



# Resource curse or fair benefit?

## Protecting health in the extractive sector in east and southern Africa



Water yellowed by cassiterite collected for sluicing, DRC, M Craemer 2010

The extractive (or mining) sector is a major economic actor in our region. The mineral resources extracted from our region are sought after globally, and how the sector operates affects the lives of millions of people.



*How does the extractive sector impact on health?*

Mining activities can bring benefits to workers, communities and the wider economy. They provide jobs, skills and incomes. Mines that provide housing, health care and pensions to workers and services and infrastructure in the areas they operate in contribute to wellbeing and income security. They can boost the local economy, such as when they purchase inputs from local enterprises or improve purchasing power in the local community.

However mining activities also bring risks to health. Hazardous working conditions and air and water pollution from mining affect not only the health of workers, but also that of the surrounding community. If not controlled, the dust, sulphur dioxide, lead, arsenic and other gases and chemicals from mining may not only pollute the air and water for those currently living around mines, but also for future generations. Even after mines close, ex-mineworkers may suffer lung and other diseases that take time to be detected, and mine dumps can continue to pollute land and water if not properly set up.

Mining activities attract new settlements for work or enterprise, and may also displace people who live in the areas mined. In both cases, poor living and community environments can lead to raising tuberculosis, cholera, HIV and other communicable diseases.

These risks are well known and are preventable. The health and environmental impacts of mining can be identified even before the mine is licensed and activities begin, and plans can be put in place to control them.

*Are these risks recognized in policy?*



Yes! Governments have made policy commitments to protect health in the extractive sector at national, regional and continental level. The right to life is protected in all national constitutions in the region, and many also provide rights to clean water and sanitation. All countries in the region have made commitments to the International Covenant on Economic, Social and Cultural Rights, which obliges states to ensure: "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health."





Environmental damage from mines P Botes 2016

At regional level, the 1997 Southern African Development Community (SADC) Protocol on Mining sets commitments, among others, to strengthen co-operation across countries to improve the practices and standards of occupational health and safety in the region’s mining sector. In 2004 SADC states committed to develop, adopt and enforce appropriate and uniform health, safety and environmental guidelines for the sector. In 2009, the African Union (AU) in its *African Mining Vision* called for extractive industry activities to be safe, healthy, environmentally friendly, socially responsible and appreciated by surrounding communities. The United Nations Economic Commission for Africa and SADC proposed a framework for implementing these commitments that takes a wide lens on health.

It includes health and safety for workers, the living conditions, environments, employment and community conditions that affect health, the role of mines in preventing HIV, TB and other diseases and rehabilitation of land to prevent adverse impacts on communities.

Many extractive industries (EIs) are multinationals that come from countries that have made similar commitments. There are over 25 international standards, codes and guidance documents on the practices of EIs and multinational enterprises set by the United Nations (UN) multilateral institutions, high income countries and financial institutions, by business and civil society. So there is no shortage of stated policy commitment at all levels!

*Are these risks controlled in practice?*



These policy commitments need to be provided for in law and implemented in practice. An EQUINET review of laws in 16 east and southern African (ESA) countries ([EQUINET discussion paper 108](#)) shows, however, that while many international standards on health in EIs are included in our national laws, no country covers them completely. This is summarized in the table below.

### How well do the laws in ESA countries protect health in EIs?

Area of law	Level of protection
Consultation and protection of health in granting EI prospecting rights / licenses	Generally provided for environmental impacts assessment but not for health or social assessment
Health and social protections in relocation of affected communities	Poorly provided for in many ESA countries
OHS for employed workers / contractors	OHS provisions for workers relatively well provided for
Health benefits for workers and families	Limited provision of a duty for health benefits or health care coverage for workers and their families
Environment, health and social protection for surrounding communities	Recent environment laws in many ESA countries provide environmental protections; social protections more limited
Health benefits for surrounding communities	Most countries have no duty for mines to ensure health services for communities living in their environs
Fiscal contributions from EIs for health and health services	Very limited duties to make fiscal contributions for health; tax duties set but with options for exemption
Forward and backward links with local sectors supporting health; wealth funds, community ownership for local well-being	Most countries have general provisions envouraing mines to support local development
Post-mine closure obligations	Few countries provide for health related duties post closure
General governance issues	Participation and information rights in recent environment laws and in a few countries through in transparency laws

Source: Loewenson et al (2016)

All ESA countries provide health and safety protection for employed workers and contractors and environmental health protections for surrounding communities in environment law. While many countries have environmental impact assessments, few have laws that require health or social impact assessments before mines are licensed or health sector approval of environmental impact assessments.

Fewer ESA country laws have specific provisions protecting the health of communities that have been resettled or relocated due to mining. While employees may have health benefits, there is less provision in law for what duties the mines have in relation to the health of the surrounding community. Few laws provide for mines duties for longer term health consequences after mine closure.

One of the ways that mines contribute to health is through paying taxes that are then spent on community health or health services. Some countries have specific health taxes, like the AIDS levy in Zimbabwe. However mines often get tax exemptions that reduce their contribution to public health funding, and mines may also be exempted from health specific levies.



**What can civil society do to ensure health is protected in EIs?**

Civil society in ESA countries has been active around various aspects of EIs. Campaigns, like 'Publish what you pay' have sought greater transparency in EI operations. Trade unions have promoted labour rights in large and small mines. Environmental lobbies have engaged on land reclamation and pollution. Civil society has campaigned on the rights of mining and resettled communities, including to free prior informed consent and participation in decisions affecting them. Communities supported by civil society have taken companies to court when they do not implement their legal duties.

Nevertheless, there is a case to harmonise the legal protection of health in mining across the region. While there are gaps in the law, there are also legal provisions in individual ESA countries that may guide what may be included in the laws of others. These 'good practice' clauses can inform the content of harmonised regional standards, such as in the SADC

region. EQUINET policy brief 42 (at <http://tinyurl.com/gr6yyza>) presents these suggested clauses for regional minimum standards on health in EIs and the laws they derive from.

The 13th Southern Africa Civil society Forum in 2017 proposed to advocate for regional health standards for EIs, as shown in the box overleaf. The forum recognized that taking these proposals forward calls for a bottom up local to regional campaign for civil society to advocate for these harmonised standards for health in the mining (extractive) sector in SADC. The forum resolved that:

- *Locally*, we can spread popular and rights-based education in affected communities and community based organisations, and work with communities to document and expose violations of duties and to share positive practices.
- *Nationally*, we can build alliances of health, labour and environment awareness and activism on health in EIs within and across countries, including in civil society forums; national alternative mining indabas and health days, to engage ministries to support regional standards and to engage parliaments, states and communities to enforce existing laws.
- *Regionally*, in alliance with health and environment civil society and traditional leaders, we can advocate for SADC harmonised standards for health in EIs in forums such as the regional Alternative mining indaba; the SADC Ministers of Health, the SADC (PF) and other parliamentary forums; and other SADC and AU platforms.



CSOs at the 2017 Alternative Mining Indaba

At the **13th Southern Africa Civil society Forum in August 2017** the forum adopted a recommendation that civil society demand harmonised standards for health in EIs, and that these include EI and state duties:



1. To implement environment, health and social impact assessments, with costed plans to manage harms, for resettlement and post mine- closure duties for health, obtaining approvals from health and local authorities and from communities *before* licenses are granted and making the assessments available in a public domain register at regional level.
2. To ensure health and avoid harm to health of all workers and of communities living in and around EIs; to remedy or compensate for damage; to prevent epidemics and emergencies, including from climate related health effects, and to report to health authorities the spread of infectious/notifiable diseases.
3. To pay without exemption any taxes used for health, and contribute to public funds held to remedy harms or to meet post closure public health duties.
4. To ensure free prior informed consent and participation of communities on EI measures and plans to meet these duties above; with fair grievance management processes and prohibition of involved public officers from holding mining rights, to protect against conflict of interest.

The policy commitment is there. Civil society has an opportunity and a demand to consolidate it in law and to turn policy into action. The extraction of natural resources from our region is a finite process and the resources will run out. Civil society is engaging to make sure that the communities of our region

benefit from these resources for economic and social wellbeing today and tomorrow. One essential aspect of that is health. We need to ensure not only that people are healthy today, but also that our current extractive activities do not build a legacy of ill health and disability in the future..

### Where can I find further information?



1. African Union (AU) (2009) 'Africa mining vision', AU: Addis Ababa.: [www.africaminingvision.org/amv\\_resources/AMV/Africa\\_Mining\\_Vision\\_English.pdf](http://www.africaminingvision.org/amv_resources/AMV/Africa_Mining_Vision_English.pdf).
2. Loewenson R, Hinricher J, Papamichail A (2016) 'Corporate responsibility for health in the extractive sector in East and Southern Africa', EQUINET Discussion paper 108, TARSC, EQUINET: Harare. <http://tinyurl.com/zm7afbk>
3. Loewenson R, Hinricher J, Papamichail A (2017) Harmonising regional standards for extractive industry responsibilities for health in east and southern Africa, Policy brief 42, EQUINET, Harare <http://tinyurl.com/gr6yyza>
4. Southern African Civil society Forum (2017) Communique of the 13th Southern Africa Civil Society Forum, Johannesburg, South Africa, 16 August 2017
5. Southern African Development Community (SADC) (1997) 'Protocol on Mining in the Southern African Development Community', SADC: Gaborone.
6. United Nations Committee on Economic, Social and Cultural Rights (2000) '[The right to the highest attainable standard of health](#),' General Comment No. 14, UN New York
7. United Nations Economic Commission for Africa (UN ECA) (2004) 'Harmonization of mining policies, standards, legislative and regulatory frameworks in Southern Africa', UN ECA: Addis Ababa; SADC: Gaborone.

