

# The Policy Gap (3)



**Corporate Social  
Responsibility in  
the Zambian  
Mining Industry**



*The Bench Marks Foundation*

**SADC Research report**

**CORPORATE SOCIAL RESPONSIBILITY IN  
THE ZAMBIAN MINING INDUSTRY**

by

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Research commissioned by the Bench Marks Foundation in collaboration with the  
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## FOREWORD

The different approaches to corporate social responsibility (CSR) in the SADC region has brought into collision the interests of governments, mining companies and the surrounding communities. The impact of this clash has been that surrounding communities have suffered the devastating effects in terms of economic, social development and human rights violations equivalent to the 18<sup>th</sup> century workhouses as depicted by Dickens. All this has taken place and continues to take place in full view of the world and with the approval of institutions that assert to lead the way to uphold the human rights of the vulnerable, to a large extent confirming George Orwell's Animal Farm's concept of *"All animals are equal but some are more equal than others"*.

To a large extent, most of the SADC region is characterised by economies based on high dependency on large scale excavation industries where the costs to the economy in terms of environmental degradation, health, etc. dwarf the contribution to the economy through income generation, employment opportunities, import substitution and revenue from mineral exports. Economically disempowered governments have entered into uniform and unequal mining contracts with multinational mining companies that have left them with limited or no power to effect legislation that promotes sustainable development and protects the human rights of mining community members through corporate social responsibility. Capacity deficiency in sustainable development at all levels (government, mining companies and community members) render effective legislation regarding corporate social responsibility ineffective due to an inability to implement as well as monitor the regulations set by legislation. This is further exacerbated by low levels of accountability, transparency and commitment to all aspects related to sustainable development and corporate social responsibility in the mining arena of the SADC region.

Mineral exploration in SADC has increased at a prolific rate, resulting in new deposits being found in non-traditional countries. Unwittingly, instead of providing more negotiation power to the SADC countries, this has left these countries prey to the divide and rule strategy by the multi-nationals who are able to seek out the country with the poorest mining legislation, signifying that there is need for unification of mining legislation in the SADC region in addition to capacity, transparency, accountability and commitment issues.

Against this background, the Bench Marks Foundation has commissioned this research with the support of the PPP (Peace Principles and Participation) initiative to undertake a comprehensive research into corporate social responsibility in the SADC region. This research was supported by the Netherlands Institute on Southern Africa who convenes the PPP network.

The overall project will be conducted in phases; different countries will be highlighted in each phase. This report represents the first phase reporting on Zambia.

Using the *Bench Marks* corporate social responsibility tool and utilising both the qualitative and quantitative research methods, the report aims at exploring and evaluating the factors impacting on policy and practise gaps in Zambia, in particular human rights issues. This report also forms part of a much bigger study into a number of SADC countries that include South Africa and Malawi. It compares the effectiveness of the different approaches to corporate social responsibility on factors associated with sustainable development and human rights of mining communities. The underlying objective is to highlight these issues to facilitate change in the approach of all stakeholders towards sustainable development and issues pertaining to human rights.

Apart from challenges associated with non-participation by some mining companies and government officials, suspicious of the objectives of the research, SADC's political, economic and social structure will influence the practical benefits from the study. The SADC region is a mosaic of countries at different developmental and political stages that might find that issues relating to CSR in the mining communities are not at the top of their priorities. Therefore it may appear naïve on our part to expect that the report will have an impact on SADC mining legislation and empowerment in negotiating mining contracts that will lead to sustainable development through CSR. However, what is useful and important is that the report will provide SADC governments, mining companies and local mining community stakeholders with information, guidance relating to legislation formulation as well as issues to consider in the process of empowerment and sustainable development through CSR. At the same time alert the global world of the human rights shortfalls that are being practised in the SADC mining communities.

Lastly, a word of thanks is extended to everyone who has contributed to the end product of this project.

The Rt. Rev Dr. Jo Seoka  
Chairperson  
The Bench Marks Foundation  
Johannesburg  
June, 2008

## EXECUTIVE SUMMARY

This research on **Corporate Social Responsibility (CSR)** and the extractive industry in Southern Africa is a research project of the **Bench Marks Foundation** in collaboration with the **Peace, Principles and Participation Network (PPP)** covering Angola, the DRC, Malawi, Mozambique, South Africa and Zambia – a multi-sectoral grouping that has evolved primarily for ensuring that corporations act responsibly, and in particular to communities they impact on, by ensuring and developmental benefits at grassroots levels. The initiative is supported by the **Netherlands Institute for Southern Africa (NIZA)** and arises from research completed by the Bench Marks Foundation on Rustenburg Platinum Mines and extended by the Peace, Principles and Participation Network (PPP) meeting of November 2006 in Durban, South Africa. At this meeting it was decided to focus the research on the applicable **legislation, policies and practices in the extractive industries** in the above-mentioned countries in the SADC region. **International best practice** and **benchmarking** conceptualised and monitored by the **Bench Marks Foundation** as specified in the Bench Marks framework, Principles for Global Corporate Responsibility: Bench Marks for measuring Business Performance, (The Bench Marks Foundation, 2003) will be key principles in the design and execution of the research.

Mining-related developmental issues - against the background of the **social responsibility** of the industry - that will be raised in this project will, amongst others, be the following: **health and safety, security, education, migrant and settlement patterns, environmental management, poverty eradication, job creation, local economic development, gender, HIV/AIDS, measurement of development needs** of communities, etc.

The **first phase** of this SADC research project involves the mining activities in **Malawi** (uranium), **South Africa** (coal, gold, platinum and uranium) and **Zambia** (copper and cobalt). A comprehensive **Desktop Report** on the above-mentioned mining activities in the different countries was done and launched in February 2008 (available at [www.bench-marks.org](http://www.bench-marks.org)). After the completion of the fieldwork, a final report for each mining sector is compiled and will be released and officially launched during the first week of June 2008 in Johannesburg. This is the report for the mining industry in **Zambia**.

The aim of the study is **threefold**:

- To **highlight key issues** in the Zambian mining environment against the background of the **CSR practises of mining companies** in relation to the **dimensions of sustainable development**;

- To **critically analyse the findings** in terms of the gaps between policy and practise; practise and human rights and policy and human rights; and
- To make **practical recommendations** in order to bridge the above-mentioned gaps through sound CSR practices

Mainly three basic **research procedures** were used for the project, namely the **historical procedure, survey procedure** and **historic-comparative procedure**. The document of was also peer reviewed by the Copperbelt University in Kitwe, Zambia in order to enhance the scientific quality of the research.

The key issues that came to the fore from the research (desktop as well as empirical research) are categorised under the **three dimensions of sustainable development** (economical, environmental and social). Integrated within the findings of this research are certain relevant **Principles, Criteria** and **Bench Marks** [Principles for Global Corporate Responsibility: Bench Marks for Measuring Business Performance] - **printed in bold**, which can serve as an indication as to how (and in which areas) mining companies can still improve on their CSR performance. An additional **measure** against these criteria and bench marks is given through the presentation of results that were obtained in the 'CSR Community Assessment Tool'. This was done in order to contextualise the CSR issues that arose in the study in terms of international best practice. The **essence of this study** regarding the mining sector of Zambian Copperbelt will consequently be presented:

- **Legislative overview:**

Given the importance of the regulation of the industry as well as the indirect link between legislation and CSR, an overview of the regulatory framework of the sector was done by this research. The legislative framework for the mining industry in Zambia appears to be quite well structured, comprehensive and thorough, however, despite the well-conceived structure, **implementation suffers** from **inadequate manpower** to implement the various pieces of legislation and to realise the objectives of the various departments. During the past few months on the Copperbelt, the discussions surrounding mining legislation have been dominated by the controversial issue of the 'Development Agreements' that were signed between the Zambian Government and the new investors (mining companies) during privatisation. The burning issue that has received most of the attention recently is the **new tax and royalty regime** that has been imposed on the companies by the government. The mineral royalty has increased to 3 percent from 0.6 percent, while corporate tax has risen to 30 percent from 25 percent. Zambia has also introduced a 15 percent variable profit tax on taxable income above 8 percent and minimum 25 percent windfall profit tax has been enacted. From the beginning of April 2008, the mining companies were required to start paying these higher

taxes. This has consequently outraged some mining firms who have been exempted from paying taxes for as long as 20 years in some cases. The Chamber of Mines is of opinion that this will discourage direct foreign investments because investors will have no confidence in the government if it can not honour signed agreements. Nevertheless, it is believed that this new mining tax will generate a \$400 million in revenue per year and according to the Zambian government, additional resources from the new tax measures would enable the mineral-rich country to spend more on education and health and help achieve its aim to become a prosperous middle-income country by 2030

- **Sustainable development:**

- *Economic dimension*

Despite the economic success of the mining industry in the recent past, a majority of Zambians continue to suffer extreme poverty. As of December 2005, about 67% of the population was said to be living on less than US\$1 a day. The privatisation of Zambia's mines initially led to a loss of 8 000 jobs. It is estimated that the 8 000 individuals supported at least five other family members. Most of these unemployed miners resorted to economic activities like charcoal burning, shift cultivation farming methods and small-scale mining to sustain their livelihoods, leading to further environmental degradation. However, some jobs have been created in the mines through the use of contract work. But, this had led to a collapse in the quality of employment. Approximately 45% of mine workers are unable to access permanent and pensionable contracts. Most mining companies have shifted workers onto rolling, fixed-term contracts on significantly less beneficial terms and conditions, or the jobs have been "contracted-out" to companies that pay in many cases less than half the monthly wage offered permanent workers for the same work in the same mine, and in some cases, just one tenth of this figure. This study also found a higher risk of corruption that is spreading through the use of 'contractors', e.g. mine workers having to pay some contractors up to 1 million Kwacha (R2000) to get a job in the mines. People also complain of payments coming late as well as lower health and safety standards that came as a result of sub-contracting. People feel that mining companies are sub-contracting the labour as a way of running away from their social responsibilities. Two other problems of privatisation is the deepening of pensioner poverty, as well as the lack of linkages of the new companies to local business.

- *Environmental dimension*

In Zambia, where mining provides for a large part of the country's economy, it has become necessary to create projects that consider their main focus to be the welfare of the environment. One of these important initiatives is the Copperbelt Environment Project (CEP) - it addresses the environmental liabilities associated with the mining sector that accumulated during more than 80 years of mining. Decades of copper, cobalt, zinc and lead mining has left many areas of the country contaminated with poisonous substances. Impacts include air pollution from fumes,



gases and dust; soil contamination from hazardous effluents; water (surface and ground) pollution from effluents to water ways from mines, plants and dumps; destruction of vegetation and wildlife habitat due to subsidence; deforestation, fumes and direct health hazards. According to the Environmental Council of Zambia (ECZ) the mines in Zambia are mostly working with sulphide copper. Therefore, as a result of the mining process there is a lot of air pollution in the form of sulphur dioxide which consequently also leads to acid rain. There are many areas in Zambia where vegetation has stopped growing as a result of the pollution. People also complain of respiratory and other health problems that are caused by the pollution.

*- Social dimension*

After the privatisation of Zambia's copper mines, the new investors (mining companies) have made little effort in the area of Corporate Social Responsibility. The mining companies made it clear that their "core business" is mining and not the provision of social amenities. The companies have consequently 'surrendered' a lot of infrastructure in the form of clinics and recreational facilities. Mining communities on the Copperbelt are experiencing a lot of problems with getting access to health care facilities, as well as other services. Infrastructure like roads, housing and basic necessities like water and sanitation are also huge problems identified by this study. As a result of a lack of employment and the huge decline in number of recreational facilities, social problems like alcohol abuse and prostitution also appears to be widespread.

- **Analysis**

A summary of the findings reveals that corporate social responsibility in the mining communities is relatively ineffective in terms of facilitating sustainable development. In fact, in most areas corporate social responsibility is either negligible or non-existent. Where corporate social responsibility directives exist, specifically pertaining to the environmental factors, substandard practices continue to persist. Communities continue to experience the consequence of the **gaps between policy and practice, policy and human rights and practice and human rights**, which impact heavily on the potential for sustainable development. Adding to this is that the Zambian mining environment is characterised by a fragmentation of responsibilities to the extent that it inhibits the benefits or effectiveness of any kind of CSR and efforts made towards sustainable development. The effects of the fragmentation of developmental activities in the mining communities has resulted in differing expectations at all levels and raises issues of **disempowerment** as well as **capacity concerns**. This research revealed **vast differences between expectations, perceptions and needs** of the different role-players that are operating on the micro, meso and macro levels of society. The only way to start an alignment process between these levels of expectations and the perceived responsibilities within the communities is to embark on a community engagement process aimed at **mutual understanding and improved community relations**.

Even before any social or developmental problem in any of these communities can be addressed, serious efforts have to be made to start establishing common ground among the role players and to address the lack of trust and vast differences in expectations and perceptions that this survey has unveiled. Community engagement initiatives, through **participative communication programmes**, linked to the mining companies' communication strategies are the vehicles that should be used to address the current lack of common ground and mistrust among the role-players.

Broadly speaking, improvements should come about as a **result of better communication, integration and power relations within and among communities, implementing institutions and government**. Acknowledgement of power and how it impacts on other role players is important because if it is not used well it can result in further exploitation of others. There are **power struggles** and **lack of coordination** within these institutions which can hamper development. Therefore to achieve effective change and sustainable development, these issues have to be addressed and dealt with. However, it is important that the **Zambian government takes a leading role** in achieving these objectives, as this is its **legitimate role to protect the rights of its citizens**. The aim should be to get a better understanding of each of the role players' needs and to then work towards supporting each other. It is also important to note that, at this stage; most communities are focussing on basic needs and therefore may not be full partners to the sustainable development agenda. There are extreme social problems in the communities and the perception in the communities is that most of the problems are caused by the mines and their operations, as well as by government's passive nature during all of this. Therefore the solutions, according to the communities, are the corporate social responsibility of the mines, but also the responsibility of government entities. The vast differences between perceptions and expectations mean that this study represents the start of a long-term process; in this process **the aligning of the actions and expectations of all relevant role-players** in the quest for sustainable development in the mining companies' neighbouring communities must be a priority.

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SADC	-	Southern African Development Community	
SIDAT	-	Social Investment Decision Analysis Tool	
SLO	-	Social Licence to Operate	
SWOT	-	Strengths, Weaknesses, Opportunities, Threats	
WBCSD	-	World Business Council for Sustainable Development	
ZCCM	-	Zambia Consolidated Copper Mines	
ZCI	-	Zambia Copper Investments Ltd	

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## SADC FINAL REPORT: ZAMBIA

JUNE 2008

### 1. INTRODUCTION

The **unique characteristics** of the mining environment in the **Southern African Development Community (SADC – established in 1980)** are that mining communities are mainly isolated, originally rural with high illiteracy rates and very dependent on the mining companies for their livelihood and development. The rural-based environment often becomes barren and is associated with ugly landscape caused by large-scale excavation. In addition, communities are often exposed to toxic environmental hazards from mine operation wastes. Although some mines could reach a life span of nearly forty years, mining is by its nature a temporary activity because of its dependence on the available mineral deposits. It is also fast growing and is associated with high earnings for the mining corporations, which have an impact on the local communities who are usually unable to respond to this across-the-board momentum because of their rural-based background. Consequently the local population experiences **cultural shock** and do not respond effectively to the developmental changes, occupational skills requirements and the rapid change from an agricultural-based society to a cash-dependent environment. This has also resulted in companies depending on labour from elsewhere.

As a consequence of the above-mentioned background, mining communities throughout the SADC region are characterised by **poor environmental as well as social conditions**. The poor management of waste and substances that impacts on surface water, ground water, the health of community members, air pollution, etc. is seriously threatening a **sound eco-system** in most of the mining environments. Some of the **poor social conditions** in mining communities are poverty, unemployment, poor housing (and in some places overcrowded single sex male hostels) and infrastructure, prostitution, poor health as well as the high influx of unaccompanied documented and non-documented migrants.

Despite political reform in the region, for example the new political dispensation in 1994 in South Africa, these environmental, social and economic conditions still persist in most of the mining communities. Globally and nationally there has been pressure on corporations to be more corporate accountable for and transparent about their actions in the communities that they operate. This entails that companies not only focus on the profitability and production of the company, but direct the focus of their core business to **corporate social responsibilities (CSR)** which implies being involved in **sustainable development** in the communities. However, these policy interventions have their own limitations, and the fact that many mining