

# Dissecting the social license to operate: *Local community perceptions of industrial mining in northwest Tanzania*



*International Peace Information Service vzw*

# EDITORIAL

## **Dissecting the social license to operate:**

### ***Local community perceptions of industrial mining in northwest Tanzania***

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**Front cover image:** Locals passing by the construction of the wall around North Mara Gold Mine (Mara, 2018 – Photo: IPIS)

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# 1. TABLE OF CONTENTS

<b>Editorial</b> .....	<b>2</b>
<b>Executive summary</b> .....	<b>5</b>
<b>List of boxes</b> .....	<b>7</b>
<b>List of acronyms</b> .....	<b>8</b>
<b>1. Introduction</b> .....	<b>9</b>
1.1. Bringing local community perspectives to the centre of the debate on the socio-economic contribution of industrial mining.....	9
1.2. Methodology.....	11
1.2.1. <i>Assessing community perceptions</i> .....	11
1.2.2. <i>The Social License to Operate as analytical framework</i> .....	12
1.3. Guide to webmap.....	13
1.4. Background to project.....	14
<b>2. Tanzania’s current policy and legal framework for industrial mining</b> .....	<b>16</b>
<b>3. The context of industrial mining and adjacent communities in Tanzania</b> .....	<b>19</b>
3.1. Industrial mining in northwest Tanzania.....	19
3.1.3. <i>Acacia’s Buzwagi and North Mara Gold Mines</i> .....	19
3.1.4. <i>Geita Gold Mine</i> .....	22
3.1.5. <i>Nyamahuna Gold Mine</i> .....	23
3.1.6. <i>Williamson Diamond Mine</i> .....	24
3.1.7. <i>Nyanza Salt Mines</i> .....	26
3.2. Communities around industrial mining operations.....	27
3.2.1. <i>Socio-economic community context</i> .....	28
3.2.2. <i>Dominant community perceptions of industrial mining</i> .....	30
<b>4. Distributional fairness</b> .....	<b>33</b>
4.1. The local content framework.....	33
4.2. Employment and local sourcing.....	34
4.3. Community contributions.....	35
4.3.1. <i>Corporate social responsibility programmes</i> .....	35
4.3.2. <i>Nature of corporate social support</i> .....	35
4.3.3. <i>The challenge of corporate support</i> .....	38
<b>5. Confidence in governance</b> .....	<b>40</b>
5.1. Meaningful community engagement in theory.....	40
5.2. ... and practice.....	40
5.2.1. <i>Assessing the meaningfulness of community engagement</i> .....	41
5.2.2. <i>The role of government authorities in facilitating engagement</i> .....	43
<b>6. Procedural fairness</b> .....	<b>44</b>
6.1. Frequently reported human rights violations.....	44
6.2. Corporate accountability and remedy.....	49
6.2.1. <i>Operational level grievance mechanisms under the UN Guiding Principles</i> .....	49
6.2.2. <i>Grievance processes in northwest Tanzania</i> .....	50

**7. Conclusions ..... 53**

**8. Bibliography ..... 55**

8.1. Literature..... 55

8.2. Legislation & policy documents ..... 57

8.3. Company reports ..... 57

8.4. Press articles..... 58

# EXECUTIVE SUMMARY

Public debate on industrial mining in Tanzania is currently dominated by discussions on how the permanent removal of the country's natural resources has failed to spur sustainable economic development. Following a decade of rather lenient regulation focussed on attracting foreign mining investment, Tanzania took a first step towards improving the accountability of extractive companies with the Mining Act of 2010. A considerable implementation gap remained however between law and practice. Efforts to gain **greater control over and value from Tanzania's natural resources** were accelerated with significant amendments to the Mining Act in 2017 and 2018. This fits a rising global trend towards 'resource nationalism'. Yet, the speed, rigour and antagonistic discourse wherewith these changes were pushed through, led to considerable tensions with foreign mining companies that have been described as 'economic warfare'.

As in many countries, this evolution has mainly focussed on the macro-economic contribution of mining, and much less on its impact on local development in the impoverished rural areas where these companies operate and leave their largest footprint. Communities living around these often-giant extractive operations arguably have most to win and lose from large-scale mining. Their perspective is essential in informing policies and corporate practices on improving the sector's societal impact. To **bring the voices of communities living near industrial mines to the centre of this debate**, IPIS surveyed a sample of community respondents in 32 villages around six selected industrial mines in northwest Tanzania: Buzwagi Gold Mine (BGM), Geita Gold Mine (GGM), North Mara Gold Mine (NMGM) and Nyamahuna Gold Mine, as well as Nyanza Salt Mine and Williamson Diamond Mine (WDM). This exploratory study seeks to draw up a general state of affairs on how local communities perceive the impact of industrial mining in Tanzania.

For this purpose, community perspectives are assessed through the lens of the '**Social License to Operate**' (SLO). This refers to the level of trust in and acceptance of mining companies and rests on three interrelated factors. Firstly, *distributional fairness* refers to whether locals feel they get a fair share, in terms of employment, wealth spill-overs or corporate social contributions. Secondly, *confidence in governance* rises when companies engage in a meaningful way with communities, in the sense that interactions are ongoing, reciprocal, responsive and done in good faith. Finally, communities' perception of *procedural fairness* depends on whether they feel respected and can address grievances with companies following fair, transparent and inclusive procedures.

Four of the six companies in our sample (GGM, BGM, NMGM and WDM) are large-scale, highly-mechanised, multinationals that together have over 8000 employees and account for the bulk of Tanzania's gold and diamond exports. The two others (Nyamahuna and Nyanza) are medium-scale operations, meaning under Tanzanian law that they have capital investments between USD 5 and 100 million, with a few hundred employees each. The 32 neighbouring communities are predominantly rural villages, with crop farming, livestock keeping, artisanal and small-scale mining (ASM) and small commerce as main livelihoods. The community surveys expose in the first place that the **contrast between the relatively sophisticated industrial operations and the impoverished communities** around them is high, as are the expectations from communities for companies to make an end to their deprivation. Such expectations from various stakeholder groups are hard for companies to manage.

To date, guided by the existing policy and legal framework, companies' responses have predominantly attempted to gain Social Licenses to Operate by playing the card of **distributional fairness** through extensive corporate social contribution packages for nearby communities. In addition, indirect wealth spill-overs are benefiting the gradual expansion and development of nearby towns. Employment generation and local sourcing of goods and services prove to be considerable harder as these local markets lack skills and capacities to cater for the needs of these sophisticated operations.

Despite the companies' efforts, sentiments of distributional unfairness remain prevalent among surveyed communities. This is partly due to a long-standing feeling of marginalisation among these communities when it comes to reaping the benefits of their area's mineral wealth. Yet, arguably, a considerable part

of the explanation also lies in the companies' substandard performances, and government's limited regulation and scrutiny, regarding the other two SLO building blocks.

For one thing, meaningful community engagement is no standard practice for the sampled mining companies, leading to inadequate **community confidence** in their **governance**. The low quantity and quality of interactions of companies and their staff with communities has given rise to largely secluded multinational and local, legal and customary, big business and small livelihood worlds. Companies hereby miss the opportunity to manage community expectations, create mutual understanding and prevent harm from occurring or escalating. Incited by Tanzania's local content regulations, community engagement is mounting on the issue of corporate social contributions. This is key, as the absence thereof has giving rise to a relationship of dependency, which is occasionally abused by companies, incites insatiable demands and poor ownership, and risks to absolve local authorities from their development responsibilities.

Another key factor leading to community distrust of industrial mining companies are the serious shortcomings in how these corporate entities manage their impact and harms. The extent of community grievance reports, including allegations of serious human rights violations, highlight the need for **procedural fairness** in assessing whether these are substantiated, and if so, to determine adequate redress. Most concerning were reports of excessive force used by private security companies and police officers against locals trespassing on the mining concessions, of North Mara Gold Mine and Williamson Diamond Mine in particular, in search for minerals or to sustain their livelihoods. Locals conveyed testimonies of beatings, shootings and sexual violence, leading to lifechanging injuries, disability and death. Other reported violations include cases of water, soil, air and noise pollution, expropriation and compensation and vibrations from drilling, blasting and truck traffic that cause unease and property damage. Given the complexity, cost and often counterproductivity of judicial avenues, the UN Guiding Principles on Business and Human Rights recommend to complement these with company-based grievance mechanisms that operate through dialogue and engagement. While four out six companies publicly report to have such grievance mechanisms, only villagers around North Mara Gold Mine are aware of the existence of such a procedure. Yet, appreciation of this mechanism was generally low as locals found it overtly complicated, cases were rarely admitted and compensation was low. Other mines have more informal procedures through community engagement officers or local authorities. Yet, on the whole, local community satisfaction regarding corporate accountability and redress is low.

In sum, local community surveys indicate that mining companies have taken the first steps towards gaining Social Licenses to Operate. Yet, the road ahead is still long and the remaining challenges exceed the capabilities of mining companies. It is a **shared responsibility of businesses, national and local government authorities and communities** to go beyond voluntary efforts to 'do good', towards jointly mapping out the anchorage of these companies in their local socio-economic context and making sure companies 'do no harm'.

## LIST OF BOXES

<b>BOX 1:</b> Key changes in the 2017 amendments to the legal framework for mining in Tanzania .....	p. 18
<b>BOX 2:</b> Phone surveys on LSM impact .....	p. 32
<b>BOX 3:</b> Troubled co-existence with ASM communities .....	p. 37
<b>BOX 4:</b> Notorious use of force against trespassers around NMGM .....	p. 45
<b>BOX 5:</b> Community reports of killings and assaults on trespassers around WDM .....	p. 46
<b>BOX 6:</b> Main references to community grievance processes in company reports .....	p. 50

## LIST OF ACRONYMS

ASM	Artisanal and small-scale mining
BGM	Buzwagi Gold Mine
CSO	Civil society organisation
CSR	Corporate social responsibility
GGM	Geita Gold Mine
LSM	Large-scale mining
ML	Mining license
MSM	Medium-scale mining
NEMC	National Environment Management Council
NGO	Non-governmental organisation
NMGM	North Mara Gold Mine
OECD	Organisation for Economic Cooperation and Development
OSHA	Occupational Safety and Health Authority
PML	Primary Mining License
RMI	Responsible Mining Index
SLO	Social License to Operate
SML	Special Mining License
STAMICO	State Mining Corporation
TRA	Tanzania Revenue Authority
TZS	Tanzanian Shilling
USD	United States Dollar
UNGPs	United Nations Guiding Principles on Business and Human Rights
WDM	Williamson Diamond Mine

# 1. INTRODUCTION

## 1.1. Bringing local community perspectives to the centre of the debate on the socio-economic contribution of industrial mining

**Industrial mining** is a key source of foreign direct investment, export earnings, technology transfer and infrastructure development for numerous developing countries. Yet, in many cases, the permanent removal of their natural resources has failed to spur sustainable **economic development**, and worse still, has regularly brought harm to people and environment. This has caused growing societal opposition to mining, which is prompting governments to rethink laws and policies in an attempt to improve the contribution of the extractive sector to their economies and societies. Companies too are increasingly seeking – and often pushed by investors – to transform “their reputation as efficient ‘converters of dirt’ to prominent builders of both economic and societal capital”.<sup>1</sup>

Also in **Tanzania**, concerns about the suboptimal contribution of large-scale mining (LSM) have been gaining ever more traction. Policy efforts and legal changes to attract foreign investors in the 1990s, put in motion a **mining boom** from 2000 onwards. The speed of these evolutions is evidenced by the fact that between 2005 and 2010, the value of mineral exports increased eight-fold.<sup>2</sup> In 2015, following an average 10,2% annual growth of the sector, LSM accounted for one third of export earnings.<sup>3</sup> Gold accounts for most of these developments.<sup>4</sup> Tanzania produced 42,3 tonnes of gold in 2018, making it Africa’s fifth largest gold producer, after South Africa, Ghana, Democratic Republic of Congo and Mali; and the 20<sup>th</sup> worldwide.<sup>5</sup>

Yet, despite these impressive numbers, mining has so far had a **limited impact on Tanzania’s socio-economic development**. The sector contributes less than 5% to Tanzania’s Gross Domestic Product (GDP),<sup>6</sup> with the 10% target set in Tanzania’s 2025 Development Vision still far out of reach. Industrial mining is moreover highly capital intensive and ever more mechanised, explaining why its contribution to formal employment is less than 1%.<sup>7</sup> “Equally modest was the impact of mining on reduction of rural poverty which afflicts 83 percent of the estimated 13 million Tanzanians living below the poverty line”, as the World Bank put it in 2015.<sup>8</sup>

This unsatisfactory sharing of industrial mining benefits among the population, in a country that ranks 151 out of 188 on the UN’s Human Development Index, has led the Tanzanian government to put more emphasis on anchoring industrial mining in the national economy. This fits a rising trend across Africa towards ‘resource nationalism’, which refers to governments’ efforts to gain **greater control over and value from their natural resources**.<sup>9</sup> In Tanzania this discourse has taken centre stage since President Magufuli took office in 2015. As in most countries, this debate mainly focusses on the national-level, macro-economic contributions of industrial mining, and much less on its impact on local and community development.

The **perspectives of local communities** living nearby large-scale mines are **hardly ever considered**. These communities, for whom the sight of these often-giant extractive operations is an everyday

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1 PricewaterhouseCoopers, *Mine 2019: Resourcing the future*, (PwC, London, 2019), p. 7.

2 Revenue Watch Institute, *The 2013 Resource Governance Index: Tanzania*, (NRGI, New York, 2013) p.1.

3 World Bank, *International Development Association Project Paper on a Proposed Additional Credit to the United Republic of Tanzania for the Sustainable Management of Mineral Resources Project*, (Report No: PAD 1177, 2015), pp. 29-30.

4 Tanzania Extractive Industries Transparency Initiative, *Final Report for the Period July 1 2015 to June 30 2016* (TEITI, Dar es Salaam, 2018), 235p.

5 REFINITIV, *GFMS Gold Survey 2019* (London, 2019), pp. 24-25.

6 4.8% in 2015/2016, as reported in the 2018 TEITI report. Tourism, in comparison, accounts for 11,7% of GDP (World Travel & Tourism Council, *2019 Annual Research: Key highlights* (WTTC, London, 2019)).

7 TEITI (2018), p. 53.

8 World Bank (2015), p. 3; Between 2001 – when the mining boom started – and 2016, the national poverty rate decreased from 35,7 to 26,8%, but due to high population growth, the number of absolute poor has stagnated.

9 S. Andreasson, ‘Varieties of resource nationalism in Sub-Saharan Africa’s energy and minerals markets’, *The Extractive Industries and Society*, 2015, 2(2), pp. 310–319.

reality, are nonetheless best placed to evaluate their impact. As put by former Tanzanian Minister of State Simbachawene: “Communities are the company’s most valuable local resource ... as sources of indigenous knowledge and as partners in the industry”.<sup>10</sup> A better understanding of their perspectives on large-scale mining, of the benefits and harms they feel, of what they appreciate and regret, of the human rights violations they suffer, of the bases of their trust or distrust, is essential for both governmental and corporate actors to inform their policies and practices on improving the societal impact and acceptance of industrial mining.

With this project, IPIS therefore wants to **bring the voices of communities living in the proximity of industrial mining operations to the centre of the debate** on the sector’s contribution to Tanzania’s development. To improve the understanding of their perspectives, IPIS has undertaken community surveys in 32 villages around 6 selected industrial mines in northwest Tanzania: Buzwagi Gold Mine (BGM), Nyamahuna Gold Mine (Nyamahuna), Nyanza Salt Mine (Nyanza), North Mara Gold Mine (NMGM), Geita Gold Mine (GGM) and Williamson Diamond Mine (WDM). The findings are presented in this report, which is accompanied by an interactive industrial mining-community layer on the [IPIS webmap on mining in northwest Tanzania](#).<sup>11</sup>

The next section of this *introduction* will set out the methodology of this study. It discusses in particular how communities are defined, how their perceptions are assessed and how these are presented within the framework of the Social License to Operate (SLO). This framework assesses and explains how mining companies lose or gain communities’ trust and acceptance according to three interrelated factors: distributional fairness, confidence in governance and procedural fairness. The last two subsections of the introduction include a guidance to the webmap and a presentation of the larger project of which this study forms part.

The *second chapter* will sketch the evolving policy and legal framework in which industrial mining currently operates in Tanzania. This will help to understand the changing relationship of mining companies with national and local authorities as well as with communities.

*Chapter 3* outlines the context of large-scale mining and adjacent communities in northwest Tanzania. A first section introduces the six mines that were selected for this project, including a brief history and the current status of their operations. This is followed by a presentation of the socio-economic community context surrounding these operations, as well as the positive and negative impact perceptions of industrial mining that are dominant there.

The following three chapters build on the SLO framework to assess how the survey results contribute to understanding the bases of trust and distrust in industrial mining among local communities. *Chapter 4* discusses how local communities perceive distributional fairness by looking at local content issues that are most relevant for them, namely employment, local sourcing and corporate social contributions. The confidence of communities in the companies’ governance is examined in *Chapter 5*. This assesses to what extent corporate engagement with communities occurs and is meaningful. To analyse community perceptions of procedural fairness, *Chapter 6* evaluates experiences with corporate processes aimed at ensuring accountability and redress for adverse impacts or human rights violations mining companies may have caused or contributed to.

The *final chapter* will combine the various findings to draw conclusions on the state of affairs of community perceptions on industrial mining in northwest Tanzania as key determinants for these companies’ Social Licenses to Operate.

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10 UONGOZI Institute, *Managing Relations between Investors and Local Communities in the Extractive sector*, regional roundtable, 14.06.2016, Dar Es Salaam, p. 14.

11 See <<http://ipisresearch.be/mapping/webmapping/tza/v1>>.

## 1.2. Methodology

### 1.2.1. Assessing community perceptions

Before digging into community perceptions of industrial mining, it is important to concretise what is meant with **communities** in the scope of this project and how their perceptions are assessed. For the mining industry, local communities are among the key stakeholders “who are affected directly or indirectly by the operation, either positively or negatively”.<sup>12</sup> Local communities are typically defined as “inhabitants of immediate and surrounding areas who are affected by a company’s activities”.<sup>13</sup> Yet, delineating ‘local’ is arbitrary, particularly because of secondary social, economic and environmental impacts along the supply chain that expand the notion of proximity.<sup>14</sup> The OECD Due Diligence Guidance on Meaningful Stakeholder Engagement therefore adds that besides communities living near an extractive concession, local communities include “nomadic communities, communities ... downstream from a river near the site, or along a transport route or near associated infrastructure such as energy grids or processing plants”.<sup>15</sup>

Within the confines of this project, IPIS limited the survey selection to communities **in the immediate surroundings of the six sampled mines**. The unit of analysis is the village level. This is of course no uniform entity. In every village, IPIS conducted open, semi-structured interviews with a selection of village representatives, including village and ward authorities, community leaders, farmers, miners, women, and – if present – community-based organisations. The diverse replies and perspectives were combined in hybrid village profiles. In this manner, IPIS surveyed 32 villages that were located between 0 and 10km from the sampled mines. In the case of Geita Gold Mine, this only includes villages in Geita district, as IPIS was unable to secure authorization from Geita town itself.

The semi-structured **questionnaires** commenced with a brief inquiry into the socio-economic village context (demography, main livelihoods, access to basic services and infrastructure, civil society presence). This was followed by a series of open questions covering positive and negative impact perceptions regarding the nearby mine, recent incidents or human rights violations that occurred on or near the mine, local content issues (direct and indirect employment, local provision of goods and services, corporate community contributions), community engagement (quantity, quality, nature, subject and outcome of interactions), and issues of accountability and redress (evaluation of company processes to address grievances, remedy and compensation, role of local government authorities).

In addition, IPIS sought to add the **perspective of the six industrial mining companies** to the analysis. The in-country offices of the sampled mines were contacted for a first time in February 2018 to introduce the project and announce IPIS’ visits to nearby communities. Only for Nyamahuna gold mine, IPIS did not manage to obtain contact information. IPIS proposed to visit the companies’ offices during the community visits for a brief interview and to share a questionnaire covering the company’s perspective on community relations. Besides general company information, this questionnaire covered several open questions on local content and CSR, environmental and social impact assessments, engagement with communities, local authorities and artisanal and small-scale mining (ASM), and grievance and remedy processes. As none of the companies replied to this request, IPIS sent them the questionnaire by e-mail in March 2019. In May we invited them to a dialogue event to discuss the survey findings in Dar es Salaam. None of the companies completed the questionnaire or participated in the event.<sup>16</sup> This implies that their

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12 International Council on Mining and Metals, *Stakeholder Research Toolkit: Best practice guidelines for measuring and monitoring stakeholder relationships in the mining and metals industry resources sector*, (ICMM, London, 2015), p. 24.

13 Ministerial Council on Mineral and Petroleum Resources, *Principles for Engagement with Communities and Stakeholders*, (MCMPPR, Canberra, 2005), p. 5.

14 L. Wang et al., ‘Eliciting drivers of community perceptions of mining projects through effective community engagement’, *Sustainability*, 2016, 658(8), p. 661.

15 Organisation for Economic Cooperation and Development, *Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector*, (OECD, Paris, 2016), p. 11.

16 Representatives of AngloGold Ashanti initially registered for the dialogue, but could no longer attend following a change of date. For more on this event, please see: <<http://ipisresearch.be/2019/05/data-sharing-socio-economic-human-rights-impact-mining-tanzania/>>.

perspectives in this report are purely based on publicly accessible company reports. Only with Nyanza Salt Mine, IPIS was able to have a brief in-person interview with the on-site Manager of Operations.

The primary data in this report is enriched and contextualised with findings from secondary sources such as academic writings, NGO reports and news articles.

The **approach** of this study is mainly **exploratory**. In the light of the small sample of six mines and 32 villages, numbers and percentages are no absolute facts, but rather indicative of certain tendencies or observations. In this same light, the aim of the report is not to rank companies based on their perceived performance, but rather to draw up a general state of affairs of industrial mining-community relations in northwest Tanzania. In IPIS' view, such a bird's-eye view is better suited for comprehensive lesson-learning on the status of communities' trust in and acceptance of mining, on recurring issues and challenges, and good and bad practices.

### 1.2.2. The Social License to Operate as analytical framework

The **concept** of 'Social License to Operate' (SLO) emerged in the late 1990s in a context of growing societal opposition to a number of large-scale mining projects. It served as a metaphor illustrating that besides regulatory compliance, companies need to secure social permission from local communities for the peaceful and successful implementation of their operations. It gradually evolved towards a management tool stimulating and guiding companies in engaging with various stakeholders in order to stabilize and improve the broader social context in which they operate.

Joyce and Thomson delivered one of the first main attempts at defining the concept, broadly describing that "a SLO exists when a mineral exploration or mining project is seen as having the approval, the broad acceptance of society to conduct its activities".<sup>17</sup> This makes clear that a social license is no one-time exercise of ticking boxes, but a **permanent and intangible commitment** to engage with local communities and manage their perceptions and expectations. These vary across the different stages of a mining project. Many companies that do not get this right during exploration or construction, continue to struggle in the exploitation phase.

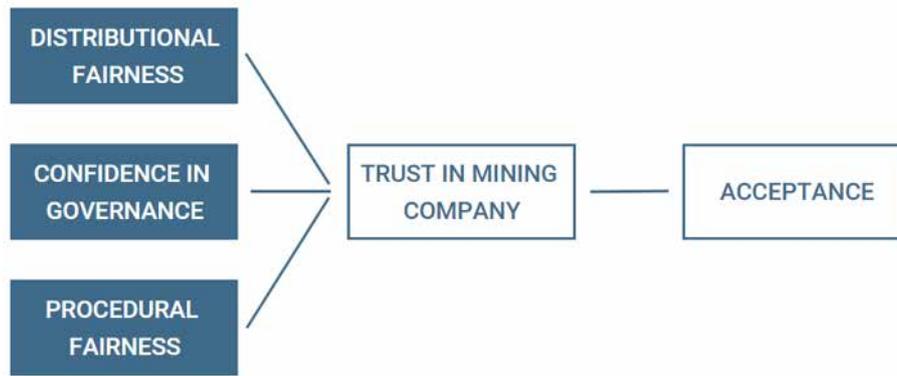
In parallel, scholars and practitioners have been developing broader theoretical frameworks around the SLO concept. Particularly useful for this report is Moffat, Zhang and Leipol's **model**,<sup>18</sup> as it presents a framework to structure and present the survey results and explain how these contribute to better understanding the challenges and potential of relations between industrial mining and adjacent communities. Through several empirical studies the authors conclude that the central predictor of community acceptance is trust, which they consider to be driven by three interrelated factors.<sup>19</sup> The first is *distributional fairness*. It implies that communities feel compensated for the company's impact and resource exploitation on their ancestral lands through a net benefit from the project. The second driving factor of trust is *confidence in governance*, which relates to the quantity and quality of interactions by the company and its staff with local communities and authorities. Reciprocity, listening and promise keeping are considered as key behaviours to gain the trust of the local population. Thirdly, *procedural fairness* is akin to a social contract with communities that makes them feel respected by the company through fair, transparent and inclusive procedures to prevent, address and redress harms. These three building blocks will serve as skeleton to present and analyse the community survey results, and what they mean for companies' Social Licenses to Operate, in Chapters 4 to 6.

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17 S. Joyce & I. Thomson, 'Earning a social licence to operate: Social acceptability and resource development in Latin America', *The Canadian Mining and Metallurgical Bulletin*, 2000, 93(1037), pp. 49-52.

18 It built on the often-referenced pyramid model designed by Thomson and Boutilier, which conceptualizes how companies can overcome withdrawal and gain legitimacy, credibility and eventually trust (R. Boutilier, L. Black & I. Thomson, 'From Metaphor to Management Tool: How the social license to operate can stabilize the socio-political environment for business', *International Mine Management 2012 Proceedings*, (Institute of Mining and Metallurgy, Melbourne, 2012), pp. 227-237).

19 K. Moffat & A. Zhang, 'The paths to social licence to operate: an integrative model explaining community acceptance of mining', *Resources Policy*, 2014, 39, pp.61-70.



*Model of social licence to operate predicting trust in and acceptance of mining (based on Moffat, Lacey, Zhang & Leipold (2016), p. 484)*

### 1.3. Guide to webmap

This section aims to assist users in exploring the different features of the *interactive webmap*.<sup>20</sup> This map was first published in January 2019 to share and visualise IPIS data from surveys on the socio-economic and human rights impact of around 450 artisanal and small-scale mining and processing sites in northwest Tanzania. In parallel with the publication of the present report, IPIS added two new layers: one with the six selected industrial mining sites and another with the surveyed communities around them. Below we present the various features that are useful for exploring the data regarding community perceptions of industrial mining.<sup>21</sup>

Through an **interactive menu** on the right-hand side of the map, the user can apply several filters to the data, allowing to tweak the map to specific interests. By unselecting the 'ASM sites' layer, and activating 'Selected Industrial Mining sites' and 'Communities around selected Industrial Mining sites', the user can choose to only display industrial mining -community data. The menu also allows the user to select additional map layers, such as the geological Greenstone belt and data from the World Resources Institute on protected areas.

The **search function**, in the upper left corner of the map, enables the user to search on the name of villages, towns as well as ASM and industrial mining sites.

<sup>20</sup> See: <<http://ipisresearch.be/mapping/webmapping/tza/v1>>.

<sup>21</sup> For guidance on how to use the ASM features of the map, see: H. Merket, *Mapping Artisanal and Small-Scale Mining in Northwest Tanzania: A survey on its nature, scope and impact*, (IPIS, Antwerp, 2019), p. 12.

A **pop-up window** appears when clicking on an industrial mining concession or nearby village. For **industrial mining sites** it displays the following basic indicators:

- *Operated by:* displaying the company that operates the mine;<sup>22</sup>
- *License number(s):* ML stands for Mining License (allowing initial capital investments between USD 5 and 100 million) and SML stands for Special Mining License (for capital investments in excess of 100 million) (see further Chapter 2);
- *Main mineral:* the main mineral, not the by-products or secondary resources, that is mined at the respective industrial mining site;
- *Production in 2018:* most recent annual production of the main mineral, as reported by the company.



*Example of a pop-up window displaying industrial mining site-specific indicators*

The **pop-up** for **villages** around the sampled industrial mining sites exhibits a number of key indicators organised under the following three tabs:

- *Village information:* village name, region, district, survey visit date, estimated number of inhabitants, main livelihoods and reported distance to the nearby industrial mining site;
- *Socio-economic context:* number of primary schools, secondary schools and health centres, quality of buildings (mainly concrete, mainly mud or mixed), connection to the electricity grid (partial or none) and nature of water supply (piped, boreholes and wells, or river);
- *Industrial mining impact:* nature of corporate social responsibility contributions by the nearby industrial mining site in the village (school, water, health, roads, education, local government offices, farming, electricity, training or sport), dominant perceptions on positive industrial mining impacts (community contributions, employment generation, sub-contracting, compensations or road maintenance), and perceived negative impacts (repression of trespassers, pollution, harms to livelihoods, lack of community engagement, substandard compensations, vibrations and cracks, substandard CSR contributions, substandard employment generation, corruption, or sexually transmitted diseases).

This webmap, displaying a number of key indicators individually for each sampled mine and surveyed village, can be used alongside the report, which presents a more general analysis of the relation between industrial mines and nearby communities.

### 1.4. Background to project

This study forms part of a project on ‘Mapping the socio-economic and human rights impact of artisanal and industrial mining in northwest Tanzania’ that started in January 2017 and will come to an end in October 2019. Funded by the Belgian development cooperation as part of a program on Human Rights and Digitalisation, the



*Example of a pop-up window displaying community-specific indicators*

<sup>22</sup> This does not include the names of in-country subsidiaries, shareholder companies or joint ventures with the government (see section 3.1.).

project uses digital technologies to bridge information gaps around mining in Tanzania. This is done across three main components.

A *first component* consisted of a broad mobile data collection campaign on the socio-economic and human rights impact of artisanal and small mining. This data was published in January 2019 in the form of an analytical report with an accompanying webmap and open database.<sup>23</sup> The *present report* includes the results of the second component on community perceptions regarding industrial mining. The *third and final component* involves piloting a mobile communication platform that enables a two-way communication with communities working in and living around mining areas in northwest Tanzania. On the one hand, a selected group of key informants can anonymously report incidents that are visualised in real-time on the platform's dashboard. On the other hand, IPIS can send out mass surveys to respondents' phones to update information from field surveys in the first and second component. IPIS will report on the findings and lessons learned of this platform in the second half of 2019.

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23 All sources are available through this link: <<http://ipisresearch.be/publication/mapping-artisanal-small-scale-mining-northwest-tanzania/>>.

## 2. TANZANIA'S CURRENT POLICY AND LEGAL FRAMEWORK FOR INDUSTRIAL MINING

Following the colonial Mining Ordinance of 1929, the post-independence socialist-inspired Mining Act of 1979, and the neoliberal 1998 Mining Act promoted by the Bretton Woods institutions, the extractive sector in Tanzania is currently governed by the more balanced **Mining Act of 2010**.<sup>24</sup> With this new framework, Tanzania sought to increase the accountability of the extractive sector, following growing public discontent over exploitative deals that were exacted by foreign investors in the 1990s and 2000s. The 2010 Mining Act, and various accompanying regulations on issues such as mineral beneficiation, trading, environmental protection, and occupational health and safety, do this in a number of ways.

This includes, firstly, a tightening of requirements to apply for Mining Licenses (MLs) and particularly Special Mining Licenses (SMLs). The former are reserved for medium-scale mining (MSM) operations with an “initial capital investment” between USD 5 and 100 million.<sup>25</sup> SMLs are for large-scale mining (LSM) sites with an investment in excess of USD 100 million. For the sake of clarity, we will refer to both types of operations as industrial mining throughout this report.

Under the 2010 Mining Act license applications need to be accompanied by a series of assessments and plans, including for relocation, resettlement and compensation of people, procurement of goods and services in Tanzania, employment and training of Tanzanians and environmental impact.<sup>26</sup>

As a further step to scale up accountability and transparency, Tanzania joined the **Extractive Industry Transparency Initiative** (EITI) in 2009. In 2012, the EITI Board judged that its procedures for annual disclosure and reconciliation of extractive revenues were effective and transparent, and awarded Tanzania – as first African country – EITI compliant status. This was sealed in the 2015 Tanzania Extractive Industries Transparency and Accountability Act.<sup>27</sup> Section 15 of the Act requires companies to submit annual reports on local content and corporate social responsibility to the Tanzania EITI committee.

Yet, considerable **challenges and shortcomings** remain in the governance of industrial mining in Tanzania. These lay not so much in the legal framework as such, but rather in the **implementation** of the above acts and accompanying regulations. This is reflected in Tanzania's composite “weak” score of 49/100 for mining in the 2017 Resource Governance Index.<sup>28</sup> Some of the elements bringing this score down are substandard revenue management, limited transparency in license allocation, non-disclosure of contracts, social and environmental impact of industrial mining on local communities, and the weak governance of the state mining company. The biggest challenge for Tanzania is the substandard implementation of laws and regulations. While its general score is still above the sub-Saharan average, the point differential between average law and practice of the Resource Governance Index for Tanzania is at -26, which is the eighth lowest score of the 31 countries assessed in the region.<sup>29</sup>

The drive to get a fairer share from its extractive sector, often referred to as ‘resource nationalism’, got a strong impetus with the arrival of **President Magufuli** in 2015.<sup>30</sup> His political discourse was from the start more supportive of artisanal miners and critical towards the draining of mineral wealth by foreign mining

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24 For a more elaborate analysis of Tanzania's evolving legal framework for mining: D.F. Brycesson and J.B. Jønsson, ‘Mineralizing Africa and artisanal mining's democratizing influence’, in D.F. Brycesson, E. Fisher, J.B. Jønsson and R. Mwaipopo, *Mining and Social Transformation in Africa: Mineralizing and Democratizing Trends in Artisanal Production* (Routledge, London, 2014), pp. 1-22.

25 The lower limit was initially USD 100,000, but was raised to USD 5 million in a 2015 amendment to the Mining Act. Primary Mining Licenses (PMLs) apply to small-scale operations with capital investments up to USD 5 million; these are reserved for Tanzanian nationals. The precise meaning of ‘initial capital investment’ is nowhere defined.

26 United Republic of Tanzania, *Mining Act*, Supplement No. 14, 3.4.2010, Part IV, Division B.

27 United Republic of Tanzania, *The Tanzania Extractive Industries (Transparency and Accountability) Act*, Supplement No. 23, 18.09.2015.

28 Natural Resource Governance Institute, *2017 Resource Governance Index*, (NRGI, New York, 2017), 25p.

29 Natural Resource Governance Institute, *Resource Governance Index: From Legal Reform to Implementation in Sub-Saharan Africa*, (NRGI, New York, 2019), pp. 7-10.

30 T. Jacob and R.H. Pedersen, ‘New resource nationalism? Continuity and change in Tanzania's extractive industries’, *The Extractive Industries and Society*, 2018, 5(2), p. 287; K. Roder, ‘“Bulldozer politics”, state-making and (neo)-extractive industries in Tanzania's gold mining sector’, *The Extractive Industries and Society*, 2018, 6(2), pp. 407-412.

companies. The President set the tone, in December 2016, with the reversal of a decision by the Ministry of Minerals to remove over 5,000 artisanal miners from a concession in Shinyanga held by the UK's Acacia Mining subsidiary Pangea Minerals. Instead, he ordered to revoke Pangea's prospecting licence, justifying his decision as follows: "[Artisanal miners] mined the area for more than 10 years and then someone who has money comes and buys the land [and issues] a 10-day ultimatum to the more than 15,000 people in those areas to leave... I say no to this during my presidency".<sup>31</sup>

This was followed by what has been described as "economic warfare" with foreign mining companies,<sup>32</sup> embodied most bitterly in the dispute with Acacia Mining (see further section 3.1.).<sup>33</sup> In May 2017, Tanzania imposed a ban on exporting mineral ores and concentrates, which is still in force to date. According to Tanzanian authorities it serves to both promote the development of domestic processing capacities, and make an end to the serious underreporting of the value of mineral exports. The government saw its suspicions of undervaluation confirmed in a public audit of hundreds of mineral sand containers at Dar es Salaam airport mid-2017. In some cases, these reportedly contained up to ten times the stated amount, leading Tanzania to lose "trillions of shillings in revenue".<sup>34</sup> A second public audit concluded that Tanzania, between 1998 and 2017, had lost up to TZS 108,5 trillion (ca. USD 47 billion) in revenues due to creative accounting by mining companies.<sup>35</sup>

In this context, the government tabled **three bills**, under a certificate of urgency, in June **2017** to improve domestic revenue generation from the extractive sector.<sup>36</sup> These bills, which were signed in to law by the Parliament one month later, include a number of important new provisions that were further fleshed out through several amended Regulations in the beginning of 2018.<sup>37</sup>

An important change was an **overhaul of the institutional and administrative framework** for the mining sector. All tasks previously assigned to the now dissolved Mining Advisory Board, Tanzania Mineral Audit Agency, Zonal Mines Offices as well as the still existing Commissioner for Minerals are now assumed by a new Mining Commission. The latter is charged with wide-ranging tasks and responsibilities, including decision-making on the awarding and revoking of mineral rights, monitoring and auditing mining operations, and establishing market and clearing centres for minerals across Tanzania. It has a full-time chair, an executive secretary, and consists of six commissioners, including four permanent secretaries of key ministries, the Deputy Attorney General and the Chief Executive Officer of the Federation of Miners Associations of Tanzania (FEMATA). Further, new Mines Resident Officers will be stationed in every mining site. In October 2017, in the aftermath of these changes, the Ministry for Energy and Minerals was moreover split in two separate Ministries, one for Energy and another for Minerals. Other legislative changes that are relevant in the scope of this study are listed in Box 1.

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31 'Tanzania: Marching Orders for Meat Factory, Mining Investors', *Daily News (Tanzania)*, 13.01.2017.

32 C. Chachage, 'The Costs and Casualties of Magufuli's Mineral War', *Udadisi Blog*, 14.06.2017, <<http://udadisi.blogspot.com/2017/06/the-costs-casualties-of-magufulis.html>>.

33 K. Karuri & D. Bochove, 'Tanzania Says Acacia Mining Won't Be Allowed Role in Country', *Bloomberg*, 28.05.2019.

34 R. Athumani, 'Probe team unearths massive thievery in mineral sand exports', *Daily News (Tanzania)*, 25.05.2017.

35 B. Lugongo, 'Between 68.6tr/ - and 108.5tr/ - Lost From 1998 to March 2017', *Daily News (Tanzania)*, 13.06.2017.

36 These consisted of the Written Laws (Miscellaneous Amendments) Act 2017 ("Amendments Act"), the Natural Wealth and Resources (Permanent Sovereignty) Act 2017 ("Sovereignty Act") and the Natural Wealth and Resources (Review and Re-Negotiation of Unconscionable Terms) Act 2017 ("Contract Review Act").

37 These include Mining (Mineral Rights) Regulations No. 1, Mining (Minerals and Mineral Concentrates Trading) Regulations No. 2; Mining (Local Contents) Regulations No. 3, Mining (Radioactive Minerals) Regulations No. 4, Mining (Mineral Beneficiation) Regulations No. 5, Mining (Geological Survey) Regulations No. 6, Mining (Audit and Inspection of Records) Regulations No. 7

## BOX 1: Key changes in the 2017 amendments to the legal framework for mining in Tanzania

Relevant changes following the 2017-2018 amendments to the mining code in Tanzania:

- formalisation of the ban on exporting concentrates and unprocessed minerals;
- requirement on mineral rights holders to agree local content and corporate social responsibility plans with local authorities (see further Chapter 4);
- imposition of strict liability for pollution damage on any license holder, as well as on those conducting mining operations without a license.
- requirement to submit any mineral agreement to the National Assembly, which is granted the power to review and ask renegotiation by the government of any existing or new agreements considered to have 'unconscionable terms';
- interdiction to settle disputes relating to the extraction of Tanzania's natural resources in foreign courts or tribunals;
- increasing state participation in mining, with the government getting at minimum 16% free carried interest shares in every LSM operation, as well as the right to acquire up to 50% of mining company's stock;
- increasing royalty rates (on diamonds and gemstones from 5 to 6 % and on metallic minerals from 4 to 5% of gross value), and introduction of a clearing fee of 1% for mineral exports;
- establishment of a Mineral Resources Databank by the Geological Survey of Tanzania (GST), owned by the government, to which license holders should furnish mineral information free of charge.

A key void in this legal framework for mining in Tanzania remains its impact on **human rights**, and particularly those of local communities. Mining companies must undertake an environmental impact assessment, but besides relocation plans, there are no legal requirements to prevent and mitigate harmful social effects. Such gaps are problematic as they challenge the level playing field among companies that "can be filled by good – and bad – practices".<sup>38</sup> Human rights do form an important component of the African Union's 2009 Africa Mining Vision (AMV). The domestication in the form of a Country Mining Vision for Tanzania slipped into oblivion for a while, but was given renewed impetus during a high-level event in May 2019 organised by the UONGOZI Institute, the United Nations Development Program (UNDP) and the Ministry for Minerals.<sup>39</sup> This initiative put the impact of mining on local communities back on the agenda. Time will tell whether this will result in concrete commitments or enhanced policy and legal guidance. Moreover, big mining companies operating in Tanzania, in particular Barrick Gold and AngloGold Ashanti, are member of the Voluntary Principles on Security and Human Rights. This is a multi-stakeholder collaboration of governments, mining companies and civil society, providing guidance and stimulating cooperation on maintaining safety and security of extractive operations while encouraging respect for human rights. Tanzania in itself is however not a member of the Voluntary Principles' governmental pillar, which has Ghana as only African state party.

38 Institute for Human Rights and Business, *Human Rights in Tanzania's Extractive Sector: Exploring the Terrain*, (IHRB, London, 2016), p. 25.

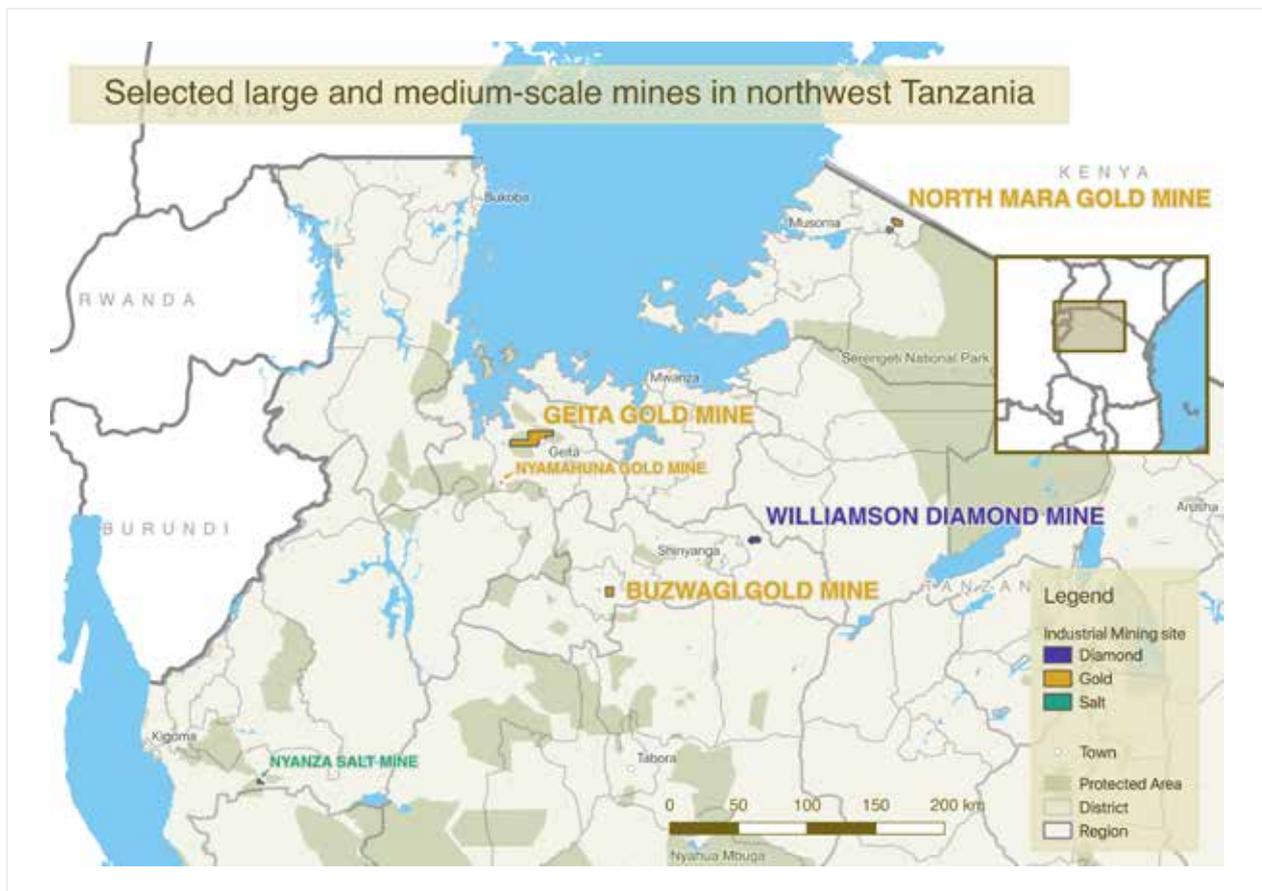
39 For more information: <<http://uongozi.or.tz/events/enhancing-national-ownership-in-the-mining-sector-domesticating-the-africa-mining-vision/>>.

## 3. THE CONTEXT OF INDUSTRIAL MINING AND ADJACENT COMMUNITIES IN TANZANIA

### 3.1. Industrial mining in northwest Tanzania

Industrial mining companies operating in northwest Tanzania are engaged in the extraction of different minerals. Gold has attracted the bulk of foreign mining investment. Four of Tanzania's five currently active large-scale gold sites are in Lake Victoria's Greenstone Belt.<sup>40</sup> Diamonds are also mined industrially in Shinyanga region. Besides gold and diamonds, other smaller industrial operations extract salt, galena, nickel and copper.

For the purposes of this study, IPIS selected six industrial mining operations, namely Geita Gold Mine (GGM), Buzwagi Gold Mine (BGM), North Mara Gold Mine (NMGM), Williamson Diamond Mine (WDM), Nyanza Salt Mine (Nyanza) and Nyamahuna Gold Mine (Nyamahuna). The first four are large-scale sites operating on a Special Mining License (SML), the last two are medium-scale operations with a Mining License (ML). Throughout this report both types of operations will for the sake of clarity and simplicity be referred to as industrial mining. The map below visualises this sample of mines, large and medium-scale mines are respectively in large and small font. The six sampled mines can also be seen on the [accompanying webmap](#).



#### 3.1.3. *Acacia's Buzwagi and North Mara Gold Mines*

The sample includes two of the three mines owned by the United Kingdom-listed Acacia Mining, namely Buzwagi Gold Mine (BGM) and North Mara Gold Mine (NMGM).<sup>41</sup> Formerly known as African Barrick Gold, Acacia Mining has its headquarters in London and is a subsidiary of the Canadian Barrick Gold Corporation.

40 The exception is Shanta Gold's New Luika mine in Tanzania's southwestern Mbeya region.

41 Acacia's third gold mine, Bulyanhulu, also operates in Lake Victoria's Greenstone Belt.

The latter became the world's biggest gold miner following a merger in January 2019 with Randgold Resources.<sup>42</sup> In 2016, Acacia's three mines accounted for roughly 60% of the total gold production by Tanzania's large-scale mines.<sup>43</sup>

In the 2018 Responsible Mining Index (RMI), which assessed publicly available information on 30 mining companies' policies and practices, the Barrick Gold Group was among the five best performers in two out of six categories. This includes the third place for community well-being and the fifth place for lifecycle management. Its scores for contribution to national economic development, environmental responsibility, business conduct and working conditions were lower but still above average.<sup>44</sup> Yet, for none of the six categories Barrick's score is above 2.5 out of 6, indicating that there remains considerable room for improvement for Barrick, as for the bulk of mines assessed in the 2018 Index.

In 2017, a fierce row emerged between Acacia and the government of Tanzania. Following a public audit, Acacia faced a number of allegations, including the illegality of its operations in the country, tax evasion and underreporting gold and copper levels in its concentrate exports. As a consequence, the government charged Acacia with a tremendous \$190 billion bill of unpaid taxes and fines.<sup>45</sup> Barrick Gold stepped in to lead talks with the government. In February 2019, the two parties reached a deal, including the creation of a local company to manage Acacia assets in Tanzania, a 50-50 split of economic benefits and the payment of \$300 million to resolve tax claims.<sup>46</sup> As the relationship between Acacia and the government of Tanzania appears to have reached a point of no return, Barrick subsequently started negotiating a buyout with Acacia's stakeholders, which is expected to be concluded in the near future.<sup>47</sup>



42 Z. Shabalala, G. Varghese and C. Denina, 'Canada's Barrick Gold to buy Randgold for \$6.5 billion', *Reuters*, 24.09.2018.

43 Tanzania Minerals Audit Agency, *Annual report 2016* (TMAA, Dar es Salaam, 2017).

44 Barrick respectively obtained the sixth, ninth, 11<sup>th</sup> and 16<sup>th</sup> place (Responsible Mining Foundation, *Responsible Mining Index 2018*, (RMF, Nyon, 2018), 40p.).

45 T. Biesheuvel, 'This Miner's \$190 Billion Tax Bill Would Take Centuries to Pay', *Bloomberg*, 24.07.2017.

46 J. Benny, 'Barrick details proposal to settle Acacia dispute with Tanzania', *Reuters*, 20.02.2019.

47 N. Saminather, B. Lewis, & Z. Shabalala, 'Barrick set to take full control of Acacia after raising bid', *Reuters*, 19.07.2019.

**Buzwagi Gold Mine (BGM)** is located close to the town of Kahama in Shinyanga region. Acacia operates the mine through its Tanzania-registered subsidiary Pangea Minerals. It obtained a Special Mining License (SML274/2007) in 2007, spanning an area of 35.32 square kilometres, and started operations in 2009. BGM commenced as an open pit mine. In response to the export ban on mineral concentrates, the mine transitioned towards lower grade stockpile processing in 2017, which is expected to be completed in 2021.<sup>48</sup> Following this transition, Buzwagi's gold production fell by 46%, from 268,785 ounces in 2017 to 145,440 ounces in 2018.<sup>49</sup>



**North Mara Gold Mine (NMGM)** is located in a rather densely populated area in the Tarime district of Mara region, on the shores of the Mara river, 100km away from Lake Victoria and 20km from the Kenyan Border. It is operated through Acacia's Tanzanian subsidiary North Mara Gold Mine Limited. Barrick Gold bought the mine in 2006 from a Canadian company called Placer Dome who started mining the area in 2002. The mine consists of two separate SMLs (SML 18/96 and SML 17/96), which are both subject to renewal in 2021. The mine has a total surface of 43.28 km<sup>2</sup>. It sources from two deposits, combining open pit (Nyabirama deposit) and underground (Gokona deposit) operations. NMGM's gold production in 2018 rose with 4% from a year earlier, to 336,055 ounces. This constitutes 64% of Acacia's gold production in Tanzania.<sup>50</sup> Acacia currently estimates the life of this mine to be eight years, with 2,3 million ounces of gold reserves<sup>51</sup>. NMGM has often been subject of controversy and relations with communities and authorities have further deteriorated in recent months due to allegations of corruption, tax evasion and breaches of environmental legislation.<sup>52</sup>

48 See: <<https://www.acciamining.com/operations/operating-mines/buzwagi/overview.aspx>>.

49 Acacia Mining, *2018 Preliminary Results Presentation*, (London, 2019), p. 28.

50 2019 results appear less promising, however, due to production disruptions caused by a fall of ground in the Gokona underground mine and an excavator breakdown in the Nyabirama open pit in late December 2018 (R. Dyer, 'Acacia Mining posts worse-than-expected drop in gold production due to issues at North Mara', *Proactive Investors*, 15.04.2019, <<https://www.proactiveinvestors.co.uk/companies/news/218568/acacia-mining-posts-worse-than-expected-drop-in-gold-production-due-to-issues-at-north-mara-218568.html>>).

51 See: <<https://www.acciamining.com/operations/operating-mines/north-mara/overview.aspx>>.

52 'Acacia Mining says another employee arrested by Tanzania anti-corruption body', *Reuters*, 17.10.2018; A. MacDonald & N. Bariyo, 'Britain's Fraud Office Investigates Acacia Mining', *The Wall Street Journal*, 14.12.2018; F. Ng'wanakilala, 'Tanzania orders water cleanup by March 30 at Acacia gold mine or face closure', *Reuters*, 08.03.2019.



*Caption: North Mara Gold Mine and its surroundings (Mara, 2017 – Photo: IPIS)*

#### **3.1.4. Geita Gold Mine**

Geita Gold Mine (GGM) is situated just outside Geita town in Geita region. Mining operations started in the 1930's under British colonial rule. The mine got in financial difficulties after independence and was eventually closed in 1966, following continued stagnation in the gold price.<sup>53</sup> Following three decades of only artisanal mining around Geita, the Ghanaese Ashanti Goldfields Corporation started operating the mine in the late 1990s. In 2001, AngloGold acquired a 50% stake and, in 2004, the two companies merged to AngloGold Ashanti, registered in South Africa.

AngloGold Ashanti scored comparatively well in the 2018 Responsible Mining Index, which placed it among the five best performers in four out of six categories. This includes the first place for working conditions, third place for lifecycle management, fourth place for community well-being and fourth place for environmental responsibility.<sup>54</sup> Yet, only for 'working conditions' AngloGold Ashanti's score is above 3 out of 6, illustrating clear potential for continuous improvement.

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<sup>53</sup> Brycesson and Jönsson (2014), p. 14.

<sup>54</sup> For the other two categories, economic development and business conduct, AngloGold Ashanti obtained respectively the 11<sup>th</sup> and tenth place.



The mine is operated through a Tanzanian subsidiary called Geita Gold Mining Limited on a Special Mining License (SML 45/99) of 196.27 km<sup>2</sup>. While initially purely open pit mining, underground operations started in 2015 as part of a long-term strategy to extend the lifecycle of the mine. GGM is Tanzania’s biggest gold mine. In 2016, it accounted for 35% of all production by Tanzania’s large gold mines.<sup>55</sup> Its 2018 production was 564,000 ounces and the mine estimates its ore reserve at 1,33 million ounces.<sup>56</sup>

### 3.1.5. Nyamahuna Gold Mine

The fourth and last gold mine in the study sample is the medium-scale Nyamahuna mine, which lies about 45 km from Geita town. This mine represents and illustrates the growing foreign investment in small-scale mining in Tanzania. As documented by Schoneveld et al., small foreign companies, often Chinese, increasingly run operations on small-scale mining claims that are legally reserved for Tanzanian nationals.<sup>57</sup> While this practice could indeed help to bridge the performance gap between industrial mining and ASM, it occurs at present largely outside the legal framework and is thus left unregulated.<sup>58</sup> The 2017 amendments to the Mining Act open a window for improved regulation by allowing PML holders to contract foreigners for technical support, subject to approval by the Mining Commission.

55 TMAA (2017).

56 AngloGold Ashanti, *Operational profile 2018: Geita*, p. 3.

57 For an elaborate analysis, see: Schoneveld G. et al., *The new face of informality in the Tanzanian mineral economy: transforming artisanal mining through foreign investment?* (IIED, London, 2018) 76p.

58 R. Hundsbaek Pedersen et al., ‘Mining-sector dynamics in an era of resurgent resource nationalism: Changing relations between large-scale mining and artisanal and small-scale mining in Tanzania, *Resources Policy*, 2019, 62, pp. 339-346.

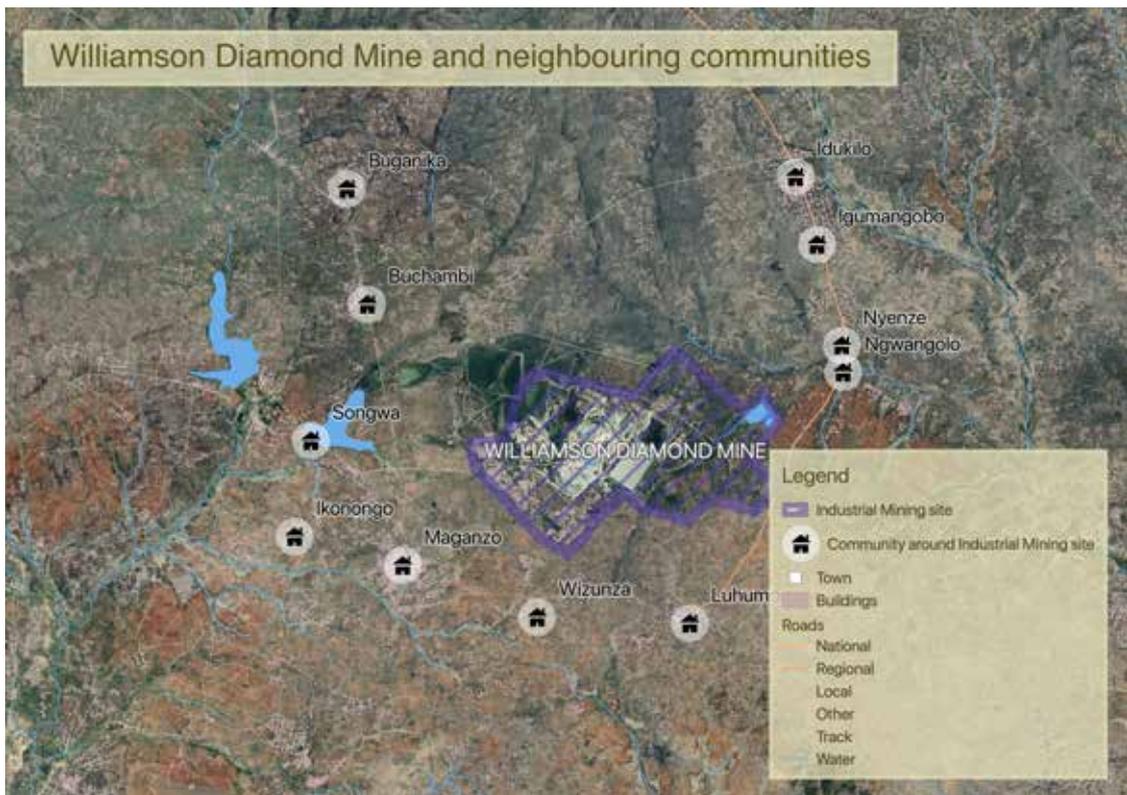


According to locals, artisanal mining activities in Nyamahuna started in 1988. In 2008 a number of Tanzanian small-scale miners joined forces and obtained a Primary Mining License (PML) for the claim. In 2013, a Chinese gold mining company, called Dian Li, expressed interest to invest in the mine, which led to a contractual partnership with the PML holders in 2015. In return for Dian Li modernising the mine – with technical skills, new equipment and the installation of a gold processing plant – and running the operations, the PML owners get a share of the gold production (reportedly 25%). In 2018, the license holders were able to convert the PML into a Mining License (594/2018), which allows a higher capital investment and is no longer restricted to Tanzanian nationals. This small license has a total surface of 0.18km<sup>2</sup>. There are no public records of annual gold production by the mine.

### 3.1.6. Williamson Diamond Mine

The sample for this study includes one large-scale diamond mine, located in Mwadui, Shinyanga region, 25km northeast of Shinyanga town. The mine is known by the name of its founder, the Canadian geologist dr. John Williamson, who discovered diamonds in this area in 1940. It extracts diamonds from the Mwadui kimberlitic pipe, the second largest diamond bearing volcanic pipe in the world, and from alluvial deposits. The pipe is renowned for containing gem-quality ‘bubblegum’ pink diamonds.

Williamson operated the mine until its acquisition by the colonial government of Tanganyika and the South African company De Beers in 1958. The latter managed the mine in equal partnership with the government until 1973, when the newly created State Mining Corporation (STAMICO) took over. Following declining outputs, De Beers returned in 1993 with a recapitalization, acquiring 75% of the mine’s ownership. De Beers’ interests were bought in 2009 by Petra Diamonds, a company based in Jersey and listed on London’s stock market. Petra Diamonds operates the mine to date in a 75/25% venture with the government. Since 2003, El-Hillal Minerals, a Tanzanian company, is operating an industrial diamond mine (SML 404/2010) adjacent to Petra’s claim.



Petra's Williamson Diamond Mine (WDM) is an open-pit operation on a license (SML 216/2005) of 30.6 km<sup>2</sup>. Petra Diamonds started a major expansion plan in 2010, through pit reshaping and plant rehabilitation, with the aim to increase the mine's depth to about 260m and the production to 600,000 carats per year. Petra is currently digging at an average depth of 55m and 95m at its deepest point. WDM produced 341,102ct in 2018, an increase of 51% compared to 2017 production.<sup>59</sup> Petra estimates WDM's total diamond reserve at 39 million carats.



*Petra's Williamson Diamond Mine (Photo: Simisa, licensed under CC BY-SA 3.0)*

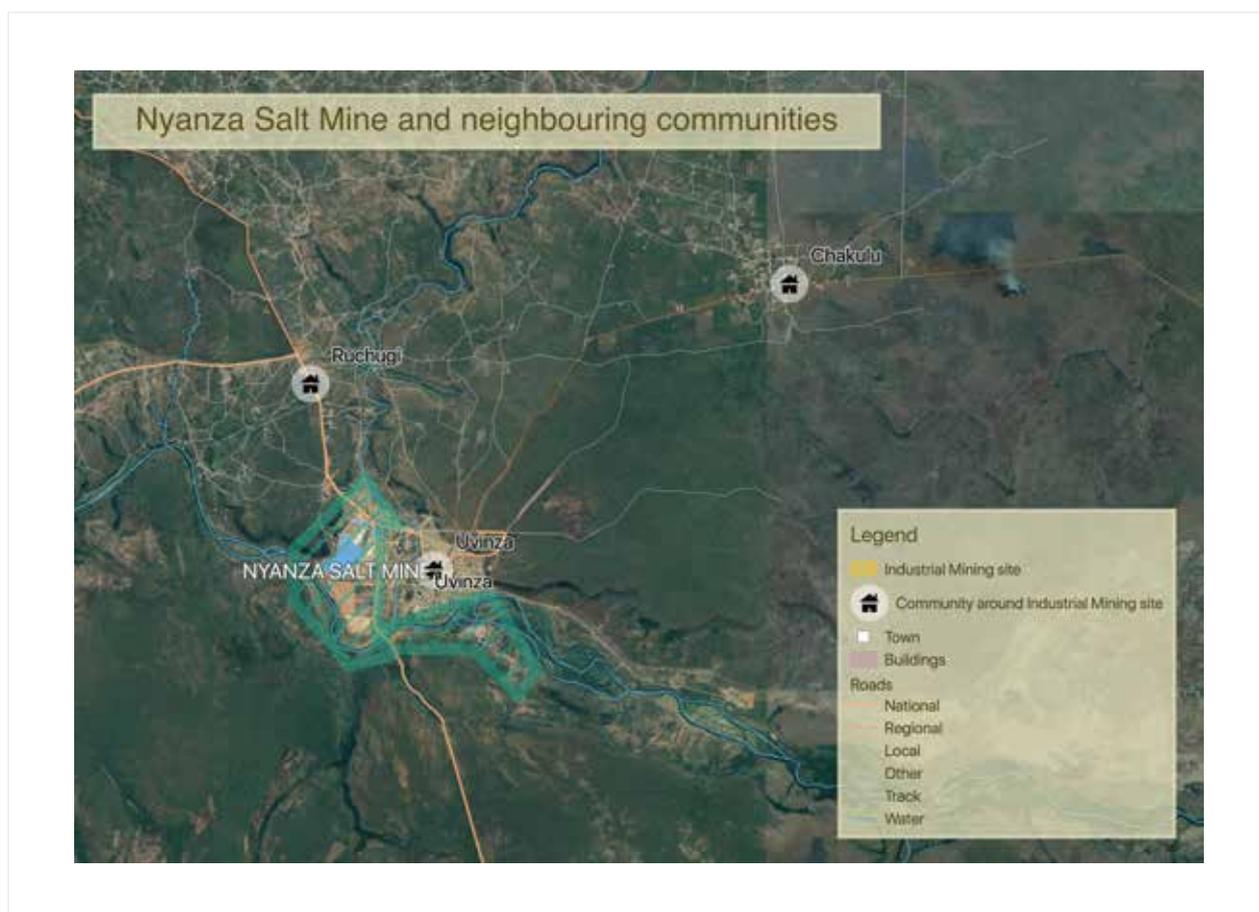
<sup>59</sup> See: <<https://www.petradiamonds.com/our-operations/our-mines/williamson/>>.

In 2017, a Parliamentary probe into the diamond mining sector reported gross irregularities around Petra Diamonds' contract, license and diamond valuation.<sup>60</sup> This led to the confiscation at Dar es Salaam airport of a 71,000ct consignment of Petra's diamonds that were being exported to Belgium, due to suspicions of seriously underreporting their value. While Petra was allowed to resume exports one month later, discussions about the seized parcel were still ongoing at the time of writing.<sup>61</sup> Petra Diamonds was not among the companies assessed in the 2018 Responsible Mining Index.

### 3.1.7. Nyanza Salt Mines

The last mine in the sample is the medium-scale salt producing Nyanza mine. It is located in Uvinza town, in Kigoma region. Salt mining around the town of Uvinza has a long history, which dates back to at least the fifth century.<sup>62</sup> Nyanza Mine was created in 1926 by German colonialists, then taken over by the British before being nationalized in 1967 and run by STAMICO. Nyanza Salt Mines Limited became a private Tanzanian company in 1999.

Today, the company operates on two comparatively small Mining Licenses (ML 39/98 and ML 112/2001) with a total surface of 7.14 km<sup>2</sup>. While salt was previously extracted by heating brine in firewood-driven stoves, the mine currently relies entirely on solar heating in large basins. Whilst significantly reducing deforestation, this also means that salt can only be produced in the three to four-month dry season, and that bigger swaths of land are needed to let the sun do its work.



60 N. Megaw, 'Petra Diamonds suspends operations at Tanzania mine as government probes industry', *Financial Times*, 11.09.2017.

61 C. Jamasmie, 'Petra Diamonds revenue up as production, sales jump', *Mining.com*, 22.10.2018, <<http://www.mining.com/petra-diamonds-revenue-production-sales-jump/>>.

62 G. Mohktar, *General History Of Africa II: Ancient Civilizations of Africa*, (UNESCO, Paris, 1981), 721p.

Nyanza Mine produces mainly table salt. The mine's main point of sale is in Kigoma, on the shores of Lake Tanganyika, facilitating commerce across the country and exports to Burundi, Rwanda and DRC. Nyanza currently produces around 25,000 tons per year, and has plans to scale up to 40-45,000 tons annually.<sup>63</sup> In 2016 there were reports of the Tanzanian government wanting to renationalise the mine, but these have not resurfaced since.<sup>64</sup>



*Nyanza Salt's old firewood-driven stoves (left), and its newer solar-heated basins (right) (Kigoma, 2017 - Photo: IPIS)*

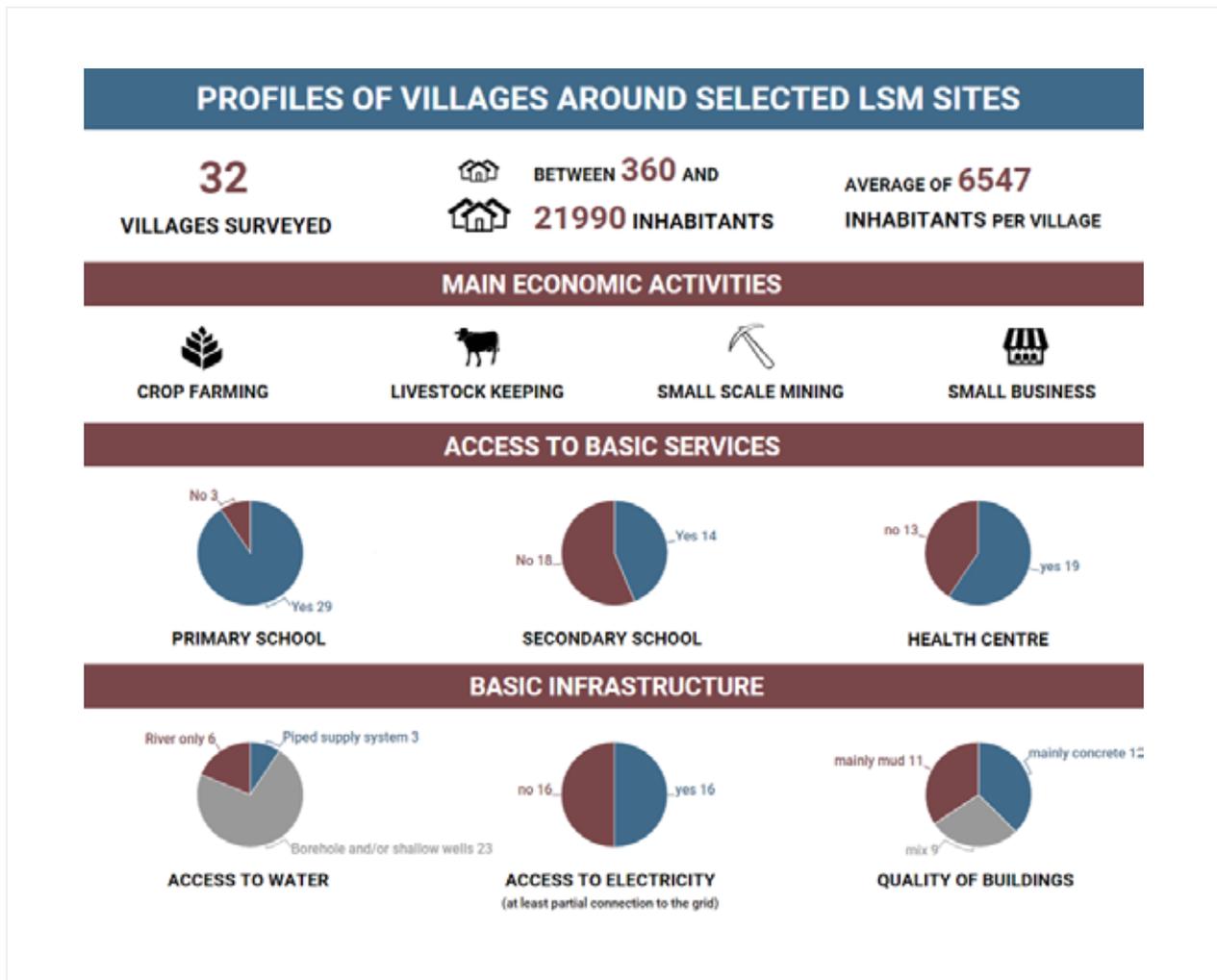
### 3.2. Communities around industrial mining operations

The six industrial mining operations outlined above are surrounded by predominantly rural communities. The first part of this section presents a general description of the average socio-economic village profile of these communities. This can be read alongside the [community layer on IPIS' interactive webmap](#), which displays a number of key indicators for each village individually. The rural context, and the contrast with the sophisticated industrial mines in their backyard, will help to understand the dominant community perceptions of industrial mining, which form the subject of the second part of this section.

63 Interview with Nyanza Salt's Manager of Operations, January 2018.

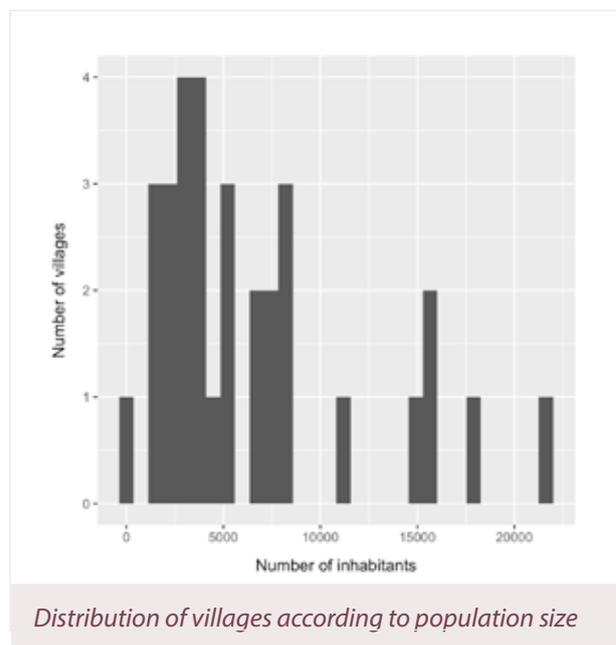
64 'Government wants to nationalise Uvinza Salt Mines', *Africa Intelligence (The Indian Ocean Newsletter)*, 01.07.2016.

### 3.2.1. Socio-economic community context



The **demography** of the surveyed villages ranges from small settlements of a few hundred inhabitants to middle-size towns of nearly 22,000 people. With a median population of 4,600, it is clear that the selected mines are largely neighbored by relatively small villages, as visualised on the below graph.

As can be expected in these rural landscapes, crop farming and livestock keeping are among the main **livelihoods** in respectively 30 and 26 out of a total of 32 villages. Given the obvious presence of minerals, it is not surprising that artisanal and small-scale mining (ASM) is equally important, with 27 villages reporting it as a key source of income. Small businesses, such as groceries, convenience stores, jewellers, barbershops, hair salons, pharmacies, print shops, bars and liquor stores, are the fourth main livelihood, reported in about one-third of villages. More anecdotally, fishing, bee-keeping, charcoal production and diamond trade provide sources of income and employment in a smaller number of villages.



Villages' **access to basic services** is mixed. Only three villages have no primary school. In these villages, the closest primary school is between 0.5 and 5 km away. Secondary schools are less prevalent. Less than half of villages have a secondary school, with the closest school at an average distance of nearly 7 km. While 13 villages do not have a single health centre, the closest dispensary is never further than 5 km away.

Concerning **basic infrastructure**, the community surveys covered elementary indicators on water supply, access to electricity, quality of buildings and road conditions. Only three villages are equipped with a piped **water supply** system connecting a number of households. Three-fourths of villages access water through boreholes or shallow wells, often constructed by mining companies (see section 4.3). Wells are regularly exhausted in the dry season, forcing villagers to fetch water from rivers or streams, often at long distance. In some of these villages, communities conveyed that industrial miners put water kiosks at their disposal to stock up on water in dry periods. For six villages, the only water source is a nearby river or lake, located at a distance of between 4 to 10 km. Particularly in these villages, but also in some others, locals expressed concerns about water quality.



*A village health centre in Nyenze, Shinyanga region, nearby Williamson Diamond Mine (Shinyanga, 2018 – Photo: IPIS)*

Half of the villages surveyed had a partial **connection to the electricity grid**, electrifying several houses and shops, typically those along the main road. In villages that have no connection to the grid, some households or small businesses produce electricity through solar panels or generators.

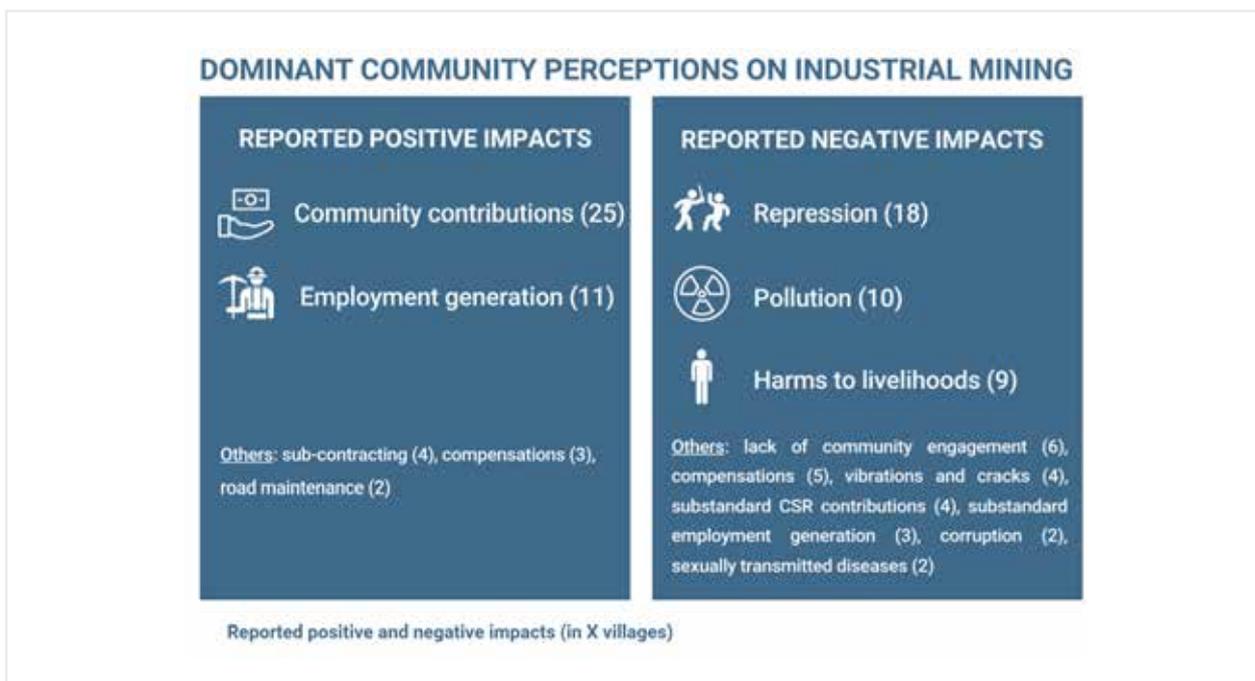
The **quality of buildings** is quite heterogenous. 12 villages portray a higher level of economic advancement with a majority of buildings constructed from permanent and modern building materials, including concrete, bricks, tiles and aluminium roofs. In 11 villages most houses are constructed with conventional and lower quality materials such as mud, branches, grass and leaves. For a final group of nine villages the quality of buildings is mixed with a comparable portion of modern buildings – typically in the village centre – and conventional houses.



*Examples of surveyed villages: Chapulwa (nearby BGM), Nungwe (GGM), Mjini Kati (NMGM) and Ruchugi (Nyanza) (Photo: IPIS)*

Village **road infrastructure** predominantly consists of dirt or gravel roads. Paved roads only occur in villages crossed by highways, such as Uvinza, Ruchugi and Maganzo. While there were problems with road quality and accessibility in some villages, most reported these dirt or gravel roads to be fairly maintained and passable.

**Civil society organisations** (CSOs) can play a vital role in information sharing, awareness raising, community empowerment, monitoring, reporting and mediation on company-community relations. Their presence in the surveyed villages is however strikingly low. The villages around NMGM form an exception, with the international NGO Search for Common Ground (SFCG) working on a project to promote dialogue and collaboration between local communities, authorities and the mine.<sup>65</sup> Additionally, in some other villages in Geita, Shinyanga and Mara, CSOs work to reduce harms in the ASM sector, but do not work directly on community relations with industrial mining.<sup>66</sup>



### 3.2.2. Dominant community perceptions of industrial mining

In every village, we asked a sample of community members what positive and negative impacts they associate with the adjacent mining company. The aggregated answers allow us to draw a general overview of how communities perceive industrial miners operating in their proximity. More specific examples or cases will be set out in the following chapters. In the image below, as well as in the text, the numbers refer to villages. The data does not allow to determine how widespread a perception is within a single village, but does allow to assess how often the same issues surface around each mine.

This section gives a general overview of community perceptions with illustrative examples of individual mines. On the [community layer on IPIS' interactive webmap](#), a summary of the perceived impacts can be found for each surveyed village.

Villagers associate various **positive impacts** with having an industrial miner operate in their proximity. Dominant are community investments and employment generation, followed by a number of more sporadically valued impacts.

**Community contributions** under companies' corporate social responsibility (CSR) programs are by far the most appreciated impact. It was mentioned in over three-quarters of villages, spanning all six

65 See: <<https://www.sfcg.org/hostility-hope-tanzania-gold-mines/>>.

66 These include the World Wide Fund for Nature (WWF) implementing awareness campaigns on mercury use and other harmful ASM practices that threaten the Mara river ecosystem, and the Tanzanian Rafiki-SDO and NELICO working to reduce child labour in ASM in respectively Kahama and Geita.

sampled mines. Such corporate support contributes to village development and typically supports basic services and infrastructure (see further section 4.3.).

The second most valued impact, reported in one-third of villages, is **employment generation** by industrial mining. This covers both direct employment of locals in these mines, as indirect jobs through local wealth spill-overs that stimulate the growth of towns and businesses (see further section 4.2.).

Other benefits are less systematically mentioned. This includes **sub-contracting** the provision of goods and services to local companies, mentioned in four villages proximate to NMGM, WDM and BGM. In three villages, around Nyanza, BGM and NMGM, inhabitants valued **compensations** offered by the mine, including for relocated households, stipends for harvesting village forests and profit sharing based on mining titles previously held by the village. Finally, locals in two villages close to WDM and NMGM mentioned they benefited from the mine's maintenance of **roads** used by its trucks.

The survey results on negative impacts associated with nearby industrial mining companies paint a more divergent picture. The various reported negative impacts can be grouped in ten categories, three of which are most recurring: repression, pollution and harm to livelihoods.

The biggest concern, reported in over half of all villages, is the **repression** by police or private security companies of locals trespassing on the company's license. This repression allegedly involves serious human rights violations, including beatings, shootings and sexual violence. Most villages around NMGM and WDM reported this as a negative impact (see further section 6.1.).

**Water, soil, air and noise pollution** is another recurring harm. It is associated with industrial mining in about one-third of villages, with regular complaints of this leading to health problems. Water contamination is most recurring and was perceived as a negative impact in several villages around NMGM, GGM, BGM, Nyamahuna and Nyanza. A number of communities around NMGM, GGM and BGM furthermore complained about dust pollution due to truck traffic, mining operations and blasting. In certain cases, these are reported to cause noise pollution, occasionally at night.

In nine villages, industrial mining operations, namely GGM, BGM, Nyanza and NMGM, were held responsible for **harms to livelihoods**. Often recurring are reports from locals that loss of land, reduced accessibility and water diversion caused by industrial mining operations hinders them in their livelihood activities. In particular crop farmers, livestock herders and artisanal and small-scale miners complain about unemployment and decreasing production. Other related livelihood harms include increased cost of living and rising theft and crime.

In six villages, mainly around NMGM, but also WDM and Nyamahuna, communities felt negatively affected by a **lack of engagement from the mining company**. Villagers pointed to a disregard for local authorities, lack of involvement in decisions about community investments and company operations, and dishonouring commitments.

Five villages, nearby GGM, BGM and NMGM, felt impaired by lacking or insufficient **compensation** for harms caused by the mine, such as relocation, property damage, harm to livelihoods, pollution or water diversion. A related complaint in four villages around NMGM, is that of cracks in or collapse of houses due to vibrations caused by the mine's **drilling and blasting** operations.

Markedly, community members in four villages around NMGM, GGM and Nyanza saw the company's **CSR contributions** as a cause of grievance rather than benefit. This was either due to the fact that the company did not honour its commitments or because investments were seen as substandard. Similarly, three villages around Nyanza and WDM were discontented with the level of **employment**, retrenchment policies or working conditions in the mine.

In two villages around Nyanza and NMGM **corruption** was mentioned as a negative impact from industrial mining. In one case this related to nepotism in the company's recruitment practices, in another to collusion with police. Finally, two villages nearby BGM mentioned the spread of sexually transmittable diseases (**STDs**), in particular HIV/AIDS, due to interactions between mine employees and villagers.

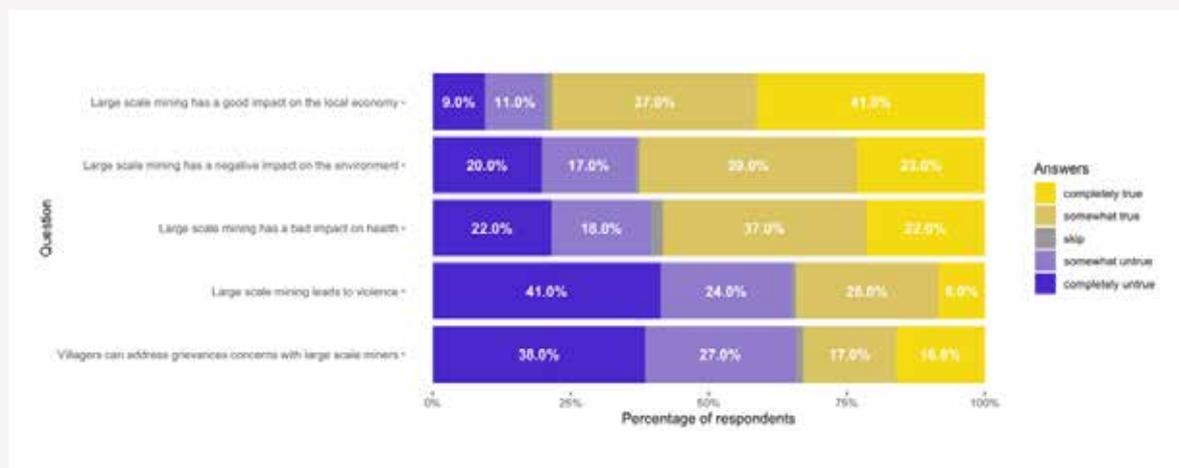
## BOX 2: Phone surveys on LSM impact

As part of IPIS' broader project on 'Mapping the socio-economic and human rights impact of mining in northwest Tanzania', a mobile communication platform for communities in ASM and industrial mining areas was piloted. In addition to serving as an incident detection platform, this allowed IPIS to broadcast phone surveys to hundreds of respondents that volunteered to cooperate during the data collection phases of this project.

In April 2019, IPIS sent out a brief survey on the perceived impact of mining. This survey included five questions related to how respondents appreciate large-scale mining. These respondents were drawn from communities in Mara, Geita, Shinyanga and Kigoma that both live nearby the six sampled industrial mines and others that live nearby or work in ASM.

The responses are depicted in the stacked bar chart below and reflect a number of the above findings. In particular, 78% of the 181 respondents either somewhat or completely agree that LSM has a good impact on the local economy. 62% found it somewhat or completely true that large-scale mining companies have a negative impact on the environment. About the same proportion of respondents (59%) agreed that it has a bad impact on health. 66% believed that LSM does not lead to violence. Finally, 65% did not agree with the statement that villagers can address grievances with mining companies.

These results confirm the duality of communities' stance towards LSM: widely appreciated for its impact on the economy, but deplored for the harms it brings to environment and health. While views are less pronounced, still one in three respondents considers that LSM can in some ways lead to violence. In the light of such concerns it is problematic that two thirds of respondents see no or few ways to bring grievances to the attention of mining companies.



## 4. DISTRIBUTIONAL FAIRNESS

The first building block of a company's Social License to Operate is a sense of distributional fairness among communities. This is regulated in Tanzania, as in many other resource-rich countries, through local content requirements. While these take various shapes and forms, their general objective is to move beyond revenue generation and strengthen linkages with the local and national economy.<sup>67</sup> This Chapter will first present Tanzania's local content framework and then assess community perspectives on how mining companies are anchored in the local economy.

### 4.1. The local content framework

Local content frameworks, in general, draw from one or more of the following aspects: enhancing local procurement of goods and services, direct and indirect employment generation, increasing local expertise and capacities, and promoting social investments.<sup>68</sup>

The meaning of '**local**' in local content frameworks is not always clearly defined and often confusing. The focus tends to be on the national level, without distinguishing inputs in the communities around the respective mining companies. Another challenge with these frameworks is striking a balance between clear-cut legal provisions and sufficient flexibility to adapt to local realities in order to avoid economic inefficiencies or abuse of local content policies for the maximisation of profit, influence or power.<sup>69</sup>

In **Tanzania**, the 2017 revision of the **Mining Act** gave legal recognition to the concept of local content, which it defines as:

*"the quantum of composite value added to, or created in, the economy of Tanzania through deliberate utilization of Tanzanian human and material resources and services in the mining operations in order to stimulate the development of capabilities indigenous of Tanzania and to encourage local investment and participation".<sup>70</sup>*

A new Section 3 of the Mining Act sets out a series of legal obligations for mineral right holders. These include giving preference to Tanzanians and Tanzanian companies in licensing, recruitment and procurement of goods and services, providing training and technology transfer to enhance domestic capacities, agreeing CSR plans with local government authorities, and adopting an integrity pledge "to abide [by] ethical business practices and support a national campaign against corruption".<sup>71</sup>

These obligations are fleshed out in the **2018 Mining Local Content Regulations**.<sup>72</sup> A revision of these Regulations in February 2019 tempers some of the requirements to allow domestic companies to catch up on capital and capacity requirements.<sup>73</sup> The Regulations define Tanzanian companies as companies that have at least 20% (initially this was 51%) of their equity, 80% of their management positions and 100% of other positions held by Tanzanians. Any goods or services not available in Tanzania must be procured from a joint venture in which a Tanzanian company has at least a 25% stake. Contractors, sub-contractors,

67 J. Korinek & I. Ramdoo, 'Local content policies in mineral-exporting countries', *OECD Trade Policy Papers No. 209* (OECD, Paris, 2017) 36p; A. Cosby & I. Ramdoo, 'Guidance for Governments: Local Content Policies', *Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development*, (IISD, Winnipeg, 2018), 93p; J.S. Ovadia, 'Local Content in Tanzania's Gas and Minerals Sectors: Who regulates?', *Chr. Michelsen Institute Brief*, 16(4), 4p.

68 African Development Bank Group and Bill & Melinda Gates Foundation, 'Creating local content for human development in Africa's new natural resource-rich countries', *Flagship Report Paper Series No. 6*, 2015, p. 3.

69 Through in-depth research in Ghana and DRC, Geenen documented how local content policies, and particularly the granting of contracts and employment, are prone to abuse as political instruments and can produce or strengthen patterns of exclusion (S. Geenen, 'Gold and godfathers: Local content, politics, and capitalism in extractive industries', *World Development*, 2019, 129, pp. 1-10).

70 The Written Laws (Miscellaneous Amendments) Act 2017, Number 7, Part II, article 4.

71 Section 3 of the 2010 Mining Act, as revised in 2017.

72 United Republic of Tanzania, *The Mining (Local Content) Regulations*, Supplement No.139, 08.02.2019.

73 P. Leon, 'Tanzania's rigid system of mining quotas risks making compliance impossible', *Business Day*, 24.04.2018.

licensees (i.e. mining companies) and other allied entities have to specify how they meet the above requirements in a long-term as well as an annual local content plan, and develop annual performance reports, which should be published on the company's website. Compliance and implementation are overseen by a Local Content Committee operating under the authority of the Mining Commission. Non-compliance is punishable with fines of up to TZS 10 billion (ca. USD 4,4 million) and a maximum of ten years imprisonment.

While it is clear from the above that local content relates to a broad range of issues, this section will focus on those aspects that are most relevant to the local sense of distributional fairness and where relevant data could be obtained through community surveys. This includes employment generation, local sourcing of goods and services and corporate community contributions.

## 4.2. Employment and local sourcing

It is gauged that large-scale mining sites directly employ around 12,000 people in Tanzania.<sup>74</sup> However, not all industrial mines make **employment** data public, and in those cases only rough approximations can be made. We estimate that the six sampled mines directly generate around 8,500 jobs, of which roughly 40% are permanent positions. GGM is the largest employer with 4,567 employees in 2018, of which 1,828 are permanent.<sup>75</sup> NMGM is likely second. It is the largest of the three gold mines operated by Acacia. In total Acacia employs 2,800 people (in 2017), of which 96% are reported to be Tanzanian nationals.<sup>76</sup> Acacia does however not provide disaggregated data for NMGM and BGM. WDM has 1,445 employees in 2018, of which 574 are permanent.<sup>77</sup> Nyanza has no public records on employment, but orally indicated to have around 140 permanent staff.<sup>78</sup> During the three to four dry months each year, the company hires an additional 300 to 400 seasonal laborers to harvest the salt. IPIS did not manage to obtain employment data for Nyamahuna, but based on discussions with nearby communities and local authorities, we estimate the number of workers at around 300, most of which are temporary. Chinese workers come and go, so it is harder to have a good estimate of their number, but they tend to be about 30 at any given point in time. They mainly perform technical and management functions.

Despite these significant numbers, employment generation was only mentioned as positive impact in one-third of surveyed villages, as previously highlighted. This can be explained by the fact that most positions are filled by Tanzanians from major cities that followed technical training or higher education. IPIS estimates that between 100 and 200 inhabitants from the surveyed communities are directly employed in the six sampled mines. This number rises to 400 to 500 if we include Nyanza Salt's seasonal laborers. These locals are predominantly engaged as temporary workers, mainly in manual labour or as drivers. Only a fraction is engaged for skilled work. This is a source of frustration for several locals who expressed a desire to be engaged in less uncertain and more permanent positions,<sup>79</sup> and to benefit from training for skilled work. Such programmes exist but are not common. WDM for instance provided in-house training for several inhabitants from nearby Maganzo to engage them as technicians.

In addition, there are indirect jobs created by the mines' **local sourcing of services**. Combining inputs from the 32 surveyed villages, we estimate that around 800 local inhabitants intermittently find employment in this manner. The bulk hereof are guards that often work on a rotating basis for a few months per year (see Chapter 5). Other indirect jobs include cleaning, construction, maintenance and catering services. While most companies are committing to increasingly source products domestically, this is rarely done in neighbouring communities. The local markets of, for instance, alimentary products or construction materials, are too small to cater for the needs of these large companies. The community surveys did not reveal any local purchasing practices.

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74 S. Bass, G. Flores-Zavala & F. Weldegiorgis, *ASM Dialogue Programme: IIED Scoping Mission in Tanzania* (IIED, London, 2016), p. 6.

75 AngloGold Ashanti, *Operational profile 2018: Geita*, p. 5.

76 See: <<https://www.acaciaming.com/sustainability/our-economic-contribution.aspx>>.

77 Petra Diamonds, *2018 Sustainability Report: Optimising value*, (Jersey, 2019), p. 69.

78 Interview with Nyanza Salt's Manager of Operations, January 2018.

79 H. Letea, 'Jobs in mines: hopes vs reality', *The Citizen (Tanzania)*, 23.08.2019.

Much of the sampled mines' impact on employment and local markets is at present indirect or intangible. The rapid growth of towns like Kahama, Geita, Tarime and Uvinza is for a large part attributed to the presence of these large mines. They create so-called induced employment and wealth spill-overs, which result from spending by those who are directly or indirectly employed by the mine. The sense of fairness is moreover inherently subjective. For example, in Uvinza community expectations are still determined by Nyanza Salt's rationalisation exercise following privatisation in 1999, which led to hundreds of inhabitants losing their jobs. These elements explain part of the mismatch between how companies portray their impact on local development and how communities feel they are missing out on pledged benefits from mining investments.

### 4.3. Community contributions

#### 4.3.1. Corporate social responsibility programmes

It is evident from the communities' impact perceptions set out in the previous chapter, that the most visible and appreciated distributional impact takes the form of community contributions under companies' corporate social responsibility (CSR) programmes. The Tanzanian Ministry for Minerals calculated that in 2017 GGM, BGM and NMGM together spent over USD 8.5 million on community projects, with GGM alone accounting for nearly 75% of that amount.<sup>80</sup>

CSR is a management concept through which companies seek to balance economic, environmental and social imperatives in both their business operations and interactions with stakeholders. While in the past often considered as voluntary gestures, ever more countries are introducing **mandatory CSR standards**, either within or separate from local content frameworks. In Tanzania, as mentioned above, the 2017 amendments to the Mining Act require mineral right holders to annually develop credible CSR plans that include environmental, social, economic and cultural activities. These should be agreed with relevant national and local authorities and based on host community priorities. Local government authorities are mandated to develop CSR guidelines, oversee the implementation of annual plans and raise public awareness.

In March 2018, GGM was the first mining company in Tanzania to comply with these new legal requirements and sign a memorandum of understanding on CSR with Geita's local government authorities.<sup>81</sup> This sets out a structure whereby GGM bases its annual CSR plans on socio-economic needs assessments submitted by adjacent communities. In the same spirit, Acacia developed a Sustainable Communities Strategy and piloted, in 2018 for BGM and early 2019 for NMGM, Sustainable Communities Reference Groups as platforms to consult and engage with communities and local government authorities.<sup>82</sup> Petra Diamonds also makes mention of a Corporate Social Responsibility Plan for WDM, which is informed by the Mine's Stakeholder Engagement Plan, but the nature and extent of community implication in decision-making on CSR is not specified.<sup>83</sup> For Nyanza and Nyamahuna, IPIS was not able to find mention of similar memoranda or CSR plans, suggesting that these plans either do not exist or are not made public.

#### 4.3.2. Nature of corporate social support

Communities mainly reported corporate social contributions to basic services and infrastructure, which addresses the key socio-economic needs of these rural localities, as set out in Chapter 3. Most recurring is support to schools, water supply, health facilities, educational opportunities, road infrastructure and local government offices of village and ward authorities.

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80 K. Kamagi, 'Gold miners spend Sh20bm in community activities in one year', *The Citizen (Tanzania)*, 24.05.2018.

81 AngloGold Ashanti, 'GGML and Geita Councils Sign Agreement on Developments Project for 2018', *Press Release*, 08.03.2018.

82 Acacia Mining, *Sustainability Report 2018: A Stronger Future Together* (London, 2019), p. 20.

83 Petra Diamonds (2019), p. 57.

**Schools** appear to attract most corporate support, with three-fourths of villages reporting recent contributions to primary or secondary school infrastructure or equipment. Each of the six companies is making such contributions in at least one of its neighbouring villages. In Genkuru, for example, NMGM supported the rehabilitation of the village's primary school including the construction of 18 class rooms and 12 teachers houses, and the donation of over 200 school desks.

A second important target of CSR contributions is **water supply** infrastructure, as recorded in about half of all surveyed villages. NMGM, GGM and BGM have contributed to such infrastructures in almost all of their neighbouring villages. Most support goes to drilling boreholes or wells.

Companies equally seek to address the dire needs in Tanzania's rural **health** sector. 13 villages, especially around NMGM, GGM and BGM, listed corporate support for the construction of health centres, medical equipment or health campaigns. Examples of the latter are BGM and GGM-sponsored campaigns with international doctors to carry out cleft lip operations.

Mining companies also support **educational opportunities** in the form of student scholarships. Such support was noted in nine villages, mainly by NMGM, but also GGM and BGM. In the village Kerende, for instance, 20 children benefited between 2014 and 2017 from the NMGM-supported 'Can Educate' program for secondary education.

**Road infrastructure** is included in several mining companies' CSR programs. This was mentioned in nine villages around BGM, WDM and NMGM. Support largely consists of upkeeping or upgrading paved or dirt roads that are used by both villagers and the mine. The latter's continuous truck traffic often damages these roads, implying that there is a grey zone between actual CSR contributions and the companies own interests or intrinsic responsibilities.

A final important stream of CSR contributions goes to **local government infrastructure**, and particularly to offices and equipment of village and ward authorities. This was reported around BGM, WDM and NMGM. WDM, for example, donated TZS 43 million (ca. USD 18,500) for the construction of Luhumbo's village office.



*School desks donated by WDM to Maganzo secondary school (Shinyanga, 2018 – Photo: IPIS)*



*Borehole supported by BGM in Mwendakulima village (Shinyanga, 2018 – Photo: IPIS)*



*Luhumbo village office, constructed with the support of WDM (Shinyanga, 2018 – Photo: IPIS)*



Corporate social contributions are diverse. In addition to these recurring practices, there is a range of other areas that receive corporate support including **electricity** provision, **farming** (through extension services, building storage facilities, levelling farmland, or providing irrigation, seeds or fertilisers), various **trainings** and **sport** equipment.

*GGM allows locals to use water pressure reducing points for the irrigation of their rice fields (Geita, 2019: Photo: IPIS)*

### BOX 3: Troubled co-existence with ASM communities

A notable absentee in these listings of community contributions is support to ASM, all the more given the potential of such assistance in defusing the often strained relationship of industrial miners with ASM. Even after specific inquiry on this subject, respondents in only three villages were able to come up with examples of such support. In two cases this included trainings on mercury use and health effects by NMGM. Another example dated from 2012 when WDM supported two small-scale miners' cooperatives with grants, training and office equipment. This reflects the finding in the 2018 Responsible Mining Index that only a minority of companies have systems to guide engagement with nearby ASM operations, and even fewer provide technical assistance.<sup>84</sup>

The limited engagement with ASM is a source of frustration for many small-scale miners, many of whom account to have seen some of the richest mineral deposits assigned to huge industrial concessions. The arrival of the latter often came with promises, by either companies or local authorities, of technical support and assistance. For example, in 2006, then WDM owner De Beers and the Tanzanian government launched the Mwadui Community Partnership. Amongst others, they announced to provide artisanal diamond miners with access to technology, fair-market pricing, education and training on health and safety. A number of baseline studies and pilots were developed, but before implementation could start, De Beers sold WDM to Petra Diamonds which did not continue the Partnership.



*Artisanal mining for gold just outside NMGM's concession (bottom) and for diamonds nearby WDM (top) (Mara/Shinyanga, 2018 – Photo: IPIS)*

84 Responsible Mining Foundation (2018), p. 35.

This caused frustration in the big artisanal mining community in Mwadui. Tensions ran particularly high in 2018, when district authorities stopped artisanal diamond miners from using a local stream that feeds WDM's Songwa dam, as it was allegedly stopping the water flow to the mine.

Similarly, the Multi-Stakeholder Partnership Initiative (MSPI) on ASM-LSM Coexistence, which was launched in 2013 by the Tanzanian Government, the World Bank, AngloGold Ashanti, Acacia Mining and small-scale miners' associations, raised high hopes in ASM circles, but has to date only benefited a small number of them.

### 4.3.3. The challenge of corporate support

The diverse community contributions by mining companies are highly appreciated in the surveyed villages. They facilitate numerous basic needs projects that would otherwise not take place, take much longer to reach completion or be done in a less rigorous way.

Yet, despite the unmistakable importance of this support, there are a number of recurring complaints. The most frequently levelled criticism is that contributions are **insufficient** compared to the size of the mine and the profit it is making. Further aggravating such sentiments of distributional unfairness are a number of occasions where local government authorities had to exact outstanding payments through judicial or administrative procedures. This includes a notable case filed in 2015 by five villages in Mara seeking the payment by NMGM of TZS 53 billion (ca. USD 23 million) in outstanding royalty payments for village development projects. These formed part of agreements concluded in the mid-1990s when these villages surrendered prospecting licenses to the mine.<sup>85</sup> Similarly, in 2013, the Minister for Minerals reportedly ruled in favour of Kishapu district council about underpayments of a 0.3% service levy for community development projects by WDM.

Secondly, there are complaints about the **unequal distribution** of resources. Several villages expressed dissatisfaction that their neighbours were getting more because they were considered more strategic to the mine's operations. Such feelings, for instance, exist regarding the village of Mwadui which is located inside the WDM compound, with its own shops, hospital, sports centre and schools, for employees and their families as well as ancestors of former employees. It includes the Mwadui primary school, which is owned and ran by Petra Diamonds and promoted as "the only primary school in the district which has formalised computer training and a computer centre".<sup>86</sup> This company flagship is a source of envy for locals as only the lucky few can afford the annual school fees of TZS 500,000 (ca. 220 USD).

A third common source of complaints is that companies would **use CSR as a leverage**, withholding or cancelling committed contributions as long as their demands are not met. This was a particular concern for communities around WDM, where the company is allegedly making payments dependent on the extent to which they succeed in stopping inhabitants from trespassing on the concession.

Fourthly, several reported grievances related to **unhonoured commitments** leading to projects being stalled or villages accumulating debts. Finally, some respondents pointed to cases where the companies' support went to quick fixes rather than sustainable solutions. Around NMGM for instance, some villagers expressed the hope that instead of continuing to water dirt tracks in order to prevent excessive dust from truck traffic, the mine would invest in paved roads.

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85 'Acacia Gets More Time to Pay 53bn', *Daily News (Tanzania)*, 08.11.2017.

86 Petra Diamonds, *2017 Sustainability Report: Unlocking long-term value* (London, 2018), p. 52.



*Dirt track maintained by NMGM, passing through the village of Nyamwaga (Mara, 2018 – Photo: IPIS)*

While some of these complaints can be explained by undue community expectations, which could be partly prevented through improved engagement (see Chapter 5), there is also an inherent challenge with CSR in that it creates a **relationship of dependency**. If not well managed this can indeed lead to insatiable community demands and is prone to abuse as carrot or stick. Moreover, charity-like CSR contributions may incite a lack of ownership, which can in turn lead to poor care and maintenance. IPIS observed a number of company donations, such as water pumps or electricity generators, that broke down and were gathering dust as nobody in the community had the means or skills to repair them. Quite problematically, this dependency on corporate support may also incite reduced expectations from and accountability of (local) government when it comes to the provision of basic services and infrastructure, something which many investors reportedly lament.<sup>87</sup> This concern was also highlighted in Tanzania's 2017 National Baseline Assessment on Business and Human Rights.<sup>88</sup>

These challenges should not prejudice the many benefits of CSR contributions, as long as they are based on a collaborative approach. This approach, stimulating confidence in the mine's governance, is the subject of the next Chapter.

<sup>87</sup> Schoneveld et al. (2019), p. 67.

<sup>88</sup> Tanzania Commission for Human Rights and Good Governance, *National Baseline Assessment of Current Implementation of Business and Human Rights Frameworks in the United Republic of Tanzania*, (CHRAGG, Dar es Salaam, 2017), pp. 20-21.

## 5. CONFIDENCE IN GOVERNANCE

Communities' confidence in the governance of industrial mines rests in the quantity and quality of their interactions with the company and its staff. For companies, the importance of these interactions lies in their function as antennae to feel what lives among nearby communities, how they appreciate the impact of the mine and what their main concerns regarding their operations are. Community engagement allows for expectation management, early identification of risks or adverse impacts, and development of adequate responses. For communities, these interactions are the way to learn about the views, plans, and benefits of the mine, express their expectations and concerns, and contribute to the development of mitigation strategies.

If these interactions do not occur sufficiently or poorly, communities will not have or lose trust in the mine. Lack of engagement creates a fertile ground for frustrations, tensions or even confrontations. In the view of former Minister of State Simbachawene, conflicts between mining companies and communities have been rising in recent years in Tanzania because "decisions are made far away from where mining is going to take place, and communities are not engaged".<sup>89</sup> Poor community engagement also leaves room for misinformation and false accusations. A case in point is the finding by the Institute for Human Rights and Business that villagers in Tanzania tend to associate all negative impacts with "the company", even where choices were actually made by government actors.<sup>90</sup>

### 5.1. Meaningful community engagement in theory...

The *OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector* provides a framework for mining enterprises on how to build confidence. This requires integrating stakeholder engagement in corporate planning and management, improving understanding of the local operating context, identifying and prioritising stakeholders and their interlocutors, establishing support systems for personnel and stakeholders, designing appropriate and effective modes of engagement, ensuring follow-through of agreements, commitments and remedies, and building in participatory monitoring and evaluation. The intensity of this engagement may "be proportional to risks or impacts that an extractive operation may cause or contribute to".<sup>91</sup>

As local communities are often the first to risk or feel adverse impacts, they are an essential stakeholder, but of course not the only one. As set out in the OECD Guidance others include indigenous peoples, farmers, workers, artisanal miners, host governments (local, regional or national), civil society, community-based organisations, and human rights defenders.

The Guidance sets out **four principles** that make engagement meaningful:

- Two-way: all parties actively drive engagement and reach mutual understanding by sharing positions and perspectives;
- Good faith: all parties represent their interests and concerns honestly with the genuine intention to address impact;
- Responsive: there is a follow-through on outcomes through implementation of agreed commitments;
- Ongoing: engagement is no one-off endeavour but continues throughout the lifecycle of an operation.

### 5.2. ... and practice

Most of the mines in our sample have systems in place to interact with communities. **Good practices**, such as GGM's MoU on CSR and Acacia's Sustainable Communities Reference Groups, were already mentioned (see section 4.3.). Similarly, WDM is reported to hold monthly meetings with village leaders

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89 UONGOZI (2016), p. 12.

90 IHRB (2016), p. 56.

91 OECD (2015), p. 19.

whereby the latter can make proposals for the company's community contributions. Another interesting practice is that of engaging community guards, most elaborately applied by BGM, but also by NMGM. BGM engages locals from the nearby villages of Chapulwa (125 guards), Mwime (75) and Mwedakulima (74) to serve as guards on a two-monthly rotating basis. Most of them are men, but at the time of our survey, the pool included 32 women serving as guard during daytime. Community guards patrol outside the company's fence and report incidents to the company's management. This practice brings these villages and the company closer to each other and lowers the threshold for mutual engagement. BGM pays these guards TZS 100,000 (ca. USD 45) per month, and villages get TZS 10,000 (ca. USD 4.5) per guard to support development projects. While this practice is widely appreciated, there were also some concerns expressed by participants. These include the need for training on how to address insecure situations or tensions, allegedly false accusations of guards stealing company equipment, and the lack of toilets for women.



*Community guards keeping watch next to a BGM guardhouse outside the mine's fence (Mara, 2017 – Photo: IPIS)*

### 5.2.1. Assessing the meaningfulness of community engagement

Despite these good examples, genuine community engagement is no standard practice for mining companies in northwest Tanzania. As acknowledge by Mark Bristow, CEO of Acacia's parent company Barrick Gold "the historic problem of Barrick in Tanzania was that no one embraced the communities".<sup>92</sup> Evidence from community surveys indeed points to problems with all four principles that make engagement meaningful.<sup>93</sup>

Firstly, engagement is often not candidly *two-way*, as communities are seldom in the driver's seat. **Companies set the agenda**, often depending on what they consider economically or socially useful. They determine when engagement is to be had, how, and on what subject. If communities are consulted, this is mainly about CSR contributions, occasionally about certain of their grievances and rarely about the mine's operations or plans with the area. Engagement modalities mainly consist of companies reaching out to share information or seek feedback, with insufficient room or commitment to allow community input in company's impact mitigation practices.

Secondly, current engagement practices do not always live up to the standards of *good faith*. Various villages complained that they were **inadequately involved or informed** by the company. On CSR specifically, there were a number of complaints by village leaders that company arrangements were insufficiently participatory or overtly secretive. This related to the companies deciding on village support projects, setting timelines and engaging contractors without hearing the village's views or preferences. In one village around NMGM this led to considerable frustration when a contractor refused to engage village authorities on the implementation of a basic infrastructure project in their jurisdiction. Here, the lack of community engagement led to a collision between the contractor's accountability to the company and the village's responsibility towards its inhabitants. Such practices exacerbate the earlier mentioned ownership problems that lead to poor care and maintenance. That this substandard information sharing is not a new concern is illustrated by a DFID review report from 2013 highlighting that villagers around

<sup>92</sup> Rights and Accountability in Development, *Questions & Answers - Acacia Mining: Human rights violations and the company's grievance mechanism in North Mara, Tanzania*, (RAID, London, 2019), p. 11.

<sup>93</sup> This confirms the findings of a 2015 scoping study on SLO in Tanzania, which found little evidence of meaningful community engagement by mining companies in Mara, Shinyanga and Geita (F. Kessy, L. Melyoki & G. Nyamrunda, *The Social License to Operate in Tanzania: Case Studies of the Petroleum and Mining Sectors*, (Uongozi Institute, Dar es Salaam, 2017), 57p).

WDM only found out about the company's CSR support after a budget tracking exercise.<sup>94</sup> Community objections go beyond CSR. It also includes engagement on their grievances (see Chapter 7) and information about the companies' operations. A case in point is the discontent of some villagers around WDM that have to travel up to 5 km to find out about the blasting schedule on the company's notice board.

Thirdly, community respondents pointed to regular problems with the *follow-through* of engagements. In a number of villages, IPIS recorded complaints about oral or written **commitments** that were **not honoured** by the company. Most of these relate to CSR, as that is currently the main focus of the mines' engagements with communities, (see section 4.3.).

Finally, most engagement is not *ongoing* but **intermittent**. If it is about the company's operations, it at best occurs prior to the start of operations, as part of an environmental impact assessment, but rarely at other occasions throughout their often-long lifecycle. Such one-off outreach can however not substitute for "the implacably difficult task of working with local people on a face basis on issues which are important to them".<sup>95</sup> More continuous engagement is often psychologically or physically hindered by the construction of walls or fences around mining concessions. NMGM and BGM are fully fenced, whereas GGM and WDM have fences around part of their claim. These help to prevent theft, trespassing and associated violence, but tend to reduce interactions between company staff and locals, and thereby isolate these mines further from their social context. This is all the more so given that the staff of these multinationals have most facilities on-site, and hardly ever leave the compound. In this light it is difficult to understand that mines like BGM, WDM and NMGM have located their community relations offices behind the company fence. The situation is rather different for Nyanza and Nyamahuna that are also largely fenced, but more closely embedded in the local community. Their staff live in nearby villages and towns, facilitating interpersonal exchanges. In the case of Nyamahuna, various locals reported that intermarriages between Chinese company staff and Tanzanian locals have reduced previous misunderstandings and frustrations.



*Walls around BGM (upper two) and NMGM (below two)*

94 UK Department for International Development, *Annual Review of the Accountability in Tanzania Programme*, (DFID, London, 2013), p. 7.

95 B. Harvey, 'Social development will not deliver social license to operate for the extractive sector', *The Extractive Industries and Society*, 2014, 1(1); pp. 7-11.

### 5.2.2. The role of government authorities in facilitating engagement

Engaging meaningfully with the various communities and other parties that have a stake in their project is a demanding task for companies. There is an often-underestimated role for governments in facilitating these processes by providing frameworks and entry points for engagement.<sup>96</sup> The most evident interlocutors to represent community interests are ward, village and district authorities. In 26 of the 32 villages surveyed, locals indicated to share industrial mining-related concerns or views with local government authorities. These are ideally placed to identify recurring issues and are often the first to bring them to the company. Yet, in addition to the above deficiencies with meaningful engagement, these authorities face a number of challenges. Firstly, communities are not monolithic and the **legitimacy** of leadership may be contested. The limited means, capacities and checks and balances of local authorities make equitable representation challenging and facilitate capture by elites who push their own narrow interests.

Secondly, the first contact of mining companies is with national government authorities, with whom they negotiate and make agreements. In a second instance, these enterprises interact with national-level ministries or departments to obtain licenses and permits. These include the Ministry for Minerals, Mining Commission, National Environment Management Council (NEMC), Occupational Safety and Health Authority (OSHA) and Tanzania Revenue Authority (TRA). Local government authorities, and particularly villages and wards, tend to be kept in the dark about the nature of these various arrangements. This is a source of considerable frustration as it confines them to a role of “spectators” with little knowledge of the mines’ duties, responsibilities and commitments, while they are actually best placed to monitor implementation.<sup>97</sup> An effective **two-way communication** flow could moreover help to better fine-tune national policy interventions to the needs and requirements on the local level. Calls for decentralisation are countered by the ‘national unity’ argument.<sup>98</sup> This was further reinforced in the 2017 revision of the Mining Act, which stipulates that “control of all minerals is the property of the United Republic and shall be vested in the President in trust for the People of Tanzania”.

In sum, all companies engage with nearby communities, but often in an insufficiently meaningful way. It is a joint responsibility of industrial mining companies, governmental authorities and community leaders to promote and facilitate the genuine participation of communities in decision-making about the impact of these mines on their daily lives in a transparent and informed manner.<sup>99</sup> Only in this way can they gain community confidence in governance, which is an indispensable building block for these mines’ Social Licenses to Operate.

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96 E. Wilson, et al., *Meaningful Community Engagements in the Extractive Industries: Stakeholder perspectives and research priorities*, (IIED, London, 2016), pp. 18-21.

97 A. Kinyondo and C. Huggins, ‘Resource nationalism in Tanzania: Implications for artisanal and small-scale mining’, *The Extractive Industries and Society*, 2019, 6(1), p. 186.

98 Interview with Tanzanian mining expert, Dar es Salaam, February 2017.

99 Wang et al. (2016), p. 667.

## 6. PROCEDURAL FAIRNESS

Procedural fairness relates to how a company deals with potential or actual adverse impacts or human rights violations that it causes or may cause, both directly and indirectly. This can be as a consequence of its operations, behaviour of its staff, or actions of its subcontractors or partners. Communities should be able to bring their concerns easily to the attention of the company, relying on accessible, fair, transparent and inclusive procedures to determine harm and remedy. This section will first elaborate on the types of human rights violations that are most recurrently reported in surveyed communities, and subsequently assess how the companies are dealing with them.

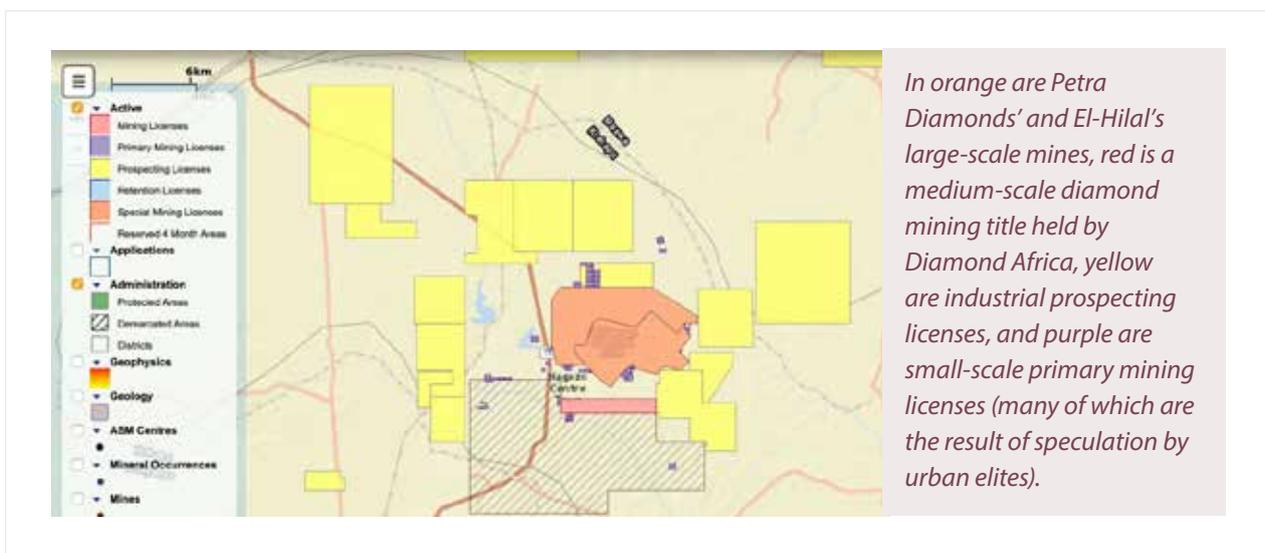
### 6.1. Frequently reported human rights violations

The most frequent community reports of human rights violations reflect the perceptions on negative impacts of industrial mining as introduced in Chapter 3. This subsection dissects the four most prevalent grievance categories by detailing their diverse ramifications: repression of trespassers, pollution, land use and relocation, and property damage.

Most recurring were reports of human rights violations around access to the mines' concessions. Community grievances relate to **the repression of those trespassing on industrial claims** by mine staff, police or private security. This appears to be particularly acute around WDM and NMGM, where nearly all villages reported problems in this regard. The issue is more dormant, with sporadic grievance reports, around BGM, GGM and Nyamahuna.

The phenomenon of trespassing is fed by a long-standing feeling of marginalisation among local communities in mineral-rich areas. Many of them sense that their rights to enjoy this wealth were ignored during colonial times, discouraged in the ensuing nationalization drive and subsequently relinquished to foreign investors in the 1990s and 2000s.<sup>100</sup> The arrival of these industrial miners is not only felt as a threat in terms of exploitation of minerals, it also hinders communities' access to large swaths of land they had always been using for farming, pasture, fetching water or collecting firewood. In combination with poor company performance on the above SLO-components of distributional fairness and confidence in governance, this has triggered locals to claim what they consider their customary rights to land and mineral wealth.

#### Mineral titles around Maganzo in Shinyaga region



100 S.L. Chachage, 'The meek shall inherit the earth but not the mining rights: the mining industry and accumulation in Tanzania', in P. Gibbon, *Liberalised Development in Tanzania: Studies on accumulation processes and local institutions* (Nordiska Afriainstitutet, Uppsala, 1995), pp. 37-108

The parallel legal and customary, multinational and local, big business and small livelihood worlds, with limited interaction and communication between them, have in some cases given rise to particularly conflictual relationships. This is illustrated by the reaction of a WDM official comparing the provision of a piped water supply system to local communities to “giving blood to an enemy”.<sup>101</sup> The reported violations divulge community frustrations about the land that is taken from them and fiercely guarded by police or private security forces, leading to arrests, confiscation of goods, fines, imprisonment or even serious injuries and death following excessive use of force.

Most tensions arise over those intruding the mines’ claims, typically at night, in search of gold or diamonds among waste material. During some nights there can reportedly be hundreds of intruders active in a single mine. They enter, generally in groups of five to ten, equipped with picks, shovels and sieves to collect mineralized waste rock or scan for diamonds. Some have sponsors who provide them accommodation, food and equipment in return for a monopoly on buying the minerals they find. Intruders or their sponsors make deals with police officers or security guards who let them enter the site and update them on planned patrols in return for a share of the yield. When intruders, who are often operating on the edge of tailing ponds or in abandoned shafts, are caught by guards or police, a dangerous cat and mouse game tends to unfold. There are repeated reports from communities around NMGM and WDM of patrols repressing trespassers with beatings, teargas, sexual violence or shootings, allegedly with live ammunition, causing serious injuries, disabilities and death (see Box 4 and 5 below).

#### BOX 4: Notorious use of force against trespassers around NMGM

Problems related to the repression of trespassers are best documented around NMGM in Tanzania. The case came in the international spotlight in 2013 when 12 villagers from Mara region sued Acacia (then still called African Barrick Gold) in the UK’s High Court. They accused the company of complicity in excessive police and security staff violence, which in 2008 caused the death of six of their family members and several others being seriously injured. This eventually led to an out of court settlement in 2015 with Acacia providing an undisclosed pay-out.<sup>102</sup>

This was unfortunately not the end of trouble for communities around NMGM. Between 2014 and 2016, the NGOs RAID and MiningWatch Canada, in cooperation with local civil society, documented at least 22 unlawful killings, 69 life-changing injuries and nine victims of sexual violence by police or the mines security personnel.<sup>103</sup> A Tanzanian Parliamentary inquiry commission in 2016 received 335 complaints of police abuse around NMGM, including 65 deaths and 270 injuries.<sup>104</sup> According to investigations by the Forbidden Stories journalism collective, the nearest general hospital in Tarime was treating five to eight patients per week with gunshot wounds from mine guards or police between 2010 and 2014.<sup>105</sup> In 2017, a new group of claimants retained legal representation in the UK over allegations of substandard compensations by Acacia for death, serious injuries and rape of their family members.<sup>106</sup>

According to local communities, the situation has become somewhat less explosive following the construction of a wall around the mine and its transition from open pit to underground operations. Acacia accounted that the number of intruders fell from a monthly average of over 7,000 in 2014 to 79 in 2018. Acacia’s figures on “trespasser-related fatalities”, which they started publishing in 2014 following civil society pressure, in parallel decreased from 17 in 2014 to three in 2018. The 2018 casualties are according to Acacia not due to police or security staff violence, but to a “collapsed illegal mine”.

101 As quoted in Mwaipopo R., ‘Ubeshi – Negotiating co-existence: Artisanal and large-scale relations in diamond mining’, in Brycesson D.F., Fisher E., Jönsson J.B. and Mwaipopo R. (2014), p. 170.

102 J. Vidal, ‘British gold mining firm agrees settlement over deaths of Tanzanian villagers’, *The Guardian*, 10.02.2015.

103 MiningWatch Canada & Raid, *Background Brief: Adding Insult to Injury at the North Mara Gold Mine, Tanzania*, (London/Ottawa, 2016), 9p.

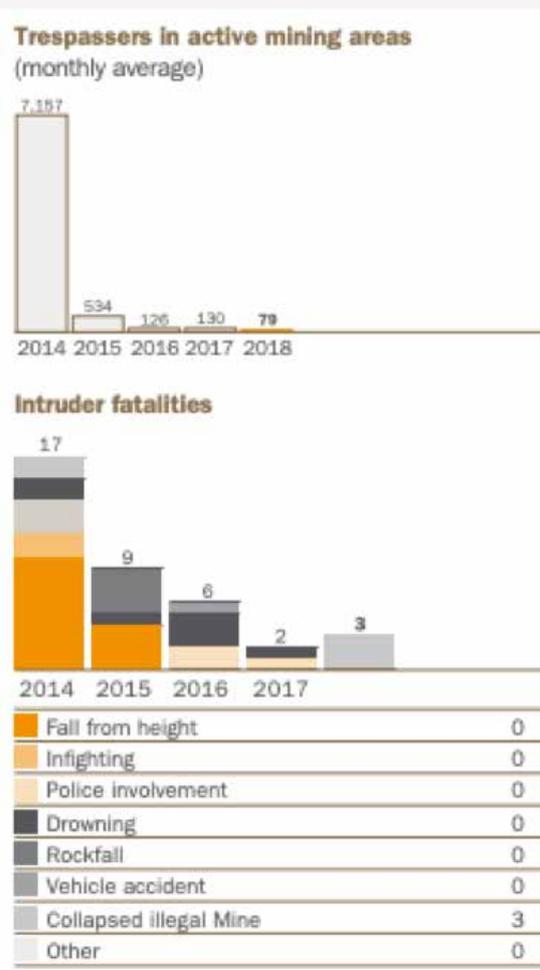
104 G. York, ‘Police killed 65, injured 270 at Barrick mine in Tanzania, inquiry hears’, *The Globe and Mail*, 22.09.2016.

105 J. Watts, ‘Murder, rape and claims of contamination at a Tanzanian goldmine’, *The Guardian*, 18.06.2019.

106 J. Yeomans, ‘Acacia Mining faces more legal claims over mine site deaths’, *The Telegraph*, 23.07.2017.

Tensions clearly remain however as the repression of trespassers was among the main grievances recorded in seven out of eight villages surveyed around NMGM. Part of this is due to a legacy of violence that has not been properly dealt with (see section 6.2.), as numerous locals are living with injuries or disabilities, or have lost family members due to the heavy-handed guarding of the mine. Yet, various locals also recount that the excessive use of force by police and mine guards continues, albeit on a lower scale and less visibly. This is confirmed in several testimonies collected in the area during the past years, narrating accounts of trespassers or passers-by being injured or killed by teargas cannisters or live bullets.<sup>107</sup> Many of these claims involve the police, which according to RAID, has a relationship with Acacia that transforms it “into a privatised security force for the Mine, rather than an institution mandated to protect local people”.<sup>108</sup> It should be noted that Acacia finds these journalist and NGO claims “misleading and exaggerated”.<sup>109</sup>

*Evolution from 2014 to 2018 in number of trespassers and intruder fatalities as reported by Acacia (Source: Acacia Mining, Annual report & Accounts 2018: A Stronger Future Together (London, 2019), p. 68.*



### BOX 5: Community reports of killings and assaults on trespassers around WDM

The phenomenon of locals intruding on the Williamson mine in search for diamonds (these intruders are called ‘wabeshi’ locally) is as old as the mine itself and became a widespread practice in the 1970s.<sup>110</sup> A 2006 survey, commissioned as part of the Mwadui Community Partnership, documented that there were 20,000 people residing around the mine.<sup>111</sup> 75% of these families cited to live mainly from mining activities, for 37% it was their only source of income, and a majority alternated mining with small-scale agriculture. As ever more diamond deposits are being occupied by mining or prospecting licenses, increasing numbers of locals are trying their luck on the WDM concession, particularly during droughts when scraping for diamonds among waste material is thought to derive vital income.

<sup>107</sup> Rights and Accountability in Development, ‘Acacia Mining Faces New Human Rights Problems in Tanzania’, *Blog post*, 12.06.2019, <<http://www.raid-uk.org/blog/acacia-mining-faces-new-human-rights-problems-tanzania>>; J. Watts, ‘Murder, rape and claims of contamination at a Tanzanian goldmine’, *The Guardian*, 18.06.2019.

<sup>108</sup> RAID, *Questions & Answers - Acacia Mining* (2019), p. 7.

<sup>109</sup> Acacia Mining, ‘Response to Forbidden Stories Articles’, *Press Statement*, 26.06.2019.

<sup>110</sup> Mwaipopo (2014), pp. 166-167.

<sup>111</sup> Cited in Mwaipopo (2014), p. 167.

According to locals, the situation started becoming violent in the early 2000s. Reports of excessive force mainly concern a private security company engaged by the mine to guard its concession. This company operates in conjunction with the police, who mainly interfere when there are specific incidents. Most reports of serious human rights violations relate to events that occur at night when intruders are caught in the mine. They involve people being locked up, beaten and shot, leading to lifechanging injuries, disability and death. Contrary to the situation around NMGM, these issues are poorly documented. The few media reports that exist on this topic include testimonies of unarmed young men losing limbs or suffering intestinal damage due to close range shootings while in captivity or on the run.<sup>112</sup>

Even though this media coverage suggested that measures were taken by the mine late 2016 to attempt making an end to these abuses, ten out of 11 villages surveyed around WDM accounted that violence against trespassers has continued. Anecdotal reports from locals corroborate this finding, whilst the scope of the problem is hard to approximate in the absence of in-depth investigations. Combined testimonies from community surveys suggest that, in 2017, at minimum four intruders were killed by mine guards. The main health centre in the area indicated to have treated approximately 20 injuries from beatings or shootings at the mine that year. In the first three months of 2018, when community surveys took place, locals reported at least five different killings of trespassers. In April 2019, IPIS received additional reports of two intruders that were shot dead and another two who died when an illegal pit collapsed on WDM's concession. Some respondents signalled that actual numbers are considerably higher as victims or their families are afraid to speak out, or because guards are alleged to dump bodies in pits to hide evidence.

This heavy-handed repression is reportedly not limited to those scanning for leftover diamonds at the mine. It also touches villagers entering the mine's concession – which is for the largest part unfenced or demarcated – for pasture, firewood or water collection. Several locals described how guards, police or Tanzanian forest officers confiscated their properties (livestock, bicycles, water containers, carts) and charged them with heavy fines or bribes. If they refuse to pay, they lose their goods and risk a six-month jail sentence. There is also anecdotal evidence of violence against those trespassing on the concession to sustain their livelihoods, including cases of beatings and sexual violence.

Private security guards are reported to be most brutal and there have been repeated calls from local communities to reassign the mine's security to the more professional Tanzanian police. The task division between them is however a source of confusion for locals as police officers are allegedly often driven around in private security company cars. This reportedly occurs following nights of unrest at the mine, when police make arrests in adjacent villages, considered by several community respondents to be indiscriminate. A heavy focus on criminal prosecution has allegedly created a climate of fear and mistrust that refrains victims from speaking out against such incidents of unlawful behaviour.

A second recurring violation concerns **pollution** from the nearby mine, reflecting one of the main negative community perceptions of industrial mining (see Chapter 3). In eight villages recent incidents were reported. These involved four villages around NMGM where locals complained about toxic leakages from the mine's tailings, polluting village wells and farm land, resulting in health risks, crop failure and food insecurity. In fact, after repeated fines for pollution from NMGM's tailings storage facility, the National Environmental Management Council suspended its use in July 2019, contending that samples showed continued leakages of poisonous waste.<sup>113</sup> In the nearby Matongo village, locals reported they felt as the

112 Tanzania Media Foundation, 'How Diamond Barons Use Youths to Steal Sand Containing Gemstones in Kishapu District in Shinyanga Region', *TMF Newsletter 2017*, Issue 1, pp. 14-18, <<https://www.tmf.or.tz/tmf-resources/tmf-success-stories.html>>; 'Have shootings come to an end for 'jobseekers' at Mwadui mine', *The Guardian (Tanzania)*, 13.01.2017, <<https://www.ippmedia.com/en/features/have-shootings-come-end-%E2%80%98job-seekers%E2%80%99-mwadui-gold-mine>>.

113 E. Mazneva & K. Karuri, 'Acacia Hits More Tanzanian Roadblocks as Barrick Bid Looms', *Bloomberg*, 17.07.2019.

mine's "dust bin". Further, two of the three villages around Nyamahuna reported incidents with leakages of the mine's cyanide leaching plant following heavy rainfall. These affected village farms and caused the death of several cows, which were subsequently compensated by the mine. Two other grievance reports from villages nearby BGM and Nyanza respectively concerned suspicions of contamination of village wells and alleged disposal of salinized water in the main river.

A third main category of reported human rights violations concerns **dispossession, expropriation and relocation of villagers**. Such problems typically arise during the setup of new mines, when land is cleared for extractive operations.<sup>114</sup>

Yet, in six villages community members recounted recent incidents related to land use and relocation. These involved grievances regarding process and compensation around the attempted acquisition of village land and the actual loss of land by Uvinza's Muslim community to make way for the construction of salt evaporation ponds by Nyanza Mine. It also appears to be a particularly vivid grievance around NMGM, where IPIS registered community complaints in five out of eight villages. These mainly concerned compensation claims for relocation or loss of farmland that have been pending for years. This has caused considerable mistrust that led to community protests, for instance in 2017 when 68 people from Mjini Kati village were reportedly arrested. These tensions are further complicated by repeated reports of unscrupulous individuals – allegedly mainly outsiders from urban areas – who buy up land and construct houses on the edge of the company's mining title purely for the purpose of submitting compensation claims. This speculative behaviour, called 'tegesha' locally, not only gets in the way of rightful claims, it also means that a lot of the compensation money provided by NMGM did not actually flow to the villages around the mine.<sup>115</sup>



*NMGM's sewer system suspected by locals to leak polluted water to their villages (Mara, 2018 – Photo: IPIS)*



*Houses built alongside NMGM's fence, reportedly predominantly for the speculative purpose of obtaining compensation*

114 A legal analysis by IHRB indeed documented that communities in extractive areas have poor land tenure security as Tanzania's land and mining laws subordinate community rights to resource exploration and extraction (IHRB (2016), p. 56).

115 Between 2012 and mid-2015, for instance, NMGM is reported to have paid TZS 60,8 billion (ca. USD 26,6 million) to compensate for relocations due to the expansion of the mine (M. Jacob, 'Tanzania: How 'Opportunists' Hinder North Mara Gold Mine's Development', *Daily News (Tanzania)*, 08.05.2015).

Finally, in six villages, locals described ongoing harms related to vibrations that result from the mine's drilling, blasting or truck traffic. These not only cause unease, but regularly lead to **property damages** and cracks in walls or floors. This grievance mainly exists around NMGM, and to a lesser extent nearby BGM and WDM.

## 6.2. Corporate accountability and remedy

A key issue impacting a company's Social License to Operate is the extent to which communities are able to hold companies to account for the adverse impacts they are causing and obtain redress or compensation. This section will first elaborate on the concept of operational grievance mechanisms and subsequently present an analysis of the existing grievance processes of the six sampled mines.

### 6.2.1. Operational level grievance mechanisms under the UN Guiding Principles

The UN Guiding Principles on Business and Human Rights (UNGPs) provide that "where business enterprises identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in their remediation through legitimate processes".<sup>116</sup> As judicial avenues for accountability and redress are often overly complex, lengthy and costly for victims of corporate harm – particularly in developing countries like Tanzania where these problems tend to be most acute – the UNGPs recommend to complement these with **non-judicial operational-level or company-based grievance mechanisms**.

Such mechanisms should have the advantage that they are more easily accessible, cheaper, provide faster recourse and thus avoid protracted harms or unresolved grievances from escalating. Moreover, they can stimulate better community engagement and joint lesson learning on harms, responsibilities and redress. To achieve this, the UNGPs set out a number of **effectiveness criteria**: company-based grievance mechanisms should be legitimate, accessible, predictable, equitable, transparent, rights-compatible, a source of continuous learning and based on engagement and dialogue.<sup>117</sup>

Yet, besides these rather abstract criteria, the **UNGPs do not provide much guidance** as to how these company-based mechanisms are to be designed. They merely acknowledge that "Poorly designed or implemented grievance mechanisms can risk compounding a sense of grievance amongst affected stakeholders by heightening their sense of disempowerment and disrespect by the process".<sup>118</sup> In particular, safeguards are needed to avoid companies becoming judge and jury over harms they have themselves committed and that may be damaging to their reputation. Recurring concerns raised by experts and practitioners involve absence of checks and balances to ensure neutrality, lack of community involvement in the design of the grievance process, absence of third-party review or oversight, and protracted power and information imbalances between companies and claimants.<sup>119</sup> Moreover, while these dialogue-based mechanisms were initially conceived as preventative, early-warning and contextual complaint resolution processes for lower-level impacts, they in practice often deal with serious human rights abuses and mirror or even substitute for judicial processes.<sup>120</sup>

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116 Office of the High Commissioner for Human Rights, *Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework*, (OHCHR, New York/Geneva, 2011), Principle 22.

117 UNGPs, Principle 31.

118 UNGPs, p. 34.

119 K. Lukas et al., *Corporate Accountability: The Role and Impact of Non-Judicial Grievance Mechanisms*, (Edward Elgar Publishing, Cheltenham, 2016), 432p.

120 S. Knuckey & E. Jenkin, 'Company-created remedy mechanisms for serious human rights abuses: a promising new frontier for the right to remedy?', *The International Journal of Human Rights*, 2015, 19(6), pp.801-827.

## 6.2.2. *Grievance processes in northwest Tanzania*

The four mines in our sample that have **publicly accessible websites and reports**, namely NMGM, BGM, GGM and WDM, all mention that they have some form of community grievance mechanism in place (see Box 6). Yet, with the exception of Acacia's NMGM, none of the companies provides much detail on how these mechanisms are designed, or how they operate and perform. This corresponds with the finding of the 2018 Responsible Mining Index that the bulk of mining companies do not track or review the effectiveness of their grievance mechanisms, or at least do not report about it. This does evidently not help to build community confidence, "and could even suggest that companies are not particularly interested in whether they are working or not".<sup>121</sup>

IPIS' community surveys reflect this assessment. Only villagers around NMGM were **aware of the existence** of a company grievance mechanism. Surveyed villagers around GGM did not know of a formal grievance procedure, but some reported to discuss their concerns directly with the company's community engagement officers. Around none of the other mines – both those that report to have a grievance mechanism and those on which IPIS could not find such information (Nyanza and Nyamahuna) – had communities heard of the existence of any operational grievance procedure. This lack of opportunities to bring concerns to mines' attention is also confirmed by the phone surveys IPIS conducted in 2018 (see Box 1 above). 65% of respondents either somewhat or completely disagreed with the statement that villagers could address grievances with large-scale miners. By way of comparison, this figure drops to 40% when the same question is asked about small-scale miners.

### BOX 6: Main references to community grievance processes in company reports

#### Petra Diamonds

- "We seek to ensure that stakeholders who are or could be affected by our activities have access to feedback mechanisms that are legitimate, accessible, timely, equitable and transparent. The approach to resolving disputes and grievances is based on respect, engagement and dialogue with the stakeholders and communities that are affected by us or affect what we do."<sup>122</sup>
- "During FY 2018, we are excited about the potential to further improve and track our stakeholder engagement via the development and implementation of a stakeholder engagement software platform. This will provide the capability to effectively log and track community feedback, issues and complaints, as well as facilitating the **introduction of a standardised and centralised community grievance procedure**".<sup>123</sup>

#### AngloGold Ashanti

- "All operations have **community complaints and grievance mechanisms** in place. The processes enable capture of grievances and ensure due process in the management of issues identified, to mitigate their potential impacts. Issues are tracked to their full resolution.
- During the year, specific focus was placed on the implementing the Community Information Management System (CIMS). This will enhance integrity of the grievance and complaints process. At a company level, complaints and grievances were most commonly related to land access and resettlement, youth demands for employment, expectations for a greater sharing of the benefits from mining operations and the perceived impact of blasting activities".<sup>124</sup>

121 Foundation for Responsible Mining (2018), p. 34.

122 Petra Diamonds, *Human Rights Policy*, (London, 2016) p. 2.

123 Petra Diamonds (2018), p. 55.

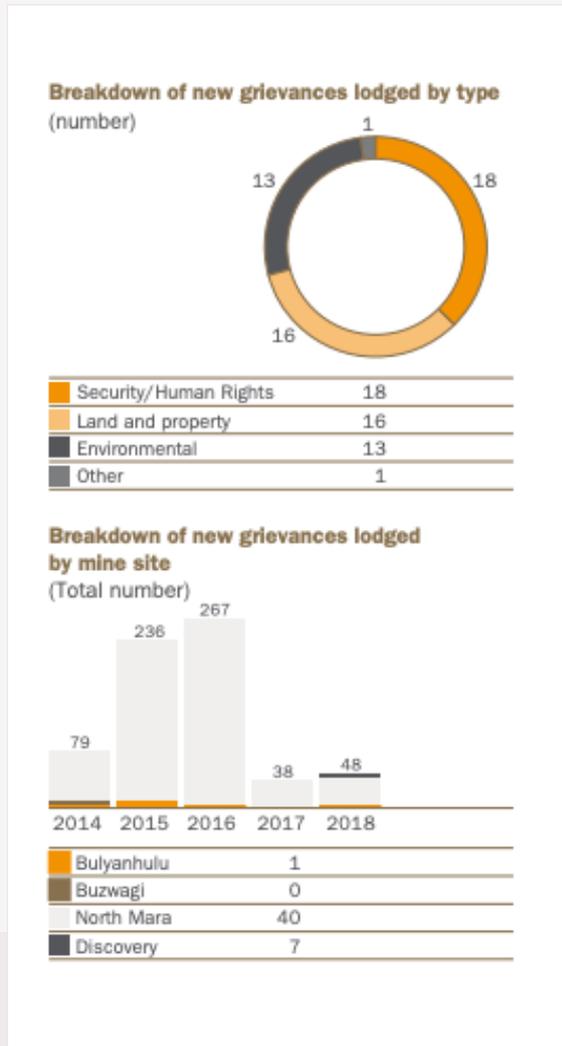
124 AngloGold Ashanti, *Sustainable Development Report 2018*, (Johannesburg, 2019), p. 41.

- “Over the past few years, potential human rights violations have generally been **self-reported**. This is an indication of a maturing human rights culture within the business. All operations also have grievance and independent anonymous whistle-blowing mechanisms accessible to internal and external stakeholders. All allegations are rigorously investigated using accepted investigation protocols, and where applicable, investigations are independent”.<sup>125</sup>

### Acacia Mining

- “Each of our mine sites also operates a grievance process designed to comply with the effectiveness criteria for company grievance mechanisms set out in the UNGPs”.<sup>126</sup>
- Only for **NMGM**, Acacia provides extensive information on the community grievance process, including a Standard Operating Procedure, a Handbook for Grievants, a Reference Guide on Security and Human Rights Standards, a Reference Guide on Remedies, an information leaflet for communities and a video.<sup>127</sup>

*Acacia’s reporting on the grievance mechanisms of its four operations (source: Acacia Mining, Annual report & Accounts 2018: A Stronger Future Together (London, 2019), p. 69).*



**NMGM** reportedly launched its **grievance mechanism** in 2012 and made it public in the form of a two-page procedure in 2014, in the midst of the lawsuit before UK’s High Court.<sup>128</sup> It was updated at various occasions following concerns raised by NGOs and communities regarding the lack of independence, poor compensation and the existence of legal waivers precluding claimants to seek redress in other fora.<sup>129</sup> Eventually, NMGM published a new “Community Grievance Process” at the end of 2017.<sup>130</sup> This is presented as a two-staged process. At first, the mine and the grievant will, through dialogue and engagement, seek to identify whether an ‘adverse impact’ occurred, and if so, agree on a remedy. Second, if no agreement can be reached on either the identification of the impact or the remedy, then the grievant can lodge an appeal to a three-member Grievance Committee that is drawn from a mine, community and expert roster.

Acacia provides some detail on the performance of the NMGM Community Grievance Process in its annual reports. In 2018, the first full year under this renewed procedure, 40 grievances were lodged at NMGM (none in Buzwagi, one in Bulyanhulu and seven in its Kenyan operation Discovery). The nature of grievances reflects the community survey results: 18 related to ‘security and human rights’ (typically

125 Ibid., p. 70.

126 Acacia Mining, *Annual report & Accounts 2018: A Stronger Future Together*, (London, 2019), p. 69.

127 See: <<https://www.acaciamining.com/sustainability/grievance-process/gp-english.aspx>>.

128 African Barrick Gold, ABG Grievance Mechanism, (London, 2014), 2p <<https://www.acaciamining.com/~media/Files/A/Acacia/documents/sustainability/ABG%20Grievance%20Mechanism.pdf>>.

129 RAID & LHRC, *Acacia Mining’s Revised Operational Grievance Mechanism at North Mara Gold Mine, Tanzania: Assessment and Recommendations*, (London/Dar es Salaam, 2018), 14p.

130 See: <<https://www.acaciamining.com/sustainability/grievance-process/gp-english.aspx>>.

trespasser-related issues), 16 to 'land and property' and 13 to 'environmental issues'. Acacia reports that remediation plans were established for 19 out of 48 grievances. Notably, there was a serious drop in the number of reported grievances between 2016 and 2017, falling from 266 to 38. According to the company, this reduction results from improved security and greater engagement with communities.<sup>131</sup>

Yet, the community surveys also raise the question whether locals have sufficient faith in the mechanism. It should be noted that these were conducted in June 2018, six months after the launch of the renewed procedure, and thus reflect experiences under both version of the mechanism. Satisfaction with the procedure was generally reported to be low. The most recurring complaints were that the procedure is complex, slow and lacks independence, that grievances are rarely admitted – several respondents even reported that the company never got back to them –, and if so, compensation is low. There were also repeated expressions of the need for training and assistance on how to use the process.

RAID conducted a full evaluation of NMGM's Community Grievance Process and concluded that the process is missing its purpose by frustrating rather than appeasing community relations. In its view the process ...:

*"... subjects those harmed by the company's gold mining operations to a disempowering and often humiliating process. It permits the company to act as investigator, judge and jury on the serious human rights violations by its security agents and/or the Tanzania police working alongside them. It denies victims basic procedural rights, characterizes them or their family members as 'criminals,' and entrenches the stark power imbalance between a rich gold mining company and impoverished local residents. Acacia's revised grievance mechanism is failing victims and local residents and is a far cry from being compliant with the UNGPs".<sup>132</sup>*

A Tanzanian lawyer assisting victims in accessing NMGM's grievance mechanism, who was interviewed by MiningWatch Canada, described his work as "boxing with my hands tied behind my back" because of insufficient time, poor and biased access to information and domination of the process by NMGM.<sup>133</sup>

The fact that communities around the **other sampled mines** are not aware of any company mechanism, does not necessarily mean that they bottle up their grievances. Some reported to bring their concerns **more informally**, following a less structured process, to the company's staff or community engagement office. Their accessibility is different from mine to mine (see section 5.2.). Community survey results indicate that such engagement is most satisfactory around GGM and Nyamahuna. When companies are difficult to engage directly, aggrieved locals approach state actors as interlocutors. Most common are district and village authorities. Occasionally, locals also report to the police or Resident Mining Offices. Such approaches can be helpful to seek redress for collective community grievances, such as cases of pollution or vibrations. However, for individual grievances, working through an interlocutor is typically too indirect to be effective, as is the contribution to the company's Social License to Operate.

131 Acacia Mining, *Sustainability Report 2017: A committed partner*, (London, 2018), p. 21.

132 Rights and Accountability in Development, *Human Rights Violations under Private Control: Acacia's grievance mechanism and the Denial of Rights*, (RAID, London, 2019), p. 3.

133 MiningWatch Canada, "Boxing with My Hands Tied Behind My Back": Barrick Grievance Mechanism in Tanzania Not Fair, Say Lawyer, Village Representatives', *News Release*, 11.06.2019.

## 7. CONCLUSIONS

As in many resource-rich developing countries, public debate on industrial mining in Tanzania is currently dominated by discussions on its contribution to national revenue generation. This study seeks to complement this important debate with an assessment of the **often-overlooked local development impact of industrial miners**. Mining typically takes place in rural areas, which are in Tanzania still plagued by rampant poverty and limited livelihood opportunities. Industrial mining investments offer propitious opportunities to pull impoverished communities out of the doldrums. The environmental, social and human rights harms that the mining sector is often associated with, unfortunately mean that they can also push them back in.

This report presents and analyses the perceptions and perspectives of local communities living in the proximity of six industrial mining operations in northwest Tanzania. The lens of the 'Social License to Operate' (SLO) helps to understand communities' level of trust in and acceptance of these mining companies, which results from three interrelated building blocks: distributional fairness, confidence in governance and procedural fairness.

**Distributional fairness** refers to whether locals feel they get a fair share that compensates the impact of the mine on their communities. As opportunities for employing and sourcing goods and services from adjacent communities are limited, companies have predominantly focussed on unfolding extensive community contributions programmes. Community surveys reveal that these contributions, which mainly go to basic needs projects, are highly appreciated by nearby communities. Joint development and management of such CSR programmes with local authorities and communities is on the rise, but still in its infancy. In the absence thereof, community contributions are however giving rise to a relationship of dependency, which is prone to abuse by companies, incites insatiable demands and poor ownership, and risks to absolve local authorities from their development responsibilities.

**Confidence in governance** relates to engagement of industrial miners with local communities. If designed in a meaningful way, such engagement can serve as a company's radar to know what lives among local communities and counter disinformation or false expectations. Whereas none of the sampled companies operates in complete isolation from their surrounding communities, IPIS surveys indicate that engagement remains incidental to corporate activities. If it occurs, engagement is typically about the company's CSR contributions and rarely about its operations or community grievances. Companies set the pace and agenda and tend to be thrifty with the provision of information.

Community perceptions of **procedural fairness** rest on whether and how they can address their grievances with the company according to fair, transparent and inclusive procedures. The need for such procedures is highlighted by the diverse range of recent incidents reported by adjacent communities, which include a number of appalling human rights violations. Most recurring were incidents related to the excessive use of force against trespassers, water, soil, air and noise pollution, land use and relocation, and property damage. While there are differences between the sampled mines, local community satisfaction regarding corporate accountability and redress through both judicial and non-judicial avenues is generally insufficient. This is problematic as unresolved harms typically aggravate, raise tensions and thereby create a downward spiral of distrust and conflict.

**Adding this local perspective to the debate on mining companies' impact on socio-economic development**, reveals a great deal about the societal support for mining, as well as the current strengths and shortcomings in corporate, policy and legal approaches. Not only is the debate on industrial mining overtly focussed on their contribution to national revenue generation, the few discussions on their local impact tend to be restricted to the voluntary framework of corporate social responsibility. Moving beyond this to gain a Social License to Operate is a challenging endeavour that companies cannot achieve on their own. They need support from national and local government authorities in the form of clear, coordinated and ambitious albeit realistic policy and legal guidance. Also communities and their leaders need to take responsibility in setting expectations right and making the most of the opportunities offered by industrial mining.

**Mining companies, government authorities and communities should jointly work to cover each of the three SLO building blocks fully.** Firstly, distributional efforts should go beyond 'doing good' and seek solid anchor points in local economies. This can be done by targeting corporate social contributions at supporting locals and local markets in gaining the necessary skills and capacities to fill the mines' opportunities for employment and local sourcing of goods and services. Secondly, given the number of stakeholder groups and their heterogeneity, companies cannot build confidence in governance on their own. There is a key responsibility for state authorities to act as interlocutors and facilitators of engagement. Both national and local authorities take on parts of this task, but should seek to scale up communication and coordination between them. Finally, company efforts to prevent, detect and redress harm, should be accompanied by more accessible and effective state-based judicial and non-judicial avenues where communities can report grievances and seek remediation.

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