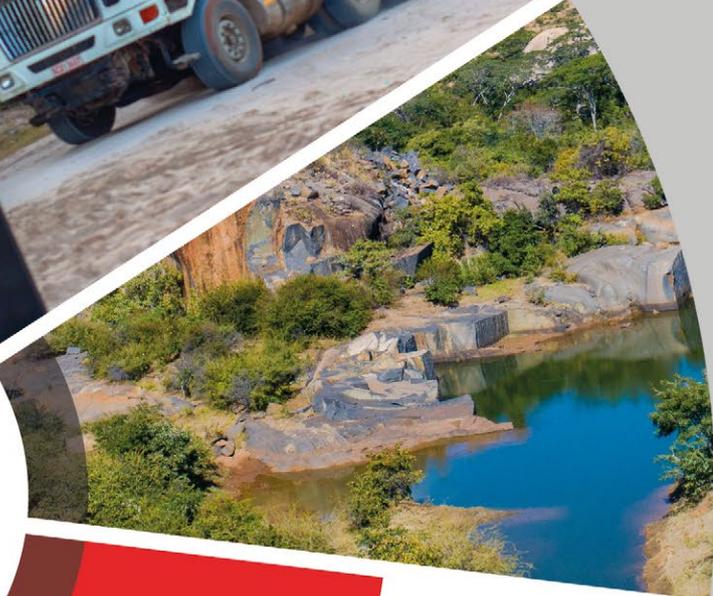


REPORT ON THE STATE OF BUSINESS AND HUMAN RIGHTS IN THE MINING SECTOR IN ZIMBABWE 2021

A Focus on Black Granite Mining
in Mutoko



act:onaid

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EXECUTIVE SUMMARY

Zimbabwe's mining sector has long been characterised by deep-seated flaws and challenges that have an adverse impact on human rights. The extraction of minerals such as gold, diamonds, coal and precious stones has wreaked havoc to the human rights of host communities, impacting on their long-term economic sustainability, environmental, socio-economic and cultural rights. For Mashonaland East, several mining companies are extracting natural stones in form of black granite and quarry stones and the form and manner of extraction has led to several issues linked with human rights such as forced evictions, forcible grabbing of land and uncompensated relocations, degraded environment and labour rights violations, among other violations.

This research unravelled the socio-economic and political context of granite mining, and illustrated the interrelationships and networks between the key state and non-state institutions in the sector. The patterns of human rights violations common in granite mining include violation of land rights, environmental degradation, forcible relocations and evictions, failure to comply with health and safety standards for employees, exposure of communities and workers to pollution, and pollution of the living environment (including pollution of air, soil, water and noise pollution). State institutions continue to execute their regulatory mandate, but appear to be hamstrung by the national policy call to facilitate and embrace investment, and not repel investors.

The major findings of the research were as follows:

Throughout 2020 and 2021, Zimbabwe's socio-economic and political situation remained a key contributory factor in the violation of human rights in the mining sector in Zimbabwe. The effects of COVID-19 cannot also be understated as it was a catalyst for two above-mentioned key contributors. For the granite industry, the economic crises during this period meant low wages, unfair labour practises, poor employment conditions and other abuses of employees at the workplace.

In the same period, communities continued to face massive human rights abuses and there are no redress or protest mechanisms from formal or informal dispute resolution institutions. The violations include loss of land, forcible evictions, land degradation, noise and air pollution, siltation of rivers, disposal of granite rubble on land meant for subsistence agriculture and poor compensation values paid to forcibly relocated families.

Without doubt, granite mining companies remained the greatest perpetrators of human rights violations between 2020 and 2021. Complicit in the violations are regulatory and administrative bodies that issue licences and monitor compliance. These institutions include environmental regulatory bodies; labour inspectorate agencies; road infrastructural authorities; rural land administration authorities and mining agencies. As a bunch, these institutions have failed to safeguard and protect the human rights of communities by failing in their legal mandate of enforcing compliance, undertaking effective monitoring and inspections, ordering punitive penalties or recommending criminal punishment of granite mining companies.

There are no adequate mechanisms in granite mining law to protect the human rights of communities affected by granite mining activities. No amendments to the archaic and outdated primary mining legislation were done between 2020 and 2021. Further, no new legislation was passed in this period that enhanced the rights of communities or imposed human rights obligations to granite mining companies.

Communities remain in the dark concerning UN Guiding Principles on Business and Human Rights, or OECD Guidelines on Multinational Enterprises.

Based on these findings, the key recommendations are provided and illustrated in Table Four at the end of this research.



2. CONTEXT, PURPOSE AND OBJECTIVES

2.1 Context

In October 2021, ActionAid Zimbabwe commissioned research into the human rights impacts of granite mining in Mutoko district. The research was conducted as part of a deliverable under the third phase of the Fair, Green and Global Project (FGG III) Project which is managed by ActionAid Zimbabwe (AAZ), in collaboration with its implementing partner the Zimbabwe Environmental Law Association (ZELA). In essence, the project aims to address governance gaps in corporate conduct, trade and investment and financial systems to realise a socially just, inclusive, and environmentally sustainable society through nourishing women and marginalised groups' participation in the gemstone and granite value chains.

2.2 Key Research Questions

The key questions underpinning the research are as follows:

01

To what extent is Zimbabwe's socio-economic and political situation a contributory factor in the violation of human rights in the mining sector in Zimbabwe?

What are the human rights violations being experienced by communities in the black granite mining areas?

02

03

Who are the perpetrators of these violations?

To what extent does the impact of human rights violations have to women as compared to men living in the mining sector?

04

05

What are the national/domestic laws, policies in existence to protect the locals from possible violation of human rights in the mining sector in Zimbabwe?

Which national government and independent institutions are working as monitors or offering remedies to communities in the mining sector with regards to human rights violations and are there any successes?

06

07

What are some of the international soft laws/frameworks such as the United Nations Guiding Principles on Business and Human Rights or the Organisation for Economic Co-operation and Development (OECD) Guidelines and other related instruments that apply to the mining companies with regards to human rights in the mining sector?

2.3 Methodology

2.4 Mixed Methods Research

The researchers adopted a mixed methods approach in conducting this research. Qualitative data collection techniques that were used in this study are Focus Group Discussions (FGDs) and Key Informant Interviews (KIIs). FGDs were selected on the basis that they encouraged free and open dialogue through listening, reflection and clarification of issues. Scholars note that qualitative data collection techniques such as FGDs encourage discussion among participants (Zikmund & Babin, 2010). During focus group discussions, participants can listen and reflect on the opinions of others, building their contributions to align with the accounts given by others, or pointing to different experiences.

The research commenced with a desk review to map out key stakeholders and actors in the sector and analyse the legal, institutional, and economic environment within which the granite mining sector operates. The desk review scanned the legislative, regulatory and policy frameworks, the broader economic context and operating environment, including key players and stakeholders in the mining sector, particularly the granite mining sector.

The main information-gathering phase of the assessment was conducted by a three-member team between November 2021 and January 2022. During this phase, a range of focus group discussions and structured and semi-structured interviews were conducted with communities, key informants in the granite mining in Mutoko and regulatory bodies and agencies. Short questionnaires were also prepared and distributed to key informants and follow up inquiries were done through phone calls and emails where this was necessary. A senior community member stated the following pertaining to data collection;

“It is always difficult to invite people to a meeting because of the season, with the rains upon us. The rains bring good tidings for our people who rely on subsistence agriculture. However, the rains also wreck our roads and fields as granite mining trucks will have done so much damage before the rains. These companies only repair to enable them to pass, but with increased rains this year, they are likely to be most affected. Communities will feel this as well since buses and trucks will no longer be able to use these roads for people’s transportation. It’s a sad scenario.”
Senior Community Leader in Ward 10, Mutoko RDC.

2.5 Semi-Structured Key Informant Interviews

Semi-structured interviews were conducted with a select number of senior officials and administrators in Mutoko. These included members of Mutoko RDC Council, headmen and village heads. Representatives of community-based organisations were also included, especially those representing the youths and women.

The purpose of this was to elicit information about operational and business systems of granite mines that are likely to present human rights risks to workers and communities.

Table 1: illustrates the stakeholders who were consulted.

Table 1: MAPPING OF STAKEHOLDERS

IDENTITY OF STAKEHOLDER	SPECIFIC PERSONS/OFFICIALS	DISAGGREGATION	DATA COLLECTION TOOL
RURAL DISTRICT COUNCIL i. Mutoko RDC	Council CEO Former CEO	Two males	Face to Face Interviews
COMMUNITY MEMBERS i. Nyamutsahuni Ward 10 ii. Nyamuganhu Ward 5 iii. Mutoko Centre iv. Kowo Mbudzi Community	1 Councillor, six community members 1 Councillor, five community members Two community leaders One male, four females	Three males, four females Two males, four females One male, one female One male, four females	Face to Face Interviews
QUARRY EMPLOYEES i. Natural Stone EC ii. Z.I. Quarries iii. CRG Quarries iv. Ilford Mining Services	Three employees] No employee Three employees Two employees	Three employees]	Three employees]
REGULATORY BODIES Department of Mining Department of Labour Department of Environmental Affairs	Provincial Mining Director District Labour Officers District Environmental Officers General Secretary Company Secretary CID: Minerals, Flora and Fauna Unit Chairperson	70% males and 30% females	Questionnaires (Telephone interviews) Telephone interviews using Structured and Unstructured Questions
CIVIL SOCIETY Trade Unions & Community Based Organisations and Associations	Youth Initiatives for Community Development - Mutoko Granite Mining Workers Union Mutoko Residents Associations (MURRA) Mutoko Granite Development Association Mutoko Association for Socioeconomic Transformation	Two representatives One representative Three members Two representatives Development Association	Face to face interviews WhatsApp conversations and telephone calls Face to face interview

For Mutoko, the areas affected by granite mining are illustrated below.

Table 2: Major Granite Mining Areas in Mutoko

WARD	VILLAGES OF WARD	MINING COMPANY
Nyamuganhu Ward 5	<ul style="list-style-type: none"> • Katiyo-Chakumbidza • Gurure • Chisakuwana Chisango • Nyamakope 1 & 2 • Kativhu 	Jintings CRG ZIQ Ilford Red
Chindenga Ward 2	<ul style="list-style-type: none"> • Chisango • Makokoro • Kativhu 	Natural Stone
Nyamutsahuni Ward 10	<ul style="list-style-type: none"> • Gwenambira • Mabvuta • Zisengwe 	Surewin Longlui
Nyamukapa Ward 11	<ul style="list-style-type: none"> • Chawasarira 	
Kabasa A Ward 7	<ul style="list-style-type: none"> • Makochera • Mungaze 	Natural Stone Ilford Red
Kabasa B Ward 6	<ul style="list-style-type: none"> • Chiutsi 	Natural Stone Ilford

Table 3: Approximate Statistics of ward populations

HOUSEHOLDS IN A VILLAGE (APPROX.)	ACTUAL AVERAGE HOUSEHOLDS IN MUTOKO VILLAGES	AVERAGE PERSONS IN A SINGLE HOUSEHOLD
18 minimum 100 maximum	45	6 people minimum 12 people maximum



3

LEGAL AND INSTITUTIONAL FRAMEWORK FOR HUMAN RIGHTS PROTECTION

3.0 The International Framework: The United Nations Guiding Principles on Business and Human Rights

3.1 Introduction

The 'Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' framework were developed by the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises. The Special Representative annexed the Guiding Principles to the final report to the Human Rights Council (A/HRC/17/31), which also includes an introduction to the Guiding Principles and an overview of the process that led to their development. The Human Rights Council endorsed the Guiding Principles in its resolution 17/4 of 16 June 2011.

From a reading of the Guiding Principles, it is clear that they are grounded on recognition of:



States' existing obligations to respect, protect and fulfil human rights and fundamental freedoms;



The role of business enterprises as specialized organs of society performing specialized functions, required to comply with all applicable laws and to respect human rights;



The need for rights and obligations to be matched to appropriate and effective remedies when breached.

It is also clear that these Guiding Principles are intended to apply to all States and to all business enterprises, both transnational and others, regardless of their size, sector, location, ownership and structure.

The Guiding Principles can be divided into two, namely the Foundational Principles and the Operational Principles. The Foundational Principles are illustrated in Table 4 below.

Table 4. Foundational Principles of the Guiding Principles on Business & Human Rights

PRINCIPLES RELATED TO STATE DUTY TO PROTECT HUMAN RIGHTS	PRINCIPLES RELATED TO CORPORATE RESPONSIBILITY TO RESPECT	PRINCIPLES RELATED TO ACCESS TO REMEDY
States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. This requires taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication.	Business enterprises should respect human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.	As part of their duty to protect against business-related human rights abuse, States must take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such abuses occur within their territory and/or jurisdiction those affected have access to effective remedy.
States should set out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations	The responsibility of business enterprises to respect human rights refers to internationally recognized human rights – understood, at a minimum, as those expressed in the International Bill of Human Rights and the principles concerning fundamental rights set out in the International Labour Organization’s Declaration on Fundamental Principles and Rights at Work.	
	The responsibility to respect human rights requires that business enterprises: (a) Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur; (b) Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.	

	<p>In order to meet their responsibility to respect human rights, business enterprises should have in place policies and processes appropriate to their size and circumstances, including:</p> <p>(a) A policy commitment to meet their responsibility to respect human rights;</p> <p>(b) A human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights;</p> <p>(c) Processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute.</p>	
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3.2 Legal and Institutional Framework for Human Rights Protection

Granite mining is regulated under the Mines and Minerals Act, and this is an old law that was passed in 1961 for maximum extraction of mineral resources, and not to protect the human rights of host communities. The human rights of communities are protected by other laws external to the mining sector. The Table below highlights the legal framework for mining that is binding to the mining sector.

Table 7: Laws regulating the granite mining sector in Zimbabwe

LEGISLATION	PURPOSE
Constitution of Zimbabwe, 2013	Human rights obligations of State institutions and private persons
Mines and Minerals Act, 1961. (Chapter 21:05)	Regulates the mining sector
Environmental Management Act, Chapter 20:27)2002	Regulates the environmental impacts of mining
Forest Act, Chapter 19:05	Obligations related to clearing of forests for mining
Water Act, Chapter 20:24	Abstraction of water for mining
Zimbabwe National Water Authority Act, Chapter 20:25	Licensing process for water abstraction
Companies & other Business Entities Act, Chapter 24:31	Regulates registration of companies and conditions thereto
Explosives Regulations, SI 72 of 1989	Use and disposal of explosives
Mining (General) Regulations, 1977	Technical issues related to mining
Environmental Regulations, 2004	Technical environmental regulation
Mining (Management & Safety) Regulations, SI 109 of 1990	Regulates safety and health in mining
Mining (Health & Sanitation) Regulations, SI 185 of 1990	Regulates sanitation and health in mining operations

“We have been taught about these mining laws before by several other organisations, and we were told the Mines law is very old and was promulgated during the colonial era. We really think this law has stopped to serve our interests as communities and must be changed. We do not know what the obstacle to change is – maybe our leaders are benefitting from the colonial Mines law, and so, will not want it to be changed. Otherwise, why not change a law that served the Rhodesian regime’s interests?” Community member – Nyamuganhu ward 5, Mutoko.



4

FINDINGS

A. The Socio-Economic and Political Context of Human Rights Violations

There is a dialectical nexus between the national socio-economic and political context and violations of human rights in the granite mining sector in Zimbabwe. Since the onset of the current administration, economic development has not become reality. Two key national policies, namely the National Development Strategy 1 and Vision 2030 anchor national economic policy.

Vision 2030 is the umbrella policy framework that seeks to guide three different national policy blueprints between 2018 and 2030. It was launched by the then Minister of Finance and Economic Development, Hon P.A Chinamasa, at the World Bank on the side-lines of the Spring Meetings of the IMF and World Bank in Washington DC on 19 April 2018¹.

Both Vision 2030 and the National Development Strategy 1 are underpinned by four key policy thrusts, namely democratization and governance; economic reforms; Ease of Doing Business Strategy and enhancing investment in major economic sectors. These policy directions are crucial in the attainment of economic and social development that is key for human rights promotion and enjoyment. Issues that are covered in both policies good governance, transparency, accountability; inclusivity, strong institutions for good leadership development, inclusivity and participation of small and medium enterprises are covered in the policy thrusts.

¹ See TSP (full version) para 5.

Under Democratization and Governance, the economic policy framework seeks to promote and achieve the fundamental values of Rule of Law, Human Rights and Freedoms, Accountability, Transparency, Responsiveness, Equity and Inclusivity, Efficiency and full participation of the people in socio-economic development as the bed-rock for a new democratic and developmental Zimbabwe.² Further, the government targets alignment of all laws to promote constitutionalism and the rule of law, and act in accordance with the principle of servant leadership. Servant leadership is characterized by enhanced public interactions of the Government with the people; an open door-based communication strategy; and government ‘working with all stakeholders, inclusive of Opposition Political Parties, Churches, Students, Traditional Leaders, Academia, Business Fraternity, among others’ which allows cross-pollination of views and building of Trust, Tolerance and Common Understanding that informs policy interventions.³ In addition, the government intends to promote and respect human rights, an independent judiciary and competent courts; and generally strive to promote Peace, Harmony, Safety, Security and Stability for the citizenry. Electoral reforms shall also be pursued with the aim of promoting democracy, the right to vote and tolerance in Zimbabwe’s political space.

In relation to Economic Reforms, the government’s target is to establish a market economy based on key market economy principles as follows, Liberalisation; Policy Consistency, Predictability, Certainty and Credibility; Respect for Property Rights; Transparency and Accountability; underpinned by Fiscal Responsibility and Discipline.⁴ Other reforms will seek to achieve fiscal consolidation and expenditure management; resource mobilization and public enterprises reforms.⁵

In relation to Ease of Doing Business Reforms, policies, laws and strategies will endeavor to achieve various objectives, including creating an environment conducive for foreign direct investment, participation in global investment platforms, reconsideration of economic indigenization laws and other financial investment laws. Importantly, government commits to enhancing bilateral trade relations with various states by committing to protect foreign investment. Another key development will be establishing of a One Stop Investment Centre, special economic zones; liberalization of exchange control regulatory framework and finally liberalizing labour laws to enhance productivity.⁶

Despite a noble agenda, the national socio-economic framework has not caused economic development. Employment levels remain very low, with the majority surviving on informal sector activities. Poverty and lack of skills in the Mutoko communities means granite companies pay, and workers accept low wages, unfair labour practises and poor working conditions without recourse or remedies. Government departments are massively underfunded, meaning inspections, monitoring and investigations by regulatory bodies do not happen. When they happen, granite mining companies are let off the hook due to networks of corruption that compromise the effectiveness of regulatory bodies

Involvement of senior government and party personnel in granite mining companies exacerbates human rights violations in several ways. Communities affected by evictions and land degradation are unable to use their political leaders as part of a grievance redress mechanism. Regulatory bodies are unable to chastise companies in wanton violations of the law due to the involvement of these networks of senior government officials. No grievance redress mechanisms or system of

2 See Vision 2030 para 34 – 36

3 See Vision 2030, para 39.

4 See Vision 2030, para 79 – 81.

5 See Vision 2030 paras 82 – 112.

6 See Vision 2030, paras 113 to 149.

informal remedies exist. Ultimately, communities hosting granite mining are disempowered in many ways, and continue to slide into deeper levels of poverty, despondency and desperation.

Table 5: Granite Mining Companies Mining in Mutoko and appr no of workers

COMPANY NAME	APPROX. NUMBER OF WORKERS	WORKERS	% OF WORKERS ON SHORT-TERM CONTRACTS
Natural Stone Export Co.	220 (8 women)	6	60-70% on short term contracts (3 months contract)
Ilford Services Mining Company Operations - Nyamuganhu and Mtawatawa (Mutoko & Murewa.	90 (less than 10 women)	5	70 workers on one-month contracts; 20 are permanent.
Quarrying Enterprises	Approx. 130 (less than 10 women)	4	About 98% workers on Contract; (3 months contract most common);
Zimbabwe International Quarries (ZIQ) (Mutoko only)	85 (less than 5 women).	4	Contracts. 40% permanent 60% contracts.
CRG Quarries	70 (less than 5)	3	Approx. 98%

B. Nature and Perpetrators of Human Rights Violations

Granite mining companies are the primary perpetrators of human rights violations and these companies are divided between European linked companies, Chinese companies and Zimbabwean owned companies. The level of compliance with human rights obligations and statutory commitments differs, with Chinese companies being the worst breakers and violators of human rights.

The mining of granite consumes large tracts of land and this land is often occupied, used or reserved for use by local rural communities. Communities are often impacted by evictions from communal land without compensation, loss of livelihoods, damage to houses, noise and air pollution and massive land degradation and deforestation. This results in violation of land and property rights; environmental degradation; violation of rights to food, water, clean air and a clean environment and the intrusions into the privacy of communities.

Table 6: Identity of perpetrators and nature of human rights violation

PERPETRATOR	NATURE OF HUMAN RIGHTS VIOLATIONS
Granite Mining Companies	<ul style="list-style-type: none"> i. Land rights violations, (evictions, siltation of lands, land degradation) ii. Property rights violations and road infrastructure damage iii. Environmental pollution (noise, air and land pollution) iv. Labour rights violations; v. Rights to health, food, water, dignity and vi. Corruption
National Social Security Association (By failing to undertake regular assessments and enforce strict social security obligations against companies).	<ul style="list-style-type: none"> i. Right to health, dignity and well being ii. Right to a clean environment
Environmental Management Agency (EMA's failure to undertake effective environmental audits, regular monitoring, inspections, investigations and strictly enforce the law	<ul style="list-style-type: none"> i. Right to a clean environment ii. Right to health iii. Right to clean water iv. Right to food
Department of Labour and Social Welfare (Through failure to effectively enforce labour and employment law, conduct regular assessments, inspections and monitoring of labour conditions)	<ul style="list-style-type: none"> i. Labour and employment rights (rights to safe and fair labour practises; maternity leave; right to fair and reasonable wage; right to participate in collective job action; right to fair, equitable and satisfactory conditions of work). i. Right to human dignity ii. Right to personal security

“The Chinese companies are the worst in terms of not caring about how we feel as communities. They pay the least wages, and our people work the longest hours there. These companies grant one month contract, and easily suspend or fire workers on the flimsiest of grounds, without due process. The other European linked companies are better; we sometimes hold meetings with them. however, all companies commit different types of violations, and all companies have trucks that are destroying our roads and fields.”A youth representative, Nyamutsahuni.

Specific Recorded cases of human rights violations in 2021

Drowning and death due to open pits

In 2021, two cases of death as a result of mining companies related unfenced and open pits were recorded. An 12-year-old boy drowned swimming in an open and unfenced pit that Quarrying Enterprises was using as a water source. Another 11-year old boy also drowned in another open, unfenced mining pit left by ZIQ. It was only after the deaths that the Ministry of Mines issued a decree that mining companies must fence “dangerous mining areas”. Only one of the companies involved is said to have met funeral expenses and paid compensation for the loss of human life as per cultural traditions. However, due to these incidences the relations between the companies and the communities have been far from cordial.



Immense tree cutting

Black granite mining needs a lot of land to be free for the mining process, cleared roads for transportation and storage of the large granite blocks. As a result, reports of tree cutting at alarming rates by the mining companies have been recorded in 2021. After complaints were registered, one of the companies, Quarrying Enterprises, is reported to have started to engage in tree planting exercises.

Labour Rights and non-payment of salaries

QE failed to pay its employees salaries for up to 4 months as the company faced financial challenges related to COVID-19. It reported that the Managing Director of the company died as a result of COVID-19 related complications. ZIQ is reported to have been employing non locals by importing their own employees into the communities. After engagements with the local authorities and communities however, the situation has been reported to have improved. Reports of short contracts (monthly) continue to be the norm. Workers especially in the Chinese owned companies continue complaining of long working hours with no breaks or off days. If one wants leave or off days, they are told these will not be paid by the companies.

Mining without EIAs

Two mining companies were reported to have commenced with new operations without following due process by not conducting the EIA and its required community consultations. CRG was forced to close a site after being challenged by the community paralegal and the local councillor in ward 5. Another Chinese owned company Homeli which had also taken over claims belonging to a defunct company BoZimo also commenced new operations without an EIA. This usually leads to environmental rights infringements and there will be no EIA document to monitor the company to hold them to account.

Dumping of Rubbles

There were several cases of mining rubbles being dumped into residents' fields throughout 2021. The most notable complaints were raised against Illford Services. The massive dumping led to informal engagements between company and community, and was resolved through the community's local leadership.

C. Differential Impacts of Human Rights Violations on Men and Women

Labour and employment related violations affect more males physically owing to the large number of males employed in the sector as compared to women. In general, males constitute 95% of the labour force in the granite mining sector in Mutoko. This means that statistically, males are likely to be affected by workplace violations. The low numbers of women who are directly affected at the workplace are mostly given administrative, cooking, cleaning and other non-physically exerting jobs.

Recruitment in the granite mining sector favours males over females. This means that unemployment levels are higher among women in Mutoko mining areas- men have a higher opportunity of getting employed on both long-term or short-term contracts, for either manual unskilled work or skilled work.

Females are affected to the extent that they take care of the home, children and family assets and property in the absence of their male spouses working in granite areas. In particular, land rights evictions affect women since they are the drivers of livelihoods in Mutoko communities; women take care of children and the elderly in the homestead. Their burden increases in cases of evictions, forced relocations or destruction of homesteads.

Late payment and delays in payments of salaries or poor remuneration affects women more than it does to men and has a serious impact on households. It destabilises the family and has contributed to gender-based violence (GBV). The men are always stressed as they feel they are failing to provide for their families leading to increased aggressiveness. This means women have to step in and provide for the families.

Further, the drying of sources of water due to extensive abstraction of water by granite companies means women have to travel longer distances to fetch water. Reports in 2021 state that a company (ZIQ) took over a drilled borehole by Illford Services and installed pumping equipment. This was mainly for their own use but the communities benefitted from the water being pumped. This was however short-lived as when the company moved to another site they closed the site taking their equipment leaving the communities with no close-by water source.

Fencing of granite mining sites blocks rural footpaths that connects communities to their sources for firewood, water, grazing pastures, graveyards, mountains and rivers.

Destruction of roads also affects females than it affects males in Mutoko. The sparse dust roads are used to transport agricultural produce by women for sale in Mutoko Centre, or Mbare Musika in

Harare. Travelling between villages, wards and schools is also affected when roads are destroyed by heavy mining vehicles. Long distance travel on foot endangers the security and safety of women, young girls and children. Further, the companies need their roads to have a flat surface and they always use the grader to flatten the roads. As this has happened over time, the roads are now below the normal topsoil level. When the rain comes the roads become water streams and the sand that has gathered is washed into the women's gardens that are meant to supplement the food where the mining companies have failed to adequately provide for the families.

Finally, female respondents complained against the lack of off-days for their husbands in the granite companies. They complained of long working hours for their husbands and children with low pay. Consequently, women complained of a wage paid to their husbands that did not meet the cost of living; job insecurity and poor working conditions in the mines that left their husbands exhausted, fatigued, exposed to unhealthy environments and eventual illness caused by dust and noise pollution.

"These mining companies make our husbands work long hours and they come home very tired. They cannot do much, or do other work even when they are off work because of exhaustion and fatigue. We are even not enjoying our conjugal rights as our husbands are always tired and when we complain it culminates into violence. The companies do not contribute anything towards medical and health expenses despite subjecting our husbands to work in dusty and noisy environments. They must give our men a danger allowance as in other industries; they must also give them overtime allowance and grant them off days more often than they are doing."
Female community member, Nyamakope.

D. Corruption as a Human Rights Violation

Corruption in the award of mining licences, in the compliance enforcement regime and in monitoring and assessments affects several human rights of communities. In 2021, the Zimbabwe Anti-Corruption Commission (ZACC) launched an investigation into the awarding of mining claims as cases of claims double allocation and grabbing had become rampant raising questions into the awarding process. Importantly, corruption has meant poor service delivery; failure to maintain road transport infrastructure, educational and health institutions and other basic social services. The entry points for corruption are several in the granite mining sector. In the general sense, the corruption risks in the granite mining sector in Mutoko are informed by general corruption risks in the mining sector. These are as follows:

- The Provincial Mining Director who issues licences is a single authority or individual who has broad discretion or decision-making power with little scrutiny. His powers are massive, and not always based on the law or reason. He is also very exposed to politics and is unable to resist the pressure brought about by senior politicians and government administrators fighting for claims in Mutoko.

- In relation to Mutoko district, the award of mining claims is also affected by politics in the province. Senior party politicians have benefitted from the award of mining claims through the PMD office. However, in relation to granite, the extensive nature of the equipment needed, the huge capital outlay and other requirements means politicians have just facilitated acquisition of granite mining claims by established companies. In a few instances, politicians have been given posts or directorships in these companies; or have had their relatives employed in the granite mining companies. The relationship created through this corrupt networking leaves the possibility of granite mining companies regularly paying senior politicians in Mutoko in gratitude for their role, or in order to remain in good books with the government.
- Chinese companies have benefitted from bilateral agreements signed between the Zimbabwean government and the Chinese government. In general, these agreements are to the effect that the Zimbabwean government shall take up Chinese investors in the mining sector, including the granite sector. Applications for granite claims by these investors are fast-tracked, and seldom denied. Once they commence operations, there are no, or very limited regular inspections, monitoring and supervision by regulatory bodies as required by the law. These Chinese companies have strong political backing, and their human rights abuses are not acted upon with haste, if at all. Law enforcement agents and other enforcement mechanisms have failed to institute concrete legal actions against these companies.
- Another form of corruption exists in the lack of documentation by granite mining companies. There is no clear procedure that allows access to documentation held by the PMD for communities to use in engaging the granite mining companies. There is also no requirement for the PMD office to keep a record of reasons why applications were rejected or accepted.
- The lack of documentation, records and proper information packaging is exacerbated by the absence of computerized or digital systems. There are several points where manual input of information takes place, creating an opportunity for corruption, and human error generally. It also creates the opportunity for double allocations of claims, reallocations and modification of terms on certificates.
- Currently, the government is toying with a digital system called the Mining Cadastre. The cadastre system will computerise mining title allocations, license applications and distribution of mining claims. Currently there is serious resistance by powerful actors in granite mining to the cadastre system finding its way into the law. A significant development is the creation of the office of the Cadastre Registrar which will fully function once the Computerized Cadastre Mining Title Management System has been fully commissioned. Currently, the Cadastre system is being piloted in Zimbabwe, and the full national roll-out is expected once the pilot project is completed.
- The Provincial Mining Director does not have a term of office; she/he can be in office for as long as they remain fit, capable and healthy. The longer he is in office, the higher possibilities of corruption. Respondents raised a genuine fear that this office need to be rotated every three years, and a full audit be done. Government is in the practice

of rotating these PMDs regularly to limit the chances of corruption,⁷ but this has not worked. Some PMDs are not rotated at all, and the decision to rotate is highly political and sensitive.

- Mining claims are rarely audited. This means that there is limited accountability on how many mining claims have been issued per each period, to whom, and who is hoarding the claims.
- There are few visits to the PMD's office by the Zimbabwe Anti-Corruption Commission. The visits do not however involve local citizens in any way.

"We suspect that our senior political leaders are benefitting from the granite mining companies in ways we do not know. They come to meetings and we tell them our grievances but nothing is being done. We also suspect that the regulatory authorities are being paid by the mining authorities so that they do not expose them. When EMA conducts inspection visits, we are never invited, yet its our lands that are damaged, our rivers that are silted and polluted, our forests that are cut. They are given office files, they never visit our ravaged lands, silted rivers or lands where discarded boulders are thrown about!"
Village headman, Nyamutsahuni.

F. Impact of COVID-19 Pandemic

The Covid 19 pandemic proved to be a real disaster to Zimbabwe's economic activities, as was the case globally. Throughout 2020, the Zimbabwean government embraced an approach of lockdowns and relaxations based on several factors including the success of measures to combat the pandemic. In Zimbabwe, the mining sector was spared the harsher lockdown restrictions as it was declared an essential service. Despite this however, mining activities were scaled down as several health and medical requirements were called upon by the government in response. In general, the impact of Covid 19 and Covid-19 response mechanisms to granite mining were as follows:

- i. Low mining activities throughout 2020 as companies scaled down operations. This meant most affected workers stopped getting a wage.

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Interview with an officer in the Office of the PMD, Marondera, Mashonaland East.

ii. Companies complied with health regulations and protocols, and included Covid 19 response measures in their health and safety protocols. Companies supplied sanitisers, masks and made sure affected workers did not pitch for work.

iii. Companies did not instal Covid 19 testing facilities at the workplace, and workers who caught the disease had personal responsibility to test and seek medical treatment.

iv. Despite the generally very low levels of Covid 19 in the rural areas where most of the mining took place, the nature of mining makes some of Covid 19 protocols such as social distancing impossible to implement. Companies that use old equipment that were labour intensive could not ensure social distancing or provision of necessary PPs to workers. However, companies with modern equipment required less manpower and were able to comply with several protocols.

v. For the community, ordinary community members who relied on vending and selling garden produce to granite mining workers were affected by the scaled down operations. Their livelihoods were affected since men did not go to work to earn a living. This meant women were particularly more affected as they are usually responsible for providing food to the family.

vi. Regulatory bodies also reduced their inspection visits to granite mining sites. This means there was less monitoring of the human rights impact of granite mining, and less compliance checks as well. Granite mining thus proceeded unchecked for most of 2020 due to Covid 19 restrictions.

"We are lucky that Covid-19 did not really affect us as it did in the urban areas, or in other countries. Some of us were put on indefinite leave without pay; but others are now being called back as the restrictions are being relaxed. Our women were not allowed to sell their merchandise as well, but most of the employees know where to buy these garden produce. At the workplace, we were given sanitisers at the gate, urged to always wash our hands, but social distancing was difficult, even with small numbers.

Employee at a European linked granite mining firm, Nyamutsahuni.



5

SPECIFIC RECOMMENDATIONS

4.0 Introduction

This part outlines the recommendations made in relation to the findings and conclusions in the research. The recommendations are divided into four parts, as follows:

01

Recommendations
for granite mining
companies in Zimbabwe

02

Recommendations
for Government
Departments and State
Institutions

Recommendations
for civil society
organisations Zimbabwe

03

Recommendations to
domestic human rights
institutions

04

Table 9: Recommendations for Granite Mining Companies in Zimbabwe

RIGHTS ISSUE	RECOMMENDED ACTIONS
Labour and Employment Rights	<ul style="list-style-type: none"> i. Companies must ensure job security by providing written contracts that specify employment benefits and terms of contracts as required by the law. ii. Companies must comply with general standards in the domestic employment laws of Zimbabwe in order to prevent, mitigate and remedy adverse employment conditions in the granite mining sector. Where there are obvious gaps in law, companies must prevent, remedy or mitigate adverse labour and employment conditions that affect workers in terms of international norms on decent work from ILO Guidelines which Zimbabwe is party to. iii. Companies must regularly publish and disclose their adherence to prescribed wages; to health and safety conditions prescribed by law, and compliance with ILO decent work principles generally applicable in the mining context. iv. Companies must create and support spaces for employees to exercise their right to freedom of association, right to join, form and participate in trade unions and the right to collective job actions.
Land and Property Rights	<ul style="list-style-type: none"> i. Companies must undertake extensive and comprehensive consultative processes before establishing mining sites on land belonging to communities. Where the law has obvious gaps, companies must be guided by the principle of Free, Prior and Informed Consent (FPIC) in engaging communities hosting granite mining activities. ii. Companies must ensure full and adequate compensation for unavoidable relocations, and the nature, level of compensation must be informed by international guidelines. Where current laws do not provide guidelines, companies must involve several stakeholders in designing compensation frameworks that adequately meet the needs of relocated families. Stakeholders may include traditional leaders, district administrators, ward councillors, provincial and district mining authorities and affected families. iii. Companies must prevent, mitigate and remedy violations of land and property rights of local communities. In the context of this research, these rights relate to customary and communal use and occupation of land; tenure insecurity; state expropriation of land and inadequate compensation. iv. Companies must not disturb, interfere with, alter or stop livelihoods based on communities use and occupation of land. Where such disturbance is unavoidable, adequate consultation, compensation, and
Grievance Redress Mechanisms and Complaint Procedures	<ul style="list-style-type: none"> i. Companies must adopt comprehensive grievance redress mechanisms and complaint procedures for the resolution of human rights violations-related disputes and conflicts with communities. The design, procedures and mode of operation of these mechanisms must be developed in consultation with communities. Companies must ensure that the grievance redress and complaint procedures are freely available to communities without cost, and do not preclude resort to other formal and informal justice procedures.
Access to Information, Company Records and other Data	<ul style="list-style-type: none"> i. Companies must strive to keep, publish and disclose information relating to company operations, engagement with communities, licensing, compliance with environmental commitments and EIAs, import and export data, taxation obligations, adherence to safety and health regulations and employment contracts. This information must be available in easily accessible format, and accessible to communities, regulatory bodies, research institutes and organisations and other important stakeholders at reasonable cost. ii. Companies must designate an Information officer, or operate an information portal that interface with the public. Such an approach must be designed to enable access to information by citizens, communities, and affected persons.

Human Rights due diligence	i. Companies must conduct human rights due diligence as required by the UNGP to identify, prevent and mitigate potential and actual human rights violations in their supply chain.
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Table 10: Recommendations for the Zimbabwe Government

HUMAN RIGHTS ISSUE	HUMAN RIGHTS ISSUE
Labour and Employment	<p>(i) The government must review its labour and employment laws to strengthen workers' rights in relation to written contracts; safety, health and environmental obligations of companies to their workers; enforcement of the minimum wage; equal opportunity for both sexes and gender; decent work and rights to trade unionism.</p> <p>(ii) Labour inspectorates must be established at district level and must operate within a framework of simplified rules. The inspectorates must also use simple, accessible procedures; undertake regular inspections of conditions at mining sites and attend to invitations by workers and workers committees.</p>
Land, property, communal homes and livelihoods	<p>i. Government must develop clear guidelines and rules for relocation of families, persons and communities to give way to granite mining. The guidelines must be based on FPIC and take into account the representations and submissions of affected families, community leaders and district administrative officials.</p> <p>ii. Government must adopt a clear framework for compensation in cases of relocations. The nature and level of compensation must be informed by best practises, international norms and the personal circumstances of affected families. The compensation framework must also ensure that procedures in the compensation guideline ensure adequate notice is given; transportation is facilitated; timeous payment of money is done; post-settlement financial support is guaranteed; and that families are relocated to alternative areas with similar or near similar environmental and climatic conditions.</p> <p>iii. Government must review its laws on tenure security, customary and communal land rights to enhance the recognition and strength of communal rights to land. The law must clearly set out the protections in communal land rights; the remedies upon arbitrary eviction or in cases of conflict with mining rights and related guarantees. Finally, the same laws must ensure that government departments and granite companies prevent, mitigate and remedy violations to land rights and disturbance to occupation and use of land.</p>
Suppliers and Granite Mining Companies	i. Government must develop a certification framework for suppliers, such that only certified suppliers are able to export granite to international buyers. Such certification must have a score card for environmental compliance, human rights compliance, labour and employment conditions compliance and safety and health compliance.
Corruption	i. Government must capacitate the Auditor-General Office to work with the Zimbabwe Anti-Corruption Commission to address corruption in the production and export of granite. These agencies must also scrutinise the claim allocation system, the transportation of granite, the taxation of granite, payment of royalties and the abuse of power in favour of granite companies.
Transparency	i. The Government must consider joining international transparency initiatives such as the Extractive Industries Transparency Initiative (EITI). This will be a firm foundation to promote transparency and accountability in the mining sector which is currently strewed in secrecy on many aspects. Implementation of EITI would mean that all mining companies operating in Zimbabwe would be obliged to disclose all their mineral resource payments that are made to government and the Government would in turn disclose the amounts received from such companies thereby making this information publicly available.

Table 11: Recommendations to Civil Society Organisations

Tighten clean granite trade legal provisions	<ul style="list-style-type: none"> i. Civil society must lobby for sourcing countries, for instance, in the European Union, China and the United States to tighten legal, policy and institutional measures to ensure that their sourcing companies import ‘clean granite’. This approach is comparable to the legal framework established under the Kimberly Process Certification Scheme or the Clean Diamond Act of the USA. Under this framework, the importation of uncertified black granite is prohibited.
Lobby GoZ to establish clean granite certification framework	<p>Civil society must engage the Zimbabwean government and encourage it to certify exported granite prior to its sale. Such certification will be granted to producers that have complied with environmental commitments, labour and employment conditions, human rights obligations and safety and health commitments under the law.</p>
Develop model regulatory frameworks	<p>CSOs must develop model guidelines for submission to the government. These rules and guidelines must be in relation to the following:</p> <ul style="list-style-type: none"> i. Model rules and guidelines for relocation ii. Model rules and guidelines for compensation for relocation iii. Model rules and guidelines for environmental monitoring, inspections and reporting iv. Model rules and guidelines for labour inspections, monitoring and reporting v. Model framework for consultation of communities prior to mining vi. Model rules and guidelines for a Grievance Redress Mechanism for host communities
Develop manuals and conduct training and capacity building	<p>CSOs must develop manuals and use them for training and capacity building. The training and capacity building must target the following:</p> <ul style="list-style-type: none"> i. Human rights training for host communities, focusing on rights and freedoms, human rights enforcement and government institutional responsibilities ii. Legal and policy commitments of granite mining companies iii. Land and property rights and remedies for communities iv. Informal and formal justice institutions v. The role of traditional leaders, ward councillors and the rural district council vi. Establishment of community trusts and community-based organisations vii. Corporate social responsibility viii. Anti-corruption and integrity initiatives, whistle-blowing and community monitoring.

Table 12: Recommendations to Domestic Human Rights Organisations

<p>Undertake regular human rights compliance monitoring, assessments and investigations.</p>	<p>State and non -state human rights organisations must undertake serious human rights compliance monitoring, assessments and investigations in the granite mining sector. The inspections and monitoring can be on notice or ad hoc, based on complaints by communities or credible reports by any persons</p>
<p>Establish local level complaint and grievance redress centres</p>	<p>Human rights bodies must establish local level complaint and grievance redress centres for communities to access and use in registering their grievances and complaints against granite mining companies or regulatory bodies. These centres can be at ward level, district level, and provincial levels.</p>
<p>Organise multi-stakeholder engagement seminars and</p>	<p>Multi-stakeholder engagements must be organised to discuss and find solutions to human rights issues in the granite mining sector. These engagements bring together state and non-state human rights bodies, granite mining companies, communities, regulatory bodies, relevant government departments and other stakeholders in the granite mining value chain.</p>
<p>Include human rights implications of granite mining in annual reports to government and Parliament.</p>	<p>Independent Commissions such as the Zimbabwe Human Rights Commission and the Zimbabwe Gender Commission must include human rights impacts and implications of granite mining in their reports to parliament or government departments. This will offer an opportunity for such violations to be given priority at national level. Other important constitutional bodies that can follow suit include the Zimbabwe Anti-Corruption Commission, the National Council of Chiefs and the Parliamentary Select Committee on Mining and Energy.</p>

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END

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