRM) is not new as communities have been doing so for time immemorial. It was only the formulation and implementation of formal CBNRM programmes in many districts in the country involving CBOs, CSOs, Faith Groups and the government that happened.

Indeed traditional natural resource management succeeded in the past as it was based on values and norms, which were followed and respected. The situation has changed since these values have been destroyed. There is need to develop a new approach that puts the local communities at the centre of natural resource management in their locality. The People-centred Approach was favoured by government for political expediency but this was the right direction (CAMPFIRE for example) of promoting good relations and empowering local communities in natural resource management. This is not to say government should have nothing to do with local level natural resource management. The government should continue to play a role together with other stakeholders although there are some challenges that need overcoming: (i) incapable professionals to deal with a People-centred Approach, differences in worldviews between outsiders and the local people, and poor local administrative capacity.

Discussion

The presentation on the relationship between CBOs, CSOs, Faith Groups, Rural District Councils, and the government summed up a number of issues that had been raised in earlier discussions. Participants agreed that effective natural resource management would be achieved if resource ownership is given to local communities or if local communities derive benefits from the resources. It was agreed that this is not to say that local communities should become independent of the government. The government will continue to play an important supervisory role but the main players in resource development and management would be the local communities.

The role of the local authority, the Rural District Council was discussed and was agreed that the council plays a central role in resource allocation, development and utilisation since it is mandated with local level development duties. To this end members of the community from Chimanimani and Penhalonga who are seeking an MOU with companies mining gold and diamonds in these areas should go through the respective Rural District Councils. If communities are given ownership of resources or they derive benefits from the resources, then it would be possible to apply the principles of CBNRM and if it is done with the assistance of CBOs, CSOs, Faith Groups, and the government it will succeed.

ANNEX 1: Administration of the mining industry

Below is a list of the important pieces of legislation that govern mining operations. It is important that whoever is involved in mining is familiar with the provision of these pieces of legislation as they detail the obligations of holders of mining locations.

1. **Mines and Minerals Act** Chapter 21:05
2. **Explosives Regulations**
3. **Mining (Managements and Safety) Regulations** SI 109 of 1990
4. **Mining (Health and Sanitation) Regulations** SI 182 of 1995
5. **Mining (General) Regulations R Government Notice** 247 of 1977
6. **Gold Trade** (Gold Buying Permits for concession Areas) Regulations
7. **Mines and Minerals (Custom Milling Plants) Regulations** SI 239 of 2002
8. **Mines and Minerals (Contracted Inspectors) Regulations** SI 249 of 2006
9. **Mines and Minerals (Minerals Unit) Regulations** SI 82 of 2008
10. **Mines and Minerals (Declaration of Minerals) Notice** SI 91 of 1990 Regulations
11. **Gold Trade Act** Chapter 21:03
12. **Minerals Marketing Corporation of Zimbabwe Act** Chapter 21:04
13. **Copper Control Act** Chapter 14:06
14. **Explosives Act** Chapter 10:08
15. **Precious Stones Trade Act** Chapter 21:06

16. **Environmental Management Act** Chapter 20:27
17. **Atmospheric Pollution Prevention Act** Chapter 20:03
18. **Hazardous Substances and Articles Act** Chapter 15:05
19. **Pneumoconiosis Act** Chapter 15:08
20. **Forestry Act** Chapter 19:05
21. **Water Act** Chapter 20:22
22. **Zimbabwe National Water Authority Act** Chapter 20:25
23. **Companies Act** Chapter 24:03
24. **Revenue Authorities Act** Chapter 23:11
25. **Value Added Tax Act** Chapter 23:12
26. **Income Tax Act** Chapter 23:06
27. **Finance Act** Chapter 23:04
28. **Capital Gains Tax Act** Chapter 23:01
29. **Companies Act**
30. **Exchange Control Act**
31. **Indigenization and Empowerment Act**

The above list may not be final as the government may from time to time issue Statutory Instruments that may directly or indirectly impact on any of the above laws and regulations. Hard copies of all pieces of legislation may be purchased from the **Printflow, George Silundika Ave., Tel. +263 4706161-8, www.law.co.zw**

The Mine and Minerals Act Chapter 21:05 is the principal law governing mining in Zimbabwe. This law provides security of tenure and has clear provisions for acquisition, maintenance and relinquishing of mining title. The act has been in force since 1965 and has served the country well.

With countries in the region revising their mining laws, there is an opportunity for Zimbabwe to do the same to remain competitive. Hence the pending exercises to amend the Mines and Minerals Act. The objectives of this exercise are to simplify the Act, and to provide for enhanced environmental management of large scale mining operations. In addition, the amendments are aimed at providing for broad based economic empowerment of indigenous Zimbabweans, taking into consideration not only equity, but also allowing for conversion of social investment by mining companies into equity equivalent.

The Mines and Minerals Act has been acknowledged as a good piece of legislation by both local and international investors. Some countries in the region and elsewhere have developed their own mining laws based on the Zimbabwean model.

Mineral rights are vested in the State President. It is very simple for any local or international investor to acquire mining titles. The manner in which these titles are acquired, relinquished or forfeited is clearly defined and easy to apply. However, due to reduced financial resources available to government to fulfil its various mandates, and also the increase in activity within the sector, inefficiencies have been experienced. To deal with this problem, the mining title system is being reviewed with a view to computerise the administration of mining titles for easy acquisition and administration thereof. This overhaul, has also presented an opportunity for the review of the Mines and Minerals Act to simplify and enhance the effectiveness of the Act.

In order to improve the service delivery, it is envisaged that procedures will be streamlined thereby reducing processing time for issuance of mining title and other services. This will bring Zimbabwe in line with other countries in the region and elsewhere in terms of efficiencies in services provided to investors and the general mining public. The amendments to the Mines and Minerals Act are also meant to simplify the act by removing all provisions of a regulatory nature from the main Act and providing for these in Regulations. This is meant to ensure that the Ministry of Mines and mining Development responds effectively and efficiently to the requirements of the industry. It has been suggested that issues such as specific rates applicable, size of EPOs and other issues, which may need to be revised from time to time, need not be in the main Act.

The provisions in current mining legislation on management of mining title are given below.

Rights to Minerals (Part I, Section 2)

The dominion in the right of searching and mining for and disposing of all minerals, mineral oils and natural gases is vested in the State President.

Acquisition of Mineral Rights (Section 20, 23, and 24)

Any person of 18 years of age or older who is a permanent resident of Zimbabwe or his agent may acquire one or more prospecting licences on payment of the appropriate fee. The licence so acquired is valid for 24 months.

Land open to prospecting (Section 26)

- All State Land and Communal Land.
- All private land to which there has been reserved, either to the British South African Company or to the Government of Zimbabwe, the right to all minerals or power to make grants of the right to prospecting of minerals.
- All land held by any person under enactment or agreement whereby such person is entitled to obtain from the State title thereto on the fulfilment by him the conditions prescribed by such enactment.

Any person may make a written application to the Mining Affairs Board (MAB) for authority to prospect on reserved ground.

Exclusive Prospecting Order (EPO) (Part VI)

Any person may make a written application to the Board for an EPO in his/her favour over any defined area in Zimbabwe, including any area reserved from prospecting. On application the applicant shall pay a deposit per hectare. If the Board is satisfied that the applicant is a fit and proper person to obtain the order and is of adequate financial standing to undertake the operations under the order; and that it would not be against the national interest to make such an order, then the Board may recommend to the Minister to make the EPO in favour of the applicant.

No EPO shall be granted for a period exceeding three years but an order may be extended by the Minister on recommendation by the Board for a further period not exceeding three years in all.

The rights granted under an order shall be personal to the authorised holder who may not cede or assign any such rights to another person. The Minister may, on the recommendation of the Mining Affairs Board and with the consent of the concession holder, which consent shall not be unreasonably withheld, authorise any person to peg and register for a mineral other than a mineral for which the concession holder is authorised to prospect.

Every concession holder shall submit for the approval of the Board, a programme of work containing particulars of the intended prospecting operations and their costs.

The concession holder shall carry out the approved programme and submit to the Board a report of the work carried out during the period

covered by the programme including expenditure incurred. If the concession holder fails to submit the report, he/she is notified in writing by the Board that his/her order is liable to be revoked. If no report is received within 21 days of such notification then the Minister shall revoke the order.

Mining Leases (Part VIII)

The holder of a mining location or contiguous registered mining locations may make written application to the mining commissioner for the issue to him of a mining lease in respect of a defined area within which such locations are situated. The holder of a mining lease has the exclusive right of mining any deposit or mineral that occurs within the vertical limits of his lease.

Special Mining Leases (Part IX)

The holder of one or more contiguous mining locations who intends to develop a mine thereon with the investment in the mine being wholly or mainly foreign and exceeds US\$100 million in value, and the mine's output is intended primarily for export, may apply in writing to the mining commissioner for a special mining lease of a defined area within which his mining locations are situated.

The Board may permit a person to make an application notwithstanding that either or both the criteria mentioned above will not be met, if the Board considers that it is desirable in the interest of the development of Zimbabwe's mineral resources.

Having received the application the Board shall forward it to the Minister together with their recommendations. The Minister shall submit them to the President together with his own recommendation for the President's approval.

Mining Rights (Section 177)

Priority of acquisition of title to any location, reef or deposit, if such title has been duly maintained, shall in every case determine the rights as between the various peggers of mining locations as the aforesaid and in cases of dispute the rule shall be followed that, in the event of any rights of any subsequent pegger conflicting with the rights of a prior pegger, then, to the extent to which such rights conflict, the rights of any subsequent pegger shall be subordinate to those of the prior pegger.

Preservation of Mining Rights (Part XI)

The holder of any block of base mineral, reef or placer deposit claims registered as precious metal or of any mining lease shall, within six weeks of registration, apply to the mining commissioner for and obtain a certificate of inspection in respect of work executed on the mining location. The Secretary may authorise a mining commissioner to grant a protection certificate in respect of any block of reef or placer deposit claims.

Alluvial, elluvial, rubble deposit, dumps and precious metal blocks: The holder of such blocks shall continuously work his claims from the date of registration of such blocks and shall pay to the mining commissioner annually in advance the prescribed fee in respect of such blocks.

Working Other Designated Mineral Deposits

The minister may, by statutory instrument, declare any mineral to be a designated mineral for the purpose of the control of working such a mineral and may revoke in like manner any such mineral.

Transfers (XVII)

When any registered mining location or any interest therein is sold or otherwise alienated, the seller or person who so alienates shall notify the commissioner of the transaction within 60 days of the date of transaction, and shall inform him of the name of the person to whom such location or interest is sold or otherwise alienated and the amount of the valuable consideration, if any, agreed upon, and the date of the transaction.

Tributes (Part XVII)

If any holder of a registered mining location has agreed in writing to grant a tribute to any other person, the tributor may apply to the mining commissioner for the registration of a notorial deed embodying the terms of such agreement.

Special Grant (XIX and XX)

The Secretary may issue, under Part XX, to any person a special grant to carry out prospecting operations or to carry out mining operations or any other operations for mining purposes, upon a defined area situated in an area which has been reserved against prospecting or pegging. The rights to mine coal, minerals oils or natural gas may only be acquired under special grant, under Part XIX, of the Act.

The Mining Affairs Board (MAB)

The Mining Affairs Board is a body created through Part II of the Mines and Minerals Act. It is established to exercise and perform the powers, function and duties conferred and imposed on it by the Act. These include the oversight in the management of mining titles and the effective administration of the Mines and Minerals Act. The board is chaired by the Permanent Secretary of the Ministry of Mines and Mining Development. Members of the MAB are selected for their expertise in mining, legal, and environmental affairs.

VOTE OF THANKS

The Workshop ended with a Vote of Thanks to participants by CRD Director Farai Maguwu who pointed out that this process was going to be followed up by more workshops that are going target more community based organisations and civil society organisations operating in resource rich areas. Participants, especially those representing communities from Penhalonga and Chimanimani were urged to follow make plans to engage Rural District Councils so as to obtain copies of MOUs signed between the mining companies and the RDCs. Civil society was asked to support communities in their struggle for the attainment of their economic, environmental and cultural rights. Maguwu said human rights are interdependent and indivisible. He said it is nearly impossible for communities that do not enjoy environmental, economic and cultural rights to celebrate civil and political rights. The meeting was then closed with a prayer from Rev. Nyarota.