



Transparency & Accountability for the  
Extractive Industry

# Extractive Insights

Transparency | Accountability | Economy

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## CONTRACT AND BENEFICIAL OWNERSHIP DISCLOSURE

## LOCAL CONTENT AND INCLUSIVE GROWTH

## THE DOWNFALL OF ACACIA MINING PLC Will Tanzania Get a Better Deal?

## A WORD FROM COORDINATOR

Dear friends and colleagues!

I would like to extend my genuine appreciation to HakiRasilimali stakeholders including members, government institutions, the office of National Assembly, Academic institutions, Faith based organizations, technical partners, Media and other like-minded individuals and institutions.

This appreciation is due to your regular patronage and complimentary efforts that impact HakiRasilimali's work directly or indirectly.

Once again, we thank you very much for reading our second newsletter edition-2019 titled 'Extractive Insights: Transparency | Accountability | Economy'.

This newsletter features-in articles related to extractive sector issues including Contract Disclosure, Gender Issues, Media Engagement, Local Content and Legal Issues, to mention but a few!

The letter is intended to update on the works that HakiRasilimali-PWYP and its members have been undertaking for enhanced advocacy in the extractive sector in Tanzania and beyond.

It is my sincere belief that you will find the work by Civil Society Organizations (CSOs) in the extractive sector appealing for enhanced transparency and accountability in the Mining, Oil and Gas sectors in the country.

We urge you to read thorough this second edition and we will appreciate receiving comments, ideas and thoughts on how better we can improve in the coming editions.

Thanks again for your time.

*Ms. Racheal Chagonja*  
Coordinator – HakiRasilimali





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# CONTRACT TRANSPARENCY AS A DRIVE FOR EXTRACTIVE SECTOR DEVELOPMENT

By HakiRasilimali



**T**he proper management of natural resources and its proceeds is critical for resource-rich countries like Tanzania as it requires institutional, legal and policy frameworks that consider issues of transparency and accountability in the extractive industries sector.

Tanzania is ranked Africa's fourth largest gold producer and accounts for 1.3 percent of total global production. The country is also the only one in the world which produces tanzanite. While gas production is concentrated in the south in the Songo Songo and Mnazi bay fields.

The available statistics indicate that the country possesses enormous proven quantities of tanzanite (12.6 tons), gold (2,222 tons), diamond (50.9 million carats), copper (13.65 million tons), nickel (40 million tons), uranium (35.9 million pounds), coal (1.5 billion tons), iron ore, and over 57 trillion cubic feet of natural gas.

The presence of such resources has attracted many foreign and local companies to extract these high-value resources. Just like in many

resource-rich countries which have arguably been plagued by aspects of what scholars call 'the resource curse', Tanzania's extractive industry since the mid-1990s, its contribution to the national economy and human development has remained below expectations as the available statistics indicate that the sector contributes 35 percent to exports, 5 percent to Gross Domestic Product (GDP) and 1 percent to government revenue.

The fifth phase president of the United Republic of Tanzania, His Excellency Dr. John Pombe Magufuli has consistently portrayed investors as thieves who, in collaboration with some dishonest local officials, have caused the country to not benefit from the extraction of its resources. It was this disillusionment that made Tanzania to, among others, adopt the Extractive Industries Transparency Initiative (EITI) in order to overcome the challenges associated with corruption.

The EITI, which was set up to increase transparency, aims to improve the way revenues





from oil, gas and minerals are managed. This includes how licenses and contracts are allocated and registered, who the beneficial owners of those operations are, what the fiscal and legal arrangements are, how much is produced, how much is paid, where the revenue is allocated, and its contributions to the economy, including employment.

Tanzania joined the EITI in February 2009 with an aim to promote good governance in its natural resource extraction sector. It was declared an EITI compliant country in late 2012. The country's EITI process is led by a Multi-Stakeholders Working Group (MSG) comprising of civil society organizations, government agencies, and extractive companies.

Adhering to the EITI principles and criteria, Tanzania has framed the initiative in a way that transparency has become a major concern of the sector's governance. The country's transparency initiative has been named as Tanzania Extractive Industries Transparency Initiative (TEITI). Several countries have adopted and domesticated the initiative. However, studies on transparency present contradictory findings about the usefulness of the initiative.

This follows the revelation that despite the fact that EITI implementing countries have ratified the required EITI standards, they were yet to fully abide by the agreement. The issue of contract disclosure is still controversial. This reality is backed up with a history of massive efforts to ensure contracts disclosure becomes a normal practice in Tanzania.

Moreover, the lack of transparent environment has led to unethical latitude among investors in the mining sector. Specifically, the decisions on what to offer rather than following the governing laws of the land.

However, the Commissioner for mining in Tanzania, Dr. Athanus Mashengeki stated that, *"most companies do not want to disclose their contracts. Contracts are mostly considered as confidential documents; which are not supposed to be disclosed to stakeholders such as some government representatives including ministers, Parliamentarians and members of the civil society."*

### **The Civil Society Organizations' concerns over contract disclosure.**

The stakeholders particularly the Civil Society Organizations (CSOs) in the country have highlighted various barriers that attribute to non-disclosure of extractive industries contracts in



Tanzania. Among other things, the stakeholders have been concerned about the inclusion of confidentiality clauses in the extractive industries contracts, saying they have been deprived of accessing the terms and conditions of agreement reached between the African governments and investors.

During the 39th SADC and People's Summit organized by HakiRasilimali held in Dar es Salaam in August this year, TEITI's Committee Chairman Ludovick Utouh disclosed that Tanzania has disclosed only nine Profit Sharing Agreements (PSA) in Oil and Gas, citing that the government was yet to disclose the contract documents in mining sector.

Mr. Utouh who is also the former Controller and Auditor General (CAG) further disclosed that Democratic Republic of Congo (DRC) is the only EITI implementing country that has disclosed about 145 contract documents which are the Concession Agreements, Joint Venture Agreements, Service Contracts, Memorandum of Understandings, and Profit-Sharing Agreements in oil, gas and mining sectors.

We have seen fighting in Nigeria, Angola, and many other countries, attributable to the non-disclosure of the extractive industries contracts documents," said Mr. Utouh. He added: "The citizens have the right to know how the natural resources in their respective countries are managed.

## Tanzanian Government Reaffirms Commitment to Disclose Mining Contracts

Recently, the government has undertaken tangible actions in ensuring all contracts are transparent and disclosed to public. In June this year, the Tanzanian government announced it will develop a publicly accessible portal containing Tanzania's mining contracts, significantly boosting transparency around agreed-to terms in the country's extractive sector. The proposed move would fulfill a disclosure requirement in the TEITA Act of 2015.

Minister of Minerals Hon. Doto Biteko made commitment on 19 June at the EITI Global Conference in Paris. The commitment follows the adoption of the new EITI Standard, which mandates all 52 implementing countries publish contracts and licenses signed after January 2021. The minister noted in his statement that the Natural Resource Governance Institute (NRGI) will assist in setting up the portal.

NRGI's analysis asserted that, "the civil society organizations (CSOs) have a role to influence the government in ways they can work together in collecting information and data from the companies". This would help gathering credible information that can be useful in strengthening discussions and practices aimed at improving beneficial ownership and transparency in the extractive sector."

Disclosure of mining contracts will have several benefits for Tanzania. Critically, it will help rebuild trust between citizens, government and companies. For years, secrecy around the contracts has fueled suspicions that the country has unfairly lost out in its deals with companies. These concerns recently culminated in sweeping reforms.

Contract disclosure will also incentivize negotiators to ensure future deals are more beneficial for the country—they will know that whatever they agree to on behalf of Tanzania's citizens will be subject to public scrutiny.

# HARMONIZATION REQUIRED TO ENSURE DISCLOSURE OF BENEFICIAL OWNERS OF THE EXTRACTIVE COMPANIES.

By Policy Forum



**N**atural Resources (minerals, oil and gas) have potential to provide a means for a country to reduce poverty and achieve inclusive and sustainable change if effectively managed from the stages of application and awarding of licenses/contracts to the investors.

Applications and awards of licenses/contracts for mining, oil and gas resources are prone to corruption hence adequate mechanisms such as laws, regulations and accountable institutions that allow for disclosure of beneficial owners of the companies awarded licenses and contracts are critical.

In tandem with this requirement, disclosure of beneficial ownership (BO) will enhance accountability by corporations through reduced risks of conflict of interest, deterrence of corruption during allocation of licenses, an equal playing field for all companies who intend to bid and reduced risk of transfer mispricing and tax evasion. All these collectively and consequently, will help improve trust between government, citizens and extractive companies.

The Extractive Industries Transparency Initiative (EITI) requires all EITI implementing countries to ensure that by 2020 all companies that are applying or holding mining, oil and gas rights comply and disclose the identity of the individuals who directly or indirectly own, control and economically benefit from a company regardless of their political status. As for now more than 20 EITI countries are working hard to include beneficial ownership in their EITI related reports.

Despite this positive development, several countries face a challenge of defining what beneficial ownership is and what metrics should be included or excluded in providing a meaning of the term. Several recommendations have been provided to minimize the challenge, one among them being to conduct BO disclosure meetings with stakeholders to propose definitions of BO and Politically Exposed Persons, as well as the level of details to be disclosed and how to approach the disclosure. EITI, the global driver for disclosure of beneficial ownership, however, defines BO as the natural person(s) who directly or indirectly ultimately own(s) or controls the corporate entity. Moreover, Natural Resource Governance Institute (NRGI) defines a beneficial owner as “a natural person who is, directly or indirectly exercise substantial economic benefit from a company”.

## Progress on implementing beneficial ownership disclosure

Despite the challenges in the Act, there have been a number of initiatives in place towards developing mechanism for Tanzania to collect and publish extractive companies' beneficial owners.



## Legal Frameworks

In Tanzania, there are several legal frameworks. However, this section is limited to names of individual shareholders only and it does not extend to the beneficial owners. This is very limiting especially where shareholder companies are also considered legal persons. To effectively disclose beneficial ownership, the natural persons who ultimately own the shareholding companies must be known and their level of interest. Again, the disclosure of names of the individual shareholders is not enough in the BO discourse, as it might lead to provision of limited information which might not be enough to identify beneficial owners.

Furthermore, TEITA Act lacks the definition of the beneficial ownership and information that need to be considered in the disclosure of the beneficial ownership such as definition of the politically exposed person (PEPs) and to provide beneficial ownership threshold requiring disclosure of certain information of the extractive companies. However, these statutes lack harmonization of regulatory provisions that target disclosure of beneficial owners of the extractive companies. For example, there is no specific provision in the Mining Act 2010 (revised 2018) and its Regulations that require mining companies to provide information of their beneficial owners neither during applying for mineral rights nor at the extraction stage.

However, The Mining (Mineral Rights) Regulations of 2018, regulation 16, requires applicants for Primary Mining License (PML) to submit names of their shareholders and not beneficial owners. These regulations are silent on the disclosure of the beneficial owners on the application of the other types of mining licenses. For example, Special Mining License for the large-scale mining operations does not mandatorily require for disclosure of beneficial owners. This may lead to corruptions, tax evasion, illicit financial flows and terrorist financing.

But the companies Act of 2012 requires companies to provide information on the variations of shareholders when a company is registered. Again, the Petroleum Act 2015 which regulates upstream, midstream and downstream petroleum activities, it provides power to Minister and Petroleum Upstream Regulatory Authority (PURA) to obtain information in connection with the application for license.

This provision 49 of the Act provides mandate to PURA to ask for information on the “controlling power whether direct or indirect” of a company. However, the provision can be insufficient to discover beneficial owners of the companies. Moreover, the scope of information needed could be broad and not necessarily target disclosure of beneficial ownership of the extractive companies. This provision may cause biasness and corruption since the Minister and PURA may only act based on their wishes.

Moreover, the Tanzania Extractive Industry Transparency and Accountability (TEAITA) Act of 2015, section 16 (1b) requires Tanzania Extractive Industry Transparency Initiative (TEITI) Committee to cause the Ministers responsible for Mining and Energy to publish names of the individual shareholders of respective extractive companies.

However, this section is limited to names of individual shareholders only and it does not extend to the beneficial owners. This is very limiting especially where shareholder companies are also considered legal persons. To effectively disclose beneficial ownership, the natural persons who ultimately own the shareholding companies must be known and their level of interest. Again, the disclosure of names of the individual shareholders is not enough in the BO discourse, as it might lead to provision of limited information which might not be enough to identify beneficial owners.



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## **Tanzanian government pledges for Beneficial Ownership (BO) disclosure**

On 12th May 2016, during the anti-corruption summit in London, Prime Minister of The United Republic of Tanzania Hon. Kassim Majaliwa assured stakeholders that the government will ensure that beneficial ownership information of the extractive companies is publicly available through a central register by the year 2020. The Premier further agreed to establish bilateral arrangements for information sharing among partner countries.

In preparing for beneficial ownership transparency, TEITI committee has produced an inception report, reviewing the legal and institutional framework for beneficial ownership transparency. Tanzania has also published an evaluation report from their participation in the beneficial ownership pilot.

TEITI Committee further plans to organize a series of activities to review current legal and institutional framework for beneficial ownership and build the capacity of relevant stakeholders for the implementation of beneficial ownership. In February 2016, the TEITI Committee also commissioned a study for disclosing the beneficial ownership of sixty-eight extractive companies that had participated in the reporting of the 2012/13 and 2013/14 TEITI Reports. Progress to achieve full beneficial ownership disclosure, however, is relatively minimal. There are likely to be many factors hindering full disclosure including but not limited to lack of harmonized laws related to beneficial ownership.

## **Recommendations for the government to effectively implement the BO disclosure**

In order for Tanzanian government to effectively implement the BO disclosure in extractive sector, a number of recommendations have been drawn by the stakeholders. Among others, the stakeholders have called upon the government to attain its commitment to establish the BO register by 2020. Furthermore, the stakeholders have called for amendment of the Companies Act so as to include the clear definition of BO which will demand for detail disclosure such as level of details to be disclosed and accuracy and authenticity of the data.



# THE DOWNFALL OF ACACIA MINING PLC IN TANZANIA: WILL TANZANIA GET A BETTER DEAL?

By HakiRasilimali



**T**anzanian advocates for the natural resource (mining, oil and natural gas) have commended the government of the United Republic of Tanzania for the efforts to renegotiate with Barrick Gold Corporation with the aim to secure better terms for the country. This follows cooperation framework agreement for a possible settlement initialed by the government in May 2019 and the release of ‘The Recommended Final Offer for the acquisition of Acacia Mining Plc’ by means of court-sanctioned scheme on July 19th, 2019.

## Barrick acquires

Barrick Gold Corporations recently announced that it has officially acquired shares it did not own at its subsidiary company Acacia in a court sanctioned scheme of arrangement. The announcement was made by Mark Bristow President and CEO of the company on Friday, September 13, 2019.

Following the court sanction today, Acacia Mining plc and its operations become fully part of Barrick Gold Corporation and we welcome you into our family,” read a statement in Part.

It added, “Barrick determined to acquire all the shares it did not own in a court sanctioned scheme of arrangement from the minority shareholders of Acacia as a show of confidence in the potential of the operating assets of Acacia, the geology of the country, the country itself and its people. We firmly believe that we can manage the assets better as part of the group and together with the Government of Tanzania as a 16% shareholder, than the previous London Stock Exchange listed arrangement.”

“We recognize that Acacia was previously not managed optimally, which resulted in a diminished license to operate in Tanzania, with communities, provinces and political leaders calling for Acacia mines to be closed,” Mr Bristow said in the statement.





Consequently, Barrick decided to acquire the shares that it did not own because it recognized, in the first place, its responsibility as a majority shareholder in Acacia to rectify these past issues.

During the process of negotiating the transaction, Barrick and the Government of Tanzania agreed to a framework Agreement that, among other terms, it will reflect a 50/50 split in economic benefits from the operations and formation of a new merger Tanzanian company with its headquarters in the country.

These developments are the result of desire and efforts by the government to revamp the mining sector. This is a crucial step towards the conclusion of negotiation between government and Barrick.

### **Tanzania, Barrick form new joint-venture to replace Acacia**

Tanzania government and Barrick Gold announced on Sunday October 20, 2019 that they formed 'Twiga Minerals Corporation' that will operate three mines namely Buzwagi, Bulyanhulu

and North Mara mines which were formerly under Acacia as the two sides attempt to solve the longstanding tussle.

The Minister for Foreign Affairs and East African Cooperation Prof Palamagamba Kabudi said the government will hold 16 per cent shareholding in Twiga and Barrick owns 84 per cent.

"This is a milestone in the struggle we had to ensure Tanzania benefits from the mining sector. I also want to assure shareholders of Barrick of a trusted confidence under the new partnership," he said in press briefing. Prof Kabudi said the negotiated cooperation framework agreement will be reviewed by the Attorney General (AG) for approval on one hand and Barrick Gold board on the other.

### **Concerns over Barrick's new deal with the government**

According to analysis done by HakiRasilimali and other stakeholders (Dastan Kweka, Thabit Jacob), there are some key terms in the cooperation framework agreement to be signed between the



government and Barrick that need to be considered. These are among others:



## 50/50 sharing of economic benefits

The agreement indicates the government and Barrick will have to share the economic benefits including; taxes, royalties, fees and other fiscal levies and through the government's 16% free carried interest in all distributions (including shareholder loan repayments) from the Tanzanian mine operating subsidiaries (TMCs) and a new Tanzanian management company.

### Concern

The public expectation of the 50/50 was that the government and the company will share equally profits generated by the projects rather than the calculated taxes which would have been paid to the government anyhow.

The 'Recommended Final Offer' provides for an annual review of fiscal terms in line with the provisions of the 2017 law that requires contracts to provide for periodic review, it effectively stabilizes the fiscal regime to ensure that the government cannot get more than 50% share in future.

Implicitly, this puts a ceiling on how much progressive taxes can capture a bigger share for government as profits increase.

## USD 300 million settlement payment

The agreement also includes the settlement payment of USD 300 million in consideration for the full, final and comprehensive settlement of all existing disputes between the government and the Acacia Group, including all liability to taxation and a waiver of actual or potential claims on a mutual basis.

Concern: But Different stakeholders have differing views about what the amount is for, and how it would be executed. In March 2017, both the government and Barrick's Executive Chairman Prof. John Thornton made public announcement that Barrick had agree to effect one-off payment of USD 300 million to the government as a gesture of "Good faith"

In contrary, the 'Recommended Final Offer' for the acquisition of Acacia Mining Plc suggests that the payment is in consideration for the full, final and comprehensive settlement of all existing disputes between the government and the Acacia Group, including all liability to taxation and a waiver of actual or potential claims on a mutual basis! This suggests that the USD 300 million payment will be all the government gets towards its claim of \$190 billion! Is this what Tanzanians were expecting taking into consideration significant adverse economic consequences since 2016?

## Corporate Social Responsibility:

The Framework Agreement provides that the TMCs will commit up to US\$70m in aggregate, plus up to US\$6 per ounce of gold sold in concentrate and doré from the Mines, on various specified CSR-related initiatives in Tanzania. These CSR-related payments will be treated as operating costs of the TMCs for the purposes of the 50/50 principle and shall be fully deductible for corporate income tax purposes.

In this case, the question to treat CSR as an operating cost of the TMCs of the 50/50 economic benefit share, will have adversarial effect on the general voluntary role played by mining companies in Tanzania; it will reduce the base for the 50% government share while on the other side, the government will miss the opportunity for taping on voluntary non-deductible re-investment of corporate profit.

Practically CSR programmes are meant for Community development. If taxing CSR will be the now case, how and where will these taxes be collected? Will it be at the Local Government Level as it is done with the service levy of the annual turnover or through the central government?

## **Uplifting of the ban and value addition**

Among other reasons, the ban of the concentrate was based on the fact that Tanzania wants to promote value addition in the mining sector by allowing investors to construct refineries for the doré and smelters for the concentrates produced.

Concern: With the Barrick Recommended Final Offer” addresses the need to amend and restate the MDAs, the zero-rating of concentrate export implicitly provides for concentrates export is in gross inconsistency with the provisions of the Tanzanian Laws and policies such as Mineral Policy of 2009, Section 9 (1) of the Natural Wealth and Resources (Permanent Sovereignty) of 2017 2017 law (The Mineral Policy of 2009 provides for the government to collaborate with private sector, regional and international organizations to strategically invest in smelting and refinery industries of its gemstones as well as metals.

This is seconded by the Section 9 (1) of the Natural Wealth and Resources (Permanent Sovereignty) of 2017 which prohibits the exporting for Raw resources to be exported for beneficiation

outside the URT) and sets strong premises for the amendments of the said law.

Similarly, no obligation to establish smelters or refineries, which is inconsistent with the 2017 law. Another inconsistency is the waiver of obligation to establish smelters or refineries. These inconsistencies are likely to widen further the law implementation gap.

## **Delisting of TMCs from the Dar es Salaam Stock Exchange (DSE)**

It is recommended by the agreement that the government needs to waive the requirement for mining companies to list in Tanzania.

Concern: This, apart from its inconsistency with the 2017 law, it will potentially deny the people of Tanzania from owning the 30% that they were entitled to through DSE listing.

### **Tax avoidance**

The ‘Recommended Final Offer’ provides for the 50/50 principle VAT, carry forward loss and shareholder loan balances will be confirmed and agreed in advance, as will the taxes, royalties, duties, fees and levies payable by the TMCs;

**Concern:** How genuine are the carry forward losses? If practices (allowing carry forward losses) will continue to be entertained by the government, we will continue to cast shadows of doubt about the companies’ estimations of the time needed for their projects to start making profits.

According to analysis done by HakiRasilimali and other stakeholders (Dastan Kweka, Thabit Jacob), there are some key terms in the cooperation framework agreement to be signed between the government and Barrick that need to be considered. These are among others:

# REGIONAL PROJECTS AND THEIR IMPACT IN MEMBER STATES' ECONOMY

By HakiRasilimali



**T**he 2018 Extractive Conference (Jukwaa la Uzinduaaji) paved the way for discussing the regional projects and socio-economic impacts in the extractive sector. The debate focused on the geo-politics of oil and gas in the East Africa Community (EAC). Specifically, how these resources shape the nature of collaboration, tensions and conflicts among the member States.

The East African countries are endowed with rich extractive resources such as oil, gas and solid minerals. The Director of the South African Watch, Dr. Kabemba stated that *“EAC is becoming a region with tensions between the regional member States. It attracts foreign investors, creating competition among those who want to invest in Africa and catch natural reserves”*.

## Regional oil and gas projects

Currently, there are EAC member States running projects that cut across borders. The States' leaders need to collaborate to optimize benefits for the regional economy and their citizens at large. However, the foreign investors are competing and lobbying to the EAC Governments to access their resources.

Large oil and gas projects among the EAC members States include: the construction of two crude oil pipelines from Lokichar to Lamu for transporting Kenya oil and gas, which covers 892 kilometers. The Hoima - Tanga crude oil pipeline, which covers 1,444 kilometers for transporting crude oil from Uganda to Tanga port for market distribution.

These developments are happening around the lap-side corridor of Kenya which aims to connect to Uganda, Ethiopia and South Sudan. For the Tanga corridor, it is expected to connect to the northern part of Tanzania and all the way up to Uganda. The coordinator of the oil and gas platform in Kenya, Mr. Wanguhu emphasized that “the lap-side corridor, when initially earmarked, targeted Ethiopia. At that time, Ethiopia had no regime and access to operate at the exception of Djibouti”.

However, Ethiopia was free to open up another southern route where they have access to the ocean. It is indeed evident that Ethiopia has potential with the Lamu route, which is essential to its geo-political position. Notwithstanding, the South Sudan was against this plan because of the market



prospects. Mr. Wanguhu stated that “South Sudan was considered as oil route out, instead of moving towards the north”. Since then, war broke out in the South Sudan and eventually, they are no longer on the discussion table.

In 2013, at his first term, the President Uhuru Kenyatta introduced the “coalition of the willing” agreement composed of Kenya, Uganda and Rwanda. In this deal, two EAC members States were sidelined, Tanzania and Burundi. The coalition aimed at strengthening economic corporation in areas of infrastructure, defense and tourism promotion. Eventually, Rwanda opted out, albeit Kenya and Uganda remained actively in the alliance.



Recently, a new political ‘coalition of the willing’ is rolling out among Tanzania, Uganda and Rwanda. *“We opted for the route transiting to Tanzania during the construction of our railway line because the Kenyan route would be expensive and time consuming”* stated former Rwanda’s Minister of Finance and Economic Planning, Claver Gatete (2016).

With the operational of Tanga route, it was proposed to be the main transport corridor for Uganda, Rwanda, Burundi and the Democratic Republic of Congo (DRC). This is an opposite of the initial southern boarder route. Those political shifts encourage the competition between the two transport corridors i.e. Tanga corridor and Kenya lap-side corridor.

It is essential to assess what incentives would be for both countries and what factors would nurture

their competition. What if the Tanga route turns to be less costly for imports to designated countries? What measures and options would be for Kenya when its imports are falling due to the cost factor?

Kenyan infrastructure is well developed. Notably, with the existing standard gauge railway which would create an incentive and attract importers from Uganda, Rwanda and DRC. Though the competition between Kenya and Tanzania is far too little. Do multinationals have a role to play in this competition? Actually yes, most companies engaged in the extractives operate in more than one country in the EAC. For instance, the Tullow Oil operates both in Kenya and Uganda, whereas TOTAL Oil operates in Kenya, Uganda and Tanzania.

## Economic Cooperation

A representative from the Tanzania Petroleum Development Corporation (TPDC), Mr. Msovu stated that “Tanzania have discovered 57.25 trillion cubic feet worth of oil and gas reserves in the offshore”. It has attracted giants for investing in the industry. Their presence influences the Government’s decisions and actions for the development of the industry.

Ensuing consultative sessions between Governments and companies, TOTAL Oil was granted to construct the East African Crude Oil Pipeline (EACOP). The pipeline connects Uganda to Tanzania, respectively covering 296 kilometers, and more than 1000 kilometers. The ambition is to make sure that crude oil finds a route to regional, continental and perhaps international markets.

TOTAL has influenced the decision to construct the crude oil pipeline through the Tanzania route. This decision was justified due to the concern of security issues in northern Kenya. TOTAL is also a major oil investor in the South Sudan. The company explores oil through the Sudan route, the Abakan Garden region in Uganda, and the DRC. The company seeks to compromise with the Tanzanian Government to allow exploration of oil

in areas such as Lake Eyasi, Lukene and Lake Tanganyika.

These places may contain oil. TOTAL Oil has strong influence in the exploitation of crude oil in several of the EAC countries.

These regional projects have turned into a leading topic in geo-politics. An opportunity for the EAC Governments to identify benefits these projects can offer to their economies and their citizens.

In 2017, Tanzania and Uganda signed the Inter-Governmental agreement which provides the legal basis for the implementation of EACOP project. The two countries agreed on several issues such as registration of local companies, security of pipeline, environmental obligations, construction and operation of the project. Plenty of opportunities are anticipated from this project which would strengthen the economic ties between the two countries.

Such project would facilitate local economic development; job creation; foster competitions among the businesses; and ultimately reduced products price within the regions. However, competition is considered to be main challenge between EAC members States. The worst impacts of competition are triggered by the multinationals. If not handled properly, it could end up disrupting economic integration. Representative of the national oil company (TPDC), emphasized on their intention to maximize available opportunities and make necessary investments in collaboration with Kenya and Uganda; to harmonize business standards towards the sustainability and stability of the region.

## **Regional Integration and legal frameworks**

Advocate. Mpelumbe, expressed the need to understand critical issues in line with the EACOP project. These issues relate to the East African integration process, especially economic integration

established by the economic project of oil and gas.

“A people centered community” is the fundamental principle of the East African Community (EAC) treaty. From a legal perspective, this principle implies that any decision made by the community must have the interest of the people at heart. Tanzania and Uganda have a common treaty that

Under the international law, there are requirements to be complied with. For instance, the EACOP agreement engaged three oil and gas multinationals companies: TOTAL, Tullow, and China National Cooperation. All these companies need to comply with the national regulations and laws, national environmental legal frameworks and resettlement action plan among others.

The communities located at the project area will certainly be affected economically, environmentally and socially due to the scope of the concerned area. Therefore, relocation would call for the community resettlement action plan as well as compensation plans. Yet, the precedence set on issues related to relocation and compensation plans leads to more questions than answers.

One may ask whether there are strategies to reduce risk and mitigate environmental impacts that should be expected from the construction and the use of this pipeline. These are some of the most critical issues that a region should consider. The Governments need to enforce the legal frameworks. Their role is also to ensure international best practices on human rights and business etiquettes are adequately observed by the multinationals.

These positive developments in extractives require the implementation of Local Content policies. EAC members States must ensure Local Content provides the right technical skills and builds local expertise. The States must protect the welfare of their citizens by equitable distribution of wealth, either by taxations or significant engagement in the supply chain

# A NEED TO EQUIP THE SMALL AND MEDIUM ENTERPRISES (SMEs) WITH LOCAL CONTENT KNOWLEDGE

By HakiRasilimali

**L**ack of knowledge on Local Content among the majority of Tanzanian population particularly the SMEs has been pronounced as key factor that affects their participation in the major projects associated with oil, gas and mining sectors. Not only that the aforementioned challenge affects the local participation in the major projects, but also it denies the government to earn sufficient revenues. Again, this also attributes to the extractive sector's failure to contribute to Tanzania's economic transformation.

Although Tanzania has taken many positive steps in directing and overseeing resource extraction. In October 2015, the government established the National Economic Empowerment Council (NEEC), with a mandate to coordinate the government's local content policy. NEEC has been entitled to take the lead on local content issues and has appointed focal points within each ministry and parastatal to coordinate local content promotion. The Non-governmental organizations (NGOs) and private sector interest groups are also active in promoting Local Content agenda in Tanzania through Forums.

## **New legislation on natural resource management**

In early July 2017, the Parliament of Tanzania, under a certificate of urgency, passed three new acts on natural resource management namely (1) The Natural Wealth and Resources Contracts (Review and Re-negotiation of Unconscionable Terms) Act (the Unconscionable Terms Act); (2) the Natural Wealth and Resources (Permanent Sovereignty) Act; and (3) the Written Laws (Miscellaneous Amendments) Act (Miscellaneous Amendments Act).

These acts will implement a host of changes to the legal regime underpinning the management of Tanzania's natural resources, both in the mining industry and the oil and gas sector. The new legislation is likely to have a far-reaching impact on contractual arrangements in the extractive sectors as the companies ought to satisfy further provisions on local content, corporate social responsibility (CSR).



## Local Content Regulations

Tanzania in January 2018 introduced Local Content Regulations into its legal and regulatory frameworks with a view to capture and enhance job creation, support and expand the domestic private sector, accelerate technology transfer and improve the quality of local workforce.

### Stakeholders' call for Local Content awareness creation

During the Extractive Industries Stakeholders Forum on Local Content Sensitization (Extractive Baraza) held in Shinyanga and Mtwara Regions on July and August 2019 respectively, organized by HakiRasilimali and the National Economic Empowerment Council (NEEC), the stakeholders, among other things, advised the government to create public awareness of local content agenda in order to enable the population to benefit from the projects like the East African Crude Oil Pipeline (EACOP) project whose implementation is on the verge of beginning.

The crude oil pipeline will pass through eight regions of Tanzania that include 28 districts, 126 villages and 232 wards. During the construction phase, the \$3.5 billion EACOP will create employment benefits in the form of thousands of jobs throughout the pipeline route, among other benefits. The Uganda National Oil Company (UNOC), the Tanzania Petroleum Development Corporation (TPDC) and the three oil companies CNOOC, TOTAL and TULLOW PLC will be the shareholders of the 1, 443 km EACOP project.

In order to raise public awareness on local content, the stakeholders further urged the relevant government authorities to enhance interventions particularly in the areas of training and skills development, the development of the SMEs, and the monitoring and enforcement of the local content regulations. NEEC's Executive secretary Ms Beng'i Issa reiterated that the Council was dedicated to closely cooperate with the private sector, CSOs in

coordinating outreach programmes with a view to promoting local content agenda in Tanzania's extractive sector.

“*The government is determined to raise public awareness on local content and ensure the local individuals and firms are empowered to grab economic opportunities in the sector.*”

- NEEC's Executive secretary.

“*The EACOP project will offer a number of economic opportunities for both Ugandan and Tanzanian people, therefore, it is important to prepare our people.*”

- Mr Donald Kasongi  
Chairman of Board of  
HakiRasilimali

According to available data, Tanzania has so far managed to register a total of 255 firms that are earmarked for various tenders related to the crude oil pipeline.

# LOCAL GOVERNMENT LEADERS UNAWARE OF EXTRACTIVES POLICIES AND REGULATIONS.

By Action For Democracy and Local Government



**M**ajority of the local government leaders are not aware of extractive industry contracts signed between the investors and

government. Hence it is difficult for them to know about the rights of communities they represent, how the corporate social responsibility (CSR) works, how the local content is supposed to be implemented and how environmental matters are handled at the village level.

This is due to the fact that the central government leaders are the ones who take part in matters relate to extractive industry, including understanding on regulations, policies of the extractive sector, rights of communities members especially women and girls yet they are the first institution to discuss grievances and provide guidance and advice to these communities.

It was on this ground that prompted Actions for Democracy and Local Governance (ADLG) to embark on a strategy to address challenges facing the mining communities in Geita, Kahama, Kishapu and Msalala districts. ADLG as one of the 26 members of Tanzania Civil Society Consortium on Election Observation (TACCEO) implements the strategy in partnership with the local government and community institutions.

Currently, ADLG's intervention has had visible impact on the local government leaders as they are increasingly becoming aware about their positions as decision makers, capacity building must continue to make them more efficient and confident as well as sustainable.

Again, the intervention has had visible impact on the voices of communities and women as the majority of the community members are much more aware and better informed on their position to negotiate for their demands of basic services. ADLG have capitalized on self-help groups formed by women themselves and the established women's leadership.

Moreover, ADLG in partnering with Tanganyika Law Society (TLS) is implementing another project "Supporting Inclusive Resource Development in East Africa" (SIRD) in Geita region aimed at training the local leaders on extractives. ADLG also contemplates to organize and mobilize community members, local leaders, women to access information and dialogues about women on extractives.

This activity will contribute into genders sensitive mining consultations and ensure that local governments understands the concerns and needs of women and girls. Also, it will raise self-esteem and self-confidence amongst rural women in mining areas of Geita region.

There is general consensus that women's participation in public decision-making is minimal compared to that of men and that women experience more the negative impacts of mining activities. Ultimately, ADLG's interest is to seek and contribute to functional and competent local government institutions in the mining areas of Tanzania.

# MERERANI WALL: TANZANITE PRODUCTION, GOVERNMENT REVENUE AND COMMUNITY WELL-BEING

By Lucy Linus



Tanzania has a conducive and prospective geological environment with abundant mineral potential including the world's unique Tanzanite gemstone. Despite the vast mineral reserves in Tanzania, the contribution of this sector to the national economy and community development does not seem to be meeting citizens' expectations compared to other sectors of the economy.

Poor revenue collections, tax evasion and massive smuggling of the gemstones through neighboring countries are the major reasons why Tanzania is not obtaining optimal benefits from this mineral wealth.

The mining sector has been perpetually experiencing reforms aimed at ensuring that country's natural resources benefit a significant number of Tanzanians through government revenue collection, citizens' participation in the mining activities and improved community livelihood.

By virtue of Article 27 of the constitution of the United Republic of Tanzania and The Natural Wealth and Resources (Permanent Sovereignty) Act of 2017, the protection of natural wealth and resources in Tanzania belongs to the people and the Government, of which the control is entrusted to the President.

With this capacity, in order to protect the country's natural resource His Excellency the President of the United Republic of Tanzania Dr. John P. Magufuli in September 2018 ordered the army to construct a wall around Tanzanite mining areas (UKUTA) from Block A to D.

Thus, on April 2018, he launched 24 km wall surrounding Mirerani Tanzanite mining area. Further to this, the government formulated "The Mining (Mirerani Controlled area) Regulation 2019" with the purpose of ensuring high security, effective management of the mining activities and environmental issues in/and around the wall.



On 30th May 2019 the government spokesperson Dr. Hassan Abbas published summary of Tanzanite production and its revenue collected before and after construction of the wall. Those records provided cover three consecutive years – 2016 to 2018 and the first five months of 2019.

These records show increasing trend and contribution of Mining sector, particularly Tanzanite under Artisanal and Small-Scale Mining (ASM). The government action of making these data available for public consumption shows transparency and the sense of public ownership in the respective sector. However, the analysis of this data provided brings to attention number of aspects that are not clear or might need further clarifications, including but not limited to Tanzanite production, revenue collected by the government and Community Livelihood before and after the construction of the wall.

The available data reveals that the Tanzanite production records from the year 2017 to 2018 2018 has tremendously increased from 147.7 to 781.2kg. This increase is equivalent to more than 400 per cent. This was also reflected in the government revenue collected in the same period; that is 166 Million to 1.43 Billion respectively and the increase is equivalent to more than 750 per cent.

However, in comparison production and revenue records for the period of 2018/July – 2019, May as it stands bring ambiguity as it shows an overlap of the data on the production and government revenue collected.

There are no specific revenue records for the first five months of the year 2019. With this presentation, the validity and objectivity of these reports may be questionable including the upward trajectory of the production and revenues. Therefore, the curiosity transpires from both

Tanzanite production records and records on government revenue collected between the year 2018 and July 2018 to May 2019 which shows the conflicting trend i.e. the production data demonstrate an increasing trend contrary to revenue collected.

Patterns and complete data are important to establish their meaning. For example, the available data shows there is large increase in revenue per kg produced for in 2017 before the construction of the wall with lowest produced total compare to 2018 which has small comparison in revenue collected to its production levels.

### **Is the wall a factor for increase in production and government revenue?**

The data provided portray that the wall seems to be the main or only factor for positive trend in tanzanite production and revenue collected. However, in the mining sector, production increase might be highly instigated by factors such as technology adopted in production, new exploration and mineral discovery, while increase in government revenue can instigated by factors such as the market price, weight, value of the Tanzanite carat and changes on country's Tax Regime, of which the reported data are silent on neither of these.

From these records the construction of the wall as a factor, has no direct link to the actual tanzanite production by the ASM as reported rather, it has significantly contributed to improvement of the production record keeping by the government. The wall has greatly facilitated record keeping and control on Tanzanite produced by the ASM from production to revenue collection points unlike previous years

After the construction of the wall government officials through Tanzania Mineral Commission provides close control and regular produced

mineral audits, therefore the government has been able to collect data on the tanzanite produced and tax appropriately.

Close scrutinization of records provided, reveals a divergent trend for Tanzanite production and government revenue collected records for year 2016 and 2018. Tanzanite produced in 2016 declined from 164.6 Kg to 147.7 kg in 2017 contrary to the government revenue collected in the same period. Therefore, in this case the wall is not the factor for neither decreasing trend on Tanzanite production nor increasing on government revenue collected. It is the same case for the conflicting/divergent trend between the year 2018 and from July 2018 to May 2019.

### **What about surrounding Community livelihood improvement?**

The data presented by the government show how the wall has greatly helped accounting for both tanzanite produced and government revenue collected. ASM sector contribute highly in the social economic activities in the surrounding communities. It is important for the data to show the impact of these production increase to the community livelihood.

Mirerani wall –the wall has isolated the mining area from surrounding communities thus, difficult to fathom communities benefiting as a result of the wall. It is important for government to share records that shows direct impact of the celebrated increase production and revenue. Instead questions remain on how did the surrounding communities' benefit from the wall installation and reported increase in production and revenue? What is the state of Service delivery at Mirerani after the construction of the wall?

### **Immediate beneficiaries**

Though there are some positives impacts on the wall such as recognition of workers in mineral

### **What about surrounding Community livelihood improvement?**

It is important that for any business venture to succeed, it needs to be positively received and accepted by community impacted by its presence. The wall construction isolated mining from surrounding communities which restricted economic activities.

Regulation requires one to not approach less than 200m distance from the wall. Lack of interactions with mining have impact on community spending power which are accompanied by small business also women vendors have limited direct interactions with miners as before.

Business are now enclosed within mining area from village area which weakens business at the villages and lead to limited availability of goods and service for communities surrounding the wall. Regulation change to facilitate these interactions is important and key to facilitate economic activities.

# GENDER ISSUES IN THE EXTRACTIVE SECTOR: THE MISSING DISCUSSION

By Business and Human Rights Tanzania

**E**xtractive resources have serious consequences on socio-economic, environmental and legal issues, whose impact varies in both women and men. Many studies have revealed that the extractives industries have different impacts upon men and women, in a variety of ways.

Furthermore, the full social benefit of resources development can only be realized if women and girls are able to participate as fully as males in all aspects of resources activity and consequent economic development and social progress. In recognizing that women's participation and gender equity is a precondition for achieving the best development outcomes, some extractives industries companies have committed to integrating gender equality, inclusion, and women's economic empowerment into aspects of their operations, but others have not.

## Gender issues in Tanzania

Tanzania has made notable progress on gender equality and women's empowerment (GEWE). The Vision 2025 for Tanzania Mainland stipulates equality between men and women as laid down in the Constitution and recognizes gender equality and the empowerment of women in all socio-economic and political relations and cultures as one of the strategies to attain the vision.

Furthermore, Tanzania's Five-Year Development Plan (FYDP) emphasizes women's economic empowerment as a means of bringing about equality in economic empowerment.

In addition, in 2010 the governments adopted the SADC Protocol on Gender and Development which calls for a 50/50 representation in all decision-making organs. In response to Violence against Women and Girls (VAWG) the government adopted GBV Policy and Management

Guidelines in September 2011 and in November 2011 set up a stakeholder owned instrument to guide a multi-sectoral prevention and response to VAWG, with a plan and National Multi-Sectoral Committee to end Violence against Women and Girls.

Despite the existence of proper legal frameworks, in Tanzania men appear to be the sole beneficiary whereas, women benefit less in the extractive operations. Men benefit from employment and property compensation. While the consequences such as family or social disruption are carried by women.

## Women's participation in the extractives

In terms of international data on women's participation in the extractives industries, according to the World Bank, the data shows that there is a very low proportion (5–10 per cent) of female employees in extractives industries companies across the world.

In Tanzania, according to a Field research Report 'Human Rights in Tanzania's Extractive Sector' conducted by Institute for Human Rights and Business (IHRB) at the Mererani Tanzanite Mines in Simanjiro district, Manyara region, concluded that the percentage of women participating in the industry may only be slightly lower than the national average indicated above. Respondents estimate that women constitute 18% to 20% of the industry, many of which work as service providers.

The report further states that reasons for women under representation in the sector include; women are the primary caregivers of the family and as a result mostly remain home to take care of children and other family properties such as livestock, the house, and crops.



Moreover, unlike men, women are less likely to obtain the necessary bank loans to secure sufficient capital to engage in the extractive sector. This is because women do not own or have access to the necessary collateral, i.e. land or the family home, needed to secure the loans.

### Gender-based violence and sex-work

Much of the work available for women in mining areas involves sexual aspects, but not all of it. Further, a growing list of scholars is demonstrating that the sex work associated with mining is often a preferential choice for women workers, rather than a case of victimization, a study shows.

The study titled *'The role of gender in the extractives industries'* conducted by the United Nations University World Institute for Development Economics Research further states that women in Tanzanian mining settlements generally do not perceive or portray themselves as victims of sexual oppression.

### Government acknowledges gender equality in the extractives

During Tanzania Extractive Industry Conference (TzEIC) - Jukwaa La Uziduaji 2018 held from October 24th-26th, in Dodoma as part

of the broader CSO week that slated from October 22-26, the former Minister of Minerals, Hon. Angellah Kairuki said, "...Apart from all, gender equality and special groups treatment efforts should be made making sure there are fully participation chances in Extractive Industry."

### Stakeholders' interventions to promote women participation in the sector

Tanyanyika Law Society (TLS) in collaboration with other Civil Society Organizations (CSOs) work together to determine areas or particular policy/regulation(s) or legislation that should be pursued to enhance gender considerations in the legal framework governing the extractive industry.

The law review aims at identifying some cultural issues which prevent women from benefiting from the extractive industry.

Women in extractive sector needs to be empowered, recognized by laws and given security for strengthening their initiatives. The Ministry of Minerals and respective agencies should be more inclusive towards women in extractives policy formulations and reforms.



# EXTRACTIVE SECTOR WORKERS GET A MASSIVE BOOST

By NUMET

The National Union of Mine and Energy Workers of Tanzania (NUMET) under its Constitution has embarked on a program to empower future leaders and stakeholders of Trade Union Movement in Tanzania on a voluntary basis. NUMET is a Trade Union which curbs matters involving workers in the mining sectors specifically, ensuring that their basic rights are being protected and preserved. It was established in 2011 and officially registered in 2013. The NUMET headquarters are located at Capri Point, Nyamagana at Mwanza in Tanzania.

The vision of this organization is to unite workers from different mining and energy sectors by protecting and preserving their rights and interests so as to improve the members' living standards as well as its stakeholders.

Under its new program, to begin with, NUMET has so far recruited two young lawyers namely Edith Joshua Kitatung'wa and Anitha Nyangahondi from St. Augustine University of Tanzania. For the few weeks that NUMET has worked with these young lawyers, it is optimistic that the lawyers will have great contribution to the Union and welfare of the workers in the extractive Industry.

“The aim is to generate future union leaders who are competent in trade union affairs. The leaders who can also be considered for employment in the extractive sector” Nicomedes Kajungu – NUMET general secretary.

## Legal assistance in the extractive sector

In terms of international data on women's participation in the extractives industries, according to the World Bank, the data shows that

there is a very low proportion (5–10 per cent) of female employees in extractives industries companies across the world.

NUMET also offers legal assistance to workers in the mining and energy sector in Tanzania by ensuring that a greater percent of the workers' cases are solved and mostly won for the benefit of its members. From the month of June to August 2019, NUMET managed to assist its members to win their cases and ensured that the workers secured their rights in issues such as unfair contract termination.

Precisely for this year, NUMET assisted its member Paul Mathias Mpombeye to secure a total amount of Tsh32, 000, 000 as salary arrears for 32 months period from his former employer Williamson Diamond Ltd (Mwadui).

Again, NUMET in August this year also assisted its member Simon Ngemela and other four members to secure a total of Tsh48, 000, 000 after the High Court of Tanzania ordered the Unique Consultancy Services Company Ltd (UCC) to pay the employees as compensations for unfair contract termination. Thus, NUMET through legal desk has managed to win five out of 25 cases which were heard from July to August 2019 seeing a total of Tsh489, 226, 241 paid to its members under the court order.

This concludes that, Trade Unions at the working environment are of utmost importance, because, if it was not for NUMET organized team of lawyers, there is no way these employees were going to enjoy their rights given the fact that handling cases in court takes a long time and costly.



## A strategy to recruitment of new members

NUMET has also embarked on a strategy to recruit new members who will take part in the organization's strength and growth journey. NUMET has so far succeeded to recruit new members from different mining and energy sectors in Tanzania in the period from July to August.

In the mentioned period, NUMET has managed to recruit some 65 members from EFFCO a subcontractor for TANCOAL Energy, located at Ruanda Village, Mbinga District, in Ruvuma Region. Moreover, other 64 members from a

state-owned Mining Company-Stamigold biharamulo mine also benefited.

As far as NUMET is concerned these are some of the achievements that the organization has succeeded in protecting and preserving the rights and welfare of its members who are workers of different mining and energy projects in Tanzania.





# ENHANCING ACCESS TO JUSTICE, RULE OF LAW AND AWARENESS IN EXTRACTIVE SECTOR.

By Tanganyika Law Society (TLS)

**I**n March 2019, Tanganyika Law Society (TLS) launched a project titled “Supporting Inclusive Resource Development in East Africa” (SIRD) that aimed at enhancing access to justice, rule of law and awareness rising on matters of law. The project is funded by the Canadian Bar Association.

TLS is the Bar Association of Tanzania mainland established by the Tanganyika Law Society Act Cap 307. TLS was established to among other objectives; support the learning and practice of lawyers and assist the court, government and the public in all matters relating to the law.

TLS inaugurated training that brought together legal experts drawn from government, civil society organizations, the private sector and other extractive industry policy making organs in Tanzania. The objective of the training was to equip legal experts with knowledge and skills in natural resource management to support inclusive and sustainable resource development in Tanzania.

“Upon the completion of the training, TLS intends to utilize the trained legal professionals to achieve SIRD’s key strategic objective of advocating for law reform in the extractives industry in Tanzania so that to promote for the transparency, gender sensitivity and accountability in the extractive industry.” President Dr. Rugemeleza Nshala

The project also focused on creating network of individuals that will be integral focal points in advocacy and law reform initiatives in Tanzania.

## The first training session

The first session of the training took place on March 8-9 this year in Dar es Salaam. It focused on legal, policy and regulatory frameworks in the extractive sector governance in Tanzania. It also examined different types of contracts used in



*Picture 1: SIRD TLS training session progress in Dar es Salaam- Tanzania*

## The second training session

The second session of the training which took place on March 18-19 had focused on community engagement and development. The session focused on how to go about engaging community members when undertaking community consultation and development. While the third session of the training examined the relationship between land rights and land acquisition, as well as the resulting impacts on land rights and associated concepts of appropriate compensation.



*Picture 2: President of Tanganyika Law Society with participants of TLS/SIRD training session progress in Dar es Salaam- Tanzania*

Moreover, the fourth session of the training examined the legal and policy frameworks governing environmental management and protection from the national, regional and international perspectives. This session took place on June 18- 19

## Comprehensive Review of Extractive Industry Laws

A key focus area of the SIRD is policy and legal reform to reflect principles of transparency, good governance and accountability of the extractive industry sector in Tanzania. Achievement of this objective requires a critical review of the existing legal frameworks governing the sector. This activity has successfully been undertaken in Tanzania in which the SIRD project is being implemented with the completion of extractive industry law reviews.

The law review identified some cultural issues which prevent women from benefiting from the extractive industry. It also noted that Tanzania is a signatory to a number of international, continental and regional conventions and also constitutional protections which ought to govern the extractive industry.

Despite the existence of proper legal frameworks, the reviews identified areas where legal reform, be it in form of legislative, regulatory or policy changes is necessary for communities and women in particular to benefit.

The report has been revised after the validation meeting, and TLS in collaboration with other civil society organizations will work together to determine areas or particular policy/regulation(s) or legislation that should be pursued to enhance gender mainstreaming in the legal framework that governing the extractive industry. In this respect, TLS will also utilize the advocates who have been trained in policy development to advance these project objectives.



# SCORES BENEFIT FROM CAPACITY BUILDING TRAINING IN THE EXTRACTIVE SECTOR

By HakiMadini



HakiMadini is currently working with other organizations from the East African Region which include KeNRA (Natural Resources Alliance of Kenya), Africa Freedom of Information Centre “AFIC” based in Uganda and The East Africa Law Society on Popularizing Africa Mining Vision (AMV) for national level policy engagement.

HakiMadini as well, is a CSO’s convener for small-scale mining sector within Africa Mining Vision (AMV) consultation framework. This project seeks to build capacity of Civil Society on understanding, articulating, and popularizing the Africa Mining Vision (AMV) core values and principles. It will also contribute to a better organized and politically informed CSO engaged with the East Africa Community Mining policy structures.

The CSOs including community-based organizations (CBOs) can use the AMV and Regional Mining Law as advocacy vehicles to ensure broad-based benefit and sustainable development. The East Africa Community (EAC) member states should ideally seek to align mining policies, laws, and guidelines to the AMV, rather than introduce partial legal-policy reforms, which potentially undermine the spirit of the Vision.

## Combating Tuberculosis (TB) in mining sector

Furthermore, HakiMadini is implementing a second phase project on combating TB in mining sector (TIMS) in Tarime district of Mara region. This is one and a half years project from July 2019 – December 2020 funded by Global Fund through Africa Comprehensive HIV & AIDS Partnership whose headquarters are in Gaborone Botswana.

Since 2017 to present HakiMadini under Women Land Tenure System (WOLTS) project it has been conducting several capacity building training sessions to 60 champions from the pastoral and mining communities of Naisinyai in Simanjiro, and Mundarara in Longido. The project is run in both Tanzania and Mongolia under the coordination of Mokoro UK. This project has a broad range of programmes including research, land rights and gender-based violence. The training focuses on legal issues on mining, including licensing of small and large scale mining, brokers and dealers, investment, land and women’s rights.

HakiMadini is a Tanzanian not for profit Organization engaged in mining sector policy advocacy and community development. HakiMadini supports communities impacted by mining and small-scale mining sub sector to receive recognition and earn rightful space in the mining sector development. Over the last decade, HakiMadini has fought for community inclusion in mineral sector decision making, protection of community land, civic education and protection of human rights in Tanzania.



# MEDIA ENGAGEMENT IS CRUCIAL FOR EXTRACTIVE SECTOR TRANSFORMATION.

By HakiRasilimali

In order to keep the citizens in a common understanding of the extractive sector, the Civil Society Organizations (CSOs) in collaboration with the Media outlets need to work together to make sure the sector's issues are covered in a wider scope.

## The role of the media

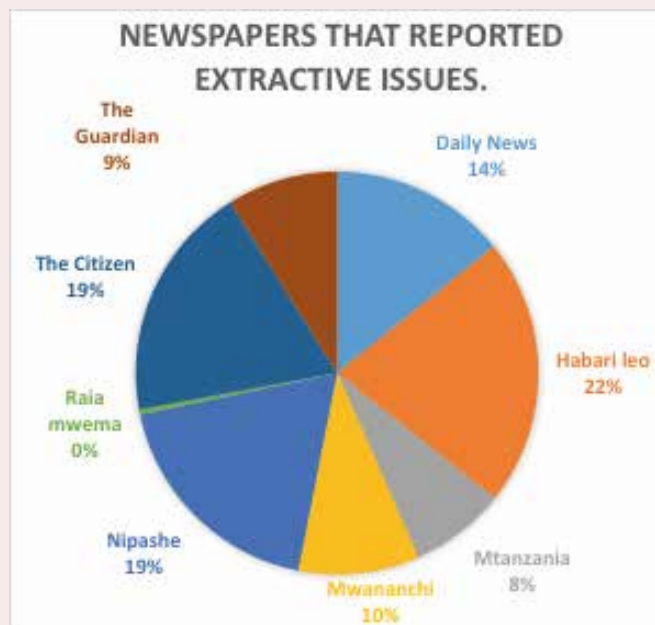
Two categories of media namely print and electronic exist in Tanzania. Both have played a key role in propelling development through gathering and disseminating information and knowledge. Today the role of the Tanzania media like the rest of the world remains the same: to inform, to educate, to entertain and to mobilize. In understanding the role of media as highlighted above, HakiRasilimali has strategically been engaging the Media outlets (mainstream and social media) as a way to reach a wider audience for enhancing extractive sector discussions.

“Of course, it is important to engage media practitioners in the extractive sector discussions as it will enable us to be familiar with the issues related to the sector.” Said John Namkwahe – Freelancer journalist for Mwananchi Communications Limited

## Content analysis

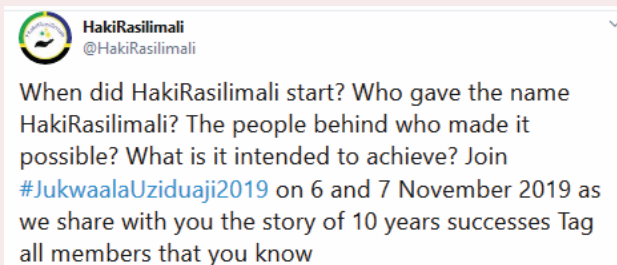
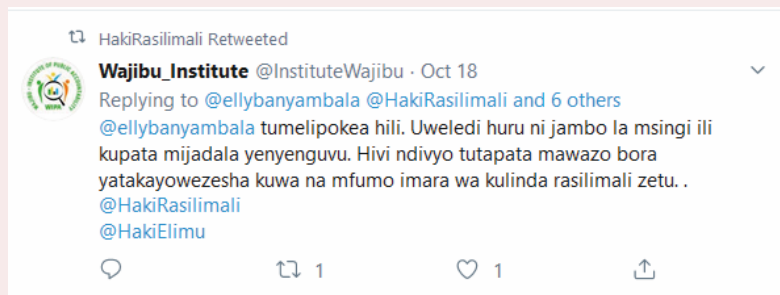
In 2019, HakiRasilimali conducted a thorough analysis by monitoring eight different local newspapers that had been reporting extractive sector issues from October 2018 to September 2019. It was observed that 53 percent of the reported issues were mainly related to Governance such as government's directives and initiatives aimed at

addressing challenges facing the extractive sector. The analysis results further show that a State-owned Kiswahili newspaper- 'Habari leo' was the leading newspaper that reported a number of extractive sector issues scoring 22%, followed by a private English newspaper-The Citizen (19 %) and Nipashe (19%). Other newspapers include; Daily news, Mwananchi, The Guardian and Mtanzania with 14%; 10%; 9% and 8% respectively.



A sum of nine extractive sector topics made top headlines in the local newspapers of which, according to the analysis, the Governance accounted for 38.9%, the Revenue (16.6%), Policy (13.8%) and Contract Transparency (2%) during the selected period of time.

Apart from the above extractive sector issues, the local newspapers also reported other issues such as Accountability, Discovery, Cross Cutting issues, Geopolitics and Local Content have been reported as well.





PICTORIAL EVENTS



Hon. Angela Kairuki (Minister for Minerals) in a group Photo with Hon. Members of Parliament during opening Ceremonies of Jukwaa la UzinduaJI 2018



High Commissioner of Canada to Tanzania, Pamela O'Donnell



PWP GLOBAL SUMMIT

SENEGAL February 2019



East Africa Delegation from Tanzania, Kenya and Uganda during the PWP Global Summit in Senegal.



POLICY WEEK Engagement on National Budget Processes



Hon. John Heche

Hon. Mafuba Nachema

Hon. Hussein Barde



EITI GLOBAL CONFERENCE PARIS, FRANCE



Tanzania Delegation to the EITI Global meeting headed by Hon. Dotin Bileko (Minister for minerals), Representatives from TEITI, Haki Rasimuli, NRCI and TCM.



4th SADC Industrialisation Week



Haki Rasimuli in collaboration with Wajibu Institute, Botswana Watch and ZELA organized workshop during the 4th SADC Meeting, August 2019





ANNUAL GENERAL MEETING 8 May 2019



EXTRACTIVE BARAZA - SHINYANGA JULY 2019







## EXTRACTIVE BARAZA - MTWARA



Mkuu wa Mkoa Mtwara Mhe. Gelasius Byakanwa





