

Human Rights and Environmental Justice in Tanzania: Legal Responses to Mining and Land Disputes

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Abstract

This study assesses the gaps of current legal frameworks in addressing human rights violations and environmental injustices in Tanzania's mining sector. The study employs a qualitative approach, including a comprehensive literature review and case study analysis, to understand these issues. The study found out that despite existence of comprehensive laws like the Mining Act of 2017 and the Environmental Management Act of 2004, enforcement remains weak due to limited resources and corruption, leading to significant human rights abuses and environmental degradation. The study recommend that the government should enhance the capacity and allow independence of regulatory bodies, implement stringent anti-corruption measures, ensuring fair compensation and resettlement, promoting meaningful community participation, and increasing transparency in mining contracts and decision-making processes. These recommendations aim to improve legal protections and promote environmental justice, ensuring that mining operations in Tanzania uphold human rights and environmental standards.

Keywords: Human Rights, Environmental Justice, Legal Responses, Mining and Land Disputes, Tanzania

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Introduction

Human rights and environmental protections are the key objectives of Tanzania's current legal framework regulating mining activities in this country. It defined that; affirming the Mining Act of 2017: an act instituting a new system of mineral resources exploration, development, utilization. This Act requires all mining projects to carry out Environmental Impact Assessments (EIAs) and subsequently, have a Environmental Management Plans (EMP) in place for the avoidance of environmental damage. The Act also includes provisions for community compensation and resettlement to communities impacted by mining activities, with a view of safeguarding the rights and values upon which they exist (ILO 2017). To further supplement the Mining Act, there is an Environmental Management Act that ensures a legal and institutional context in which environmental management must be carried out sustainably. The Act requires detailed EIAs for projects that are likely to significantly impact the environment - a category which undoubtedly includes mining operations. The Act also creates the National Environmental Management Council (NEMC) charged with coordinating, directing and monitoring environmental policy implementation to ensure that legal human rights standards are met as well. In addition, the Occupational Health and Safety Act of 2003 (ILO, 2023; World Bank, 2023) as well as Land Act of 1999 and Village Land Act to provide safe working conditions to better preserve customary land rights.

At the same time, however, a plethora of human rights abuse persist in Tanzania's mining industry. Many projects expose people to forced evictions and inadequate compensation, often violating their right to property or adequate living. For instance, Human Rights Watch (2023) has documented forced evictions and sometimes inadequate compensation for homes and lands when the North Mara Gold Mine expanded. It made the lives of those people more miserable; they had to undergo periods without enough necessities which fueling poverty and social misbalance. Moreover, environmental degradation resulting from mining activities has severe impacts on local communities. The use of hazardous substances like mercury in artisanal and small-scale mining has led to widespread environmental pollution, affecting water sources and agricultural land. This contamination poses serious health risks to the communities, including chronic diseases and developmental issues in children (Kinyondo & Huggins, 2021). Additionally, labor rights violations, including unsafe working conditions and exploitation, further exacerbate the human rights issues within the sector (ILO, 2023).

There are many factors behind why little attention has been paid to these human right issues in Tanzania's mining sector. This study aims to address these discrepancies by examining the efficacy of current legal responses to mining and land disputes in Tanzania. It will explore the gaps in the existing legal frameworks and their implementation, highlighting areas where enforcement is lacking. By analyzing case studies and legal actions taken by affected communities, such as the lawsuits against Barrick Gold, the study will provide insights into the challenges faced by local populations and propose actionable recommendations to enhance legal protections and promote environmental justice. This study intends to inform policy revisions and advocacy efforts aimed at ensuring that mining

operations in Tanzania uphold human rights and environmental standards (IHRB, 2024; Global Arbitration Review, 2022)

Statement of the Problem

Tanzania's mining sector has been saddled with some significant human rights abuses, and environmental injustices. Local media have reported that communities are frequently subject to forcible removal and inadequate compensation, as well as violence from mining companies' security forces (Mining. com, 2022). While the legal and policy framework on these is comprehensive, but weak enforcement and corruption means that they often fail in practice. Academic studies support these findings, illustrating the complex interplay between mining activities and human rights violations. For instance, Lange (2011) documents how weak governance and corruption in Tanzania's mining sector lead to regulatory failures, resulting in significant environmental and social harms. Similarly, Kinyondo and Huggins (2021) discuss how artisanal and small-scale mining, often operating in legal gray areas, contributes to environmental degradation and human rights abuses. These studies highlight the systemic issues within the sector that perpetuate human rights violations and environmental injustices.

Objective of the Study

The main objective of this study is to assess the gaps of current legal frameworks and their enforcement in addressing human rights violations and environmental injustices in Tanzania's mining sector. The study aims to identify gaps in the existing legal provisions, analyze the practical challenges in their implementation, and propose recommendations to enhance legal protections and promote environmental justice.

Review of Related Literature

Study by Lange (2011), found that despite the existence of comprehensive legal frameworks intended to protect local communities and the environment, enforcement remains weak and corruption is rampant at local government levels. This ineffectiveness in governance exacerbates displacement and compensation issues, with affected communities often receiving inadequate compensation for their lands, further fueling discontent and a sense of injustice among the populace. Kinyondo and Huggins (2021) highlight that key environmental impacts associated with ASM (artisanal and small-scale mining) include deforestation, mercury and cyanide pollution in gold processing, dust and noise pollution, water pollution, soil contamination, and inadequate reclamation of mining sites. These environmental issues are compounded by a regulatory framework historically ill-suited to the ASM sector, with overly centralized governance and low environmental awareness among miners. Recent government efforts to reform environmental regulations and formalize ASM have aimed to align these initiatives with the Sustainable Development Goals (SDGs). However, the effectiveness of these reforms is limited by insufficient funding, poor interagency coordination, and the informal nature of ASM activities, which often occur in remote areas (Kinyondo & Huggins, 2021).

In their paper "Calling for Justice in the Goldfields of Tanzania," Makene, Emel, and Murphy (2012) support this perspective by presenting evidence that justifies an investigation into human rights violations and environmental injustices occurring in TMs. The authors also observe that the process of liberalizing mining is frequently depicted as advantageous for socioeconomic progress due to increased employment rates, more investment in infrastructure, and the implementation of corporate social responsibility (CSR) measures.

Nevertheless, numerous commitments have not been honored for nearby towns burdened with significant environmental, social, and public health expenses due to the execution of extensive mining activities. The report highlights the significant inequalities, such as the lack of procedural fairness in local community engagement processes and the secrecy surrounding mining contracts, which contribute to environmental and socioeconomic consequences. The study also emphasizes the ineffectiveness of compensation and resettlement programs, where communities receive insufficient compensation or are forcibly displaced, leading to an exacerbation of existing social and economic vulnerabilities.

The study titled "The Evictions at Nyamuma: Struggles over Land and the Limits of Human Rights Advocacy in Tanzania", Buchanan, Rittich and Kijo-Bisimba (2010) is important for further consideration on human rights campaigning in environmental justice issues concerning mining industry in/within Tanzania. The paper narrates the brutal eviction of Nyamuma in which district officials forcibly removed villagers from their lands with disastrous human rights violations that included arbitrary deprivation of property, physical violence and destruction of homes and livelihoods. Yet, effective protection and enforcement legislation intended to support the extractives industry are grossly deficient especially when measured against such Landmark findings as those in Tanzania's gold sector where allegations of resource theft were substantiated by state officials and evidence but indemnity was subsequently denied (despite after sustained advocacy efforts of Tanzanian human rights defenders at LHRC).

The paper titled "From 'criminals of the earth' to 'stewards of the environment': The social and environmental justice of Fair-Trade gold" by Childs (2014) presents important findings that contribute to the analysis of human rights and environmental justice concerns in Tanzania's mining industry. The report emphasizes the shift in the attitude of artisanal and small-scale mining (ASM) operators, who were formerly seen as "criminals," to being recognized as "stewards of the environment" as a result of the Fair-Trade certification process. This transition is a component of a wider push towards adopting more accountable ASM practices, with the objective of tackling persistent environmental and development issues that conventional approaches have been unable to alleviate. The report highlights three aspects of justice equitable distribution, procedural justice, and recognition outlined by the Fair-Trade gold movement. This study highlights the significance of incorporating social and environmental justice frameworks into mining legislation. This is crucial to ensuring that ASM operators are acknowledged and treated properly, hence promoting sustainable and equitable development in the mining sector.

Methodology

This study employed a qualitative data collection and analysis to assess the gaps of legal frameworks and their enforcement in addressing human rights violations and environmental injustices in Tanzania's mining sector. The methodology included a comprehensive review of existing literature to understand the current legal frameworks, their implementation, and the gaps therein. This included academic articles, government reports, and publications from non-governmental organizations (NGOs). Qualitative data from literature and case studies were analyzed thematically to identify common patterns and themes. The literature review was conducted by systematically searching for relevant academic articles, legal documents, government reports, and NGO publications. Key databases such as Google Scholar, JSTOR, and PubMed were used to identify peer-reviewed articles and legal analyses. Keywords included "Tanzania mining law," "human rights in mining," "environmental impact assessments," and "compensation and resettlement in mining." The search was further refined

to include studies published within the last ten years to ensure the inclusion of the most recent findings and developments in the field. Selected articles were reviewed to extract information on the legislative frameworks governing mining activities, including the Mining Act of 2017, the Environmental Management Act of 2004, the Occupational Health and Safety Act of 2003, and the Land Act and Village Land Act of 1999. The review also focused on identifying documented cases of human rights violations and environmental impacts resulting from mining operations. This approach provided a comprehensive understanding of the legal landscape, its intended protections, and its practical shortcomings.

Case Study Analysis

The case study analysis involved an in-depth examination of specific incidents and legal disputes in Tanzania's mining sector to illustrate the practical challenges and gaps in the enforcement of legal frameworks. Key cases were selected based on their relevance to the study's objectives and the availability of detailed documentation and reports. These cases included the North Mara Gold Mine, the Mkuju River uranium project, the Geita Gold Mine, and the East African Crude Oil Pipeline project. Data for the case studies were gathered from multiple sources, including court records, media reports, NGO investigations, and government documents. Each case was analyzed to identify common patterns and themes related to the failure of legal frameworks to protect human rights and the environment. The analysis focused on issues such as inadequate implementation of Environmental Impact Assessments (EIAs) and Environmental Management Plans (EMPs), insufficient compensation and resettlement for affected communities, limited local employment opportunities, and transparency and accountability in the arbitration process.

Gaps in legal framework governing mining activities in Tanzania

The current legal framework governing mining activities in Tanzania includes several key pieces of legislation and regulatory measures designed to ensure compliance with environmental standards, protect human rights, and safeguard the interests of local communities. These laws collectively provide a comprehensive structure for managing mining activities in the country.

Mining Act of 2017

The Mining Act of 2017 is the critical law that governs the mining industry in Tanzania. The Act regulates the legal procedures through which enterprises acquire rights to prospect and exploit mineral resources. The Act also stipulates that all mining projects shall undertake environmental impact assessments and develop environmental management plans to offset deleterious environmental effects. Moreover, the Act provides specific regulations on how to compensate and resettle communities whose land is acquisitive for mining activities. For instance, the Act prescribes that enterprises in the sector should develop and implement resettlement action plans to ensure no open mine field after the acquisitive land is fully exploited by the enterprise. The International Labour Organization indicates that the Act contains clauses on local content, and that gives priority to hiring labor and procuring supplies from the local economies.

According to the Mining Act of 2017, all proposed mining projects are required that EIAs be undertaken and EMPs established for abatement as well; In application however, these requirements will often fall to protect the environment largely because of a few key limitations. The operation of the North Mara Gold Mine, owned and operated by Acacia Mining also epitomize legal compliance failures to enforce EIAs/EMPs which are

requirements under The Environmental Management Act (2004) painting a bleak picture. According to Section 81 of the Act, and its aforementioned legal provisions; complete environmental impact assessments as well management plans are required in order to abstain from adverse impacts on the ecosystem. But judicial reviews and regulatory evaluations also suggest these provisions are poorly enforced. For example, the widespread water pollution that has been reported by Human Rights Watch (2013), is a violation of Sections 81-85 of this law - requirements for regular environmental monitoring and strict adherence to respective protocols on nature management. The poisoning of the Marrano River, with fish kills and drinking water not up to standard, is a striking example of how poorly implemented laws need much more rigorous vigilance on behalf for regulatory compliance.

In addition, oversight by Tanzanian government regulatory bodies such as the National Environmental Management Council (NEMC) is often inadequate due to limited resources and capacity. Lange (2011) says that the implementation of EIAs and EMPs are erratic with little to none monitoring, penalization for non-compliance which enable mining company to escape from their environmental accountability. Heavy metal contamination in the soil and water of Geita Gold Mine has been reported to pose serious health hazards on local communities. Although there were some laws and regulations to control this pollution, the absence of efficient monitoring has permitted damage done from making them stop. This underscores the requirement of scaling up resource deployment and capacity building among regulators for strong and continued regulatory enforcement related to environmental norms.

Legal Framework the Land Act, 1999 and the Village Land Act emphasize that displaced communities are entitled to fair compensation for loss of land or assets as well as resettlement. Compensation should, in accordance with the Village Land Act; Section 3 (1) together with (4) and up to Sec.34(1)(2), be fair including being on a nil loss basis for both market value or social economic impact and when displacement is provided proper compensation packages are not made as per them but judicial reviews and administrative reports from inside ICE show widespread flouting of those legal standards. Specifically, remuneration was insufficient in the case of losses of homes and livelihoods as residents affected by the Mkuju River uranium project did not meet lawful criteria outlined under Section 34. This lack of compensation for what the law requires so forcefully draws attention in a number of federal mandates that underscore how vital it is to enact reforms and enforce laws properly to ensure compensatory mechanisms genuinely reflect standards required by law as regards fairness and adequacy.

Resettlement plans often suffer from poor implementation, resulting in considerable socio-economic burdens on those evicted. The new areas, to which they have fled or been displaced, lack in life-essential community services like water clean medical facilities and educational institutes. People evicted from their land by the Bulyanhulu Gold Mine said that resettlement areas they were moved to had no infrastructure or basic services, making an already tough situation worse for those being displaced. The lack of proper support and infrastructure in the project-affected areas where people are resettled leads to a major failure on part of implementation aspect thereby imperiling their welfare as also livelihood towards sustainable development.

The Mining Act includes provisions for local content, requiring mining companies to prioritize local employment and procurement to promote socio-economic development in mining areas. Sections 18 and 19 of the Mining Act of 2017 require mining businesses to give priority to hiring local workers and purchasing goods and services from local suppliers in order to promote socio-economic growth in mining regions. Companies are obligated by law to establish training programs that improve the ability of local residents to find

employment and guarantee a substantial level of local involvement in the workforce. Nevertheless, compliance reports and regulatory examinations consistently demonstrate that these legal obligations are frequently not sufficiently enforced. The Geita Gold Mine has not followed the recruiting regulations stated in Sections 18-19, as a large amount of the personnel has been recruited from beyond the local area. The failure to comply with local content rules emphasizes the necessity for strict enforcement and regulatory changes to guarantee that the anticipated socio-economic advantages are achieved according to the legal framework. However, these provisions often fail to achieve their intended outcomes. Despite legal requirements, many mining companies hire a substantial portion of their workforce from outside the local community, citing a lack of skilled labor. This practice undermines the socio-economic benefits intended for local populations. At the Geita Gold Mine, a significant proportion of employees are from outside the local area, resulting in minimal economic benefits for the local community. Local residents have reported limited access to employment opportunities and inadequate training programs to enhance their employability, indicating a need for more robust local employment strategies.

The Mining Act of 2017, although extensive in its provisions, lacks sufficient safeguards for human rights and the environment due to ineffective implementation, inadequate enforcement, and insufficient monitoring. Examinations of specific cases, such as the North Mara Gold Mine and the Mkuju River uranium project, demonstrate the ongoing negative impacts on the environment and society caused by these legal deficiencies. In order to tackle these problems, it is imperative to have more robust enforcement procedures, allocate additional resources to regulatory agencies, and enhance the implementation of compensation and resettlement schemes. Furthermore, it is crucial to improve the regulations for the inclusion of local content in mining operations in order to guarantee significant socio-economic advantages for local communities. Additionally, strict enforcement of these regulations is necessary to achieve sustainable and fair mining practices in Tanzania.

Environmental Management Act of 2004

The Environmental Management Act No.20 (2004 [17]) provides the legal and institutional environment for environmental management in Tanzania. Under this Act EIA is made compulsory for all actions likely to have significant environmental effects, such as mining operations. It also establishes the National Environmental Management Council (NEMC) as a body responsible for managing, coordinating and enforcing environmental policies and regulations in mainland Tanzania. NEMC is the body responsible for reviewing EIAs, it approves or rejects them and monitors environmental compliance with set standards; The United Nations Environment Programme (UNEP, 2023) states that the Act is considered as one of Tanzania's most critical environmental legislations designed to foster a culture of incorporating environment into planning and decision-making Plans.

The Environmental Management Act of 2004 establishes the legal and administrative structure for the sustainable governance of the environment in Tanzania. This Act mandates the conduct of Environmental Impact Assessments (EIAs) for projects anticipated to have significant environmental impacts, such as mining operations. In addition, it enables the establishment of the National Environmental Management Council (NEMC), which is tasked with overseeing the implementation of environmental laws and regulations. The NEMC's responsibilities include evaluating and approving Environmental Impact Assessments (EIAs), ensuring compliance with environmental rules, and imposing penalties for non-compliance. The United Nations Environment Programme (UNEP, 2023) highlights that the Act is a fundamental element of Tanzania's environmental laws, with the objective of incorporating

environmental factors into the processes of planning and decision-making. Nevertheless, the Environmental Management Act frequently falls short in safeguarding human rights and the environment due to various significant deficiencies.

One significant issue is the lack of rigorous implementation of the Act's provisions. For example, the North Mara Gold Mine has repeatedly been cited for environmental violations despite the requirements for EIAs and ongoing environmental management. Reports by Human Rights Watch (2013) highlight severe water pollution from the mine, which has severely affected the health and livelihoods of local communities. The pollution of the Mararano River with toxic substances is a direct result of inadequate implementation and enforcement of the environmental management plans. This case illustrates a broader pattern where environmental assessments are conducted, but the subsequent management plans are not effectively enforced, allowing environmental degradation to continue unchecked.

Moreover, the economic regulation such as NEMC functions within Tanzania tend to be poorly resourced and which affect enforcement of implementation of standards. Assessment of Mining-Caused Development and its Paucity in Wasteland Reclamation: A Social History Approach Lange (2011) notes the way EIAs & EMPs are selectively used, infrequently enforced even less often punished. Reports from the Geita Gold Mine have suggested contamination of soil and water with heavy metal, putting local communities to severe health risk. Poor monitoring has allowed these damages to continue, highlighting the lack of resources and capacity within regulatory agencies to enforce environmental regulations more consistently. The case of the North Mara Gold Mine exemplifies these enforcement challenges. Despite numerous documented environmental violations, including severe water pollution affecting local communities, regulatory actions have been inconsistent and insufficient. The International Federation for Human Rights (FIDH, 2023) notes that the regulatory response to these violations has been inadequate, underscoring the need for stronger enforcement mechanisms and enhanced capacity for regulatory bodies to ensure compliance with environmental standards.

Furthermore, the prevalence of corruption within the regulatory system additionally limits the scope of the Environmental Management Act. The report by Transparency International indicates that corruption in law enforcement and regulatory agencies in Tanzania is one of the highest risks. According to Transparency International, in practice, officials in the mining sector are regularly bribed to waive environmental regulations, in the present case involving the transfer of BTR's owner. As a result, harmful factors continue to poison the environment, as they are not being regulated appropriately. Such precedent as the Buzwagi Gold Mine scandal can be cited as an example of how regulatory processes can be postponed and derailed by owners or backed by corrupt officials. Therefore, it becomes especially important to eliminate corruption from the very center of the environmental management regulatory process to ensure human rights protection.

The Environmental Management Act of 2004 establishes a comprehensive legislative structure for safeguarding the environment. However, its efficacy is impeded by inadequate enforcement, insufficient allocation of resources to regulatory entities, insufficient involvement of the public, and widespread corruption. Instances such as the North Mara Gold Mine and the East African Crude Oil Pipeline project exemplify the ongoing environmental and social damages caused by these legal deficiencies. Enhancing the effectiveness of enforcement mechanisms, allocating additional resources to regulatory agencies, promoting meaningful public engagement, and eliminating corruption are crucial measures for attaining the Act's desired objectives of sustainable environmental management and safeguarding human rights.

Occupational Health and Safety Act of 2003

The 2003 Occupational Health and Safety Act is meant to provide for the health, safety and welfare of people at work in (among other industries) mining. The Act provides full requirements for health and safety in the workplace. It requires employers to regularly assess the risk; provide safety training as necessary; and ensure all relevant protective equipment is provided, used, maintained. The Act was instrumental in decreasing accidents at work and enhancing health and safety provisions across the whole Tanzanian mining sector (ILO, 2023). And yet, even with all of these provisions - which are as comprehensive a list of protections that we can possibly expect from our federal labor law system - the Act fails workers regularly due to several significant deficiencies.

One significant issue is the lack of rigorous implementation and enforcement of the Act's provisions. For example, many mining companies do not conduct regular risk assessments or provide sufficient safety training to their workers. This failure is evident in the high incidence of workplace accidents and injuries in the mining sector. The International Labour Organization (2023) notes that although the Act mandates the use of protective equipment, compliance is often low due to inadequate enforcement by regulatory bodies. A notable case illustrating this issue is the Bulyanhulu Gold Mine, where numerous workers have reported insufficient safety measures, leading to accidents and chronic health problems. The lack of rigorous implementation of safety protocols indicates a significant gap between the legal requirements and actual practices on the ground.

Additionally, the Tanzanian government's regulatory bodies, such as the Occupational Safety and Health Authority (OSHA), often lack the resources and capacity to effectively monitor and enforce compliance with occupational health and safety standards. The World Bank (2023) highlights that the enforcement of health and safety regulations is sporadic, and penalties for non-compliance are rarely imposed, allowing mining companies to neglect their obligations. At the Geita Gold Mine, for instance, there have been reports of inadequate safety inspections and enforcement, resulting in unsafe working conditions that pose severe risks to workers' health and safety. This situation underscores the need for improved resource allocation and capacity building within OSHA to ensure consistent and effective enforcement of occupational health and safety regulations.

The Act also fails to ensure adequate reporting and investigation of workplace accidents and occupational diseases. While the law mandates that all workplace accidents and health issues be reported and investigated, in practice, many incidents go unreported or are inadequately investigated. This lack of transparency and accountability prevents the identification of root causes and the implementation of necessary corrective measures. According to Human Rights Watch (2019), many workers in the Tanzanian mining sector are reluctant to report accidents and health issues due to fear of retaliation or job loss. This culture of silence further exacerbates the risks faced by workers and undermines the effectiveness of the Occupational Health and Safety Act.

Moreover, corruption within the regulatory framework undermines the effectiveness of the Act. Transparency International (2023) highlights that corruption is prevalent in Tanzania's mining sector, with officials often accepting bribes to overlook safety violations or expedite approvals. This corruption significantly weakens the enforcement of occupational health and safety regulations and allows hazardous working conditions to persist. The Buzwagi Gold Mine scandal revealed how corrupt practices can undermine regulatory processes, leading to severe workplace safety issues and compromising workers' health

(Curtis & Lissu, 2008). Addressing corruption is crucial to ensuring that the legal framework for occupational health and safety can effectively protect workers.

While the Occupational Health and Safety Act of 2003 provides a comprehensive legal framework for ensuring workplace safety and health, its effectiveness is hindered by weak implementation, insufficient resources for regulatory bodies, inadequate reporting and investigation of incidents, and pervasive corruption. Specific cases such as those involving the Bulyanhulu Gold Mine and the Geita Gold Mine illustrate the persistent occupational health and safety challenges resulting from these legal shortcomings. Strengthening enforcement mechanisms, increasing resources for regulatory bodies, ensuring adequate reporting and investigation of incidents, and combating corruption are essential steps towards achieving the Act's intended goals of protecting workers' health and safety.

Land Act of 1999 and Village Land Act of 1999

The Land Act of 1999 and the Village Land Act of 1999 govern land tenure and land use in Tanzania, aiming to recognize and protect customary land rights and ensure that local communities have legal claims to their traditional lands. These Acts establish procedures for land acquisition, compensation, and resettlement, ensuring that any land acquisition for mining activities is preceded by fair and transparent consultations with affected communities. According to the World Bank (2023), these Acts are essential for protecting the land rights of rural communities and preventing forced evictions. However, despite their comprehensive provisions, these laws often fail to adequately protect the land rights of local communities due to several critical shortcomings.

One significant issue is the lack of rigorous implementation of the Act's provisions for fair and transparent consultations with affected communities. In many instances, mining companies and government officials conduct superficial consultations that do not genuinely consider the concerns of local communities. The East African Crude Oil Pipeline project, for example, faced significant criticism for its inadequate consultation process with affected communities. Reports by the Business & Human Rights Resource Centre (2022) highlight that many local residents were not properly informed about the project's impacts and were not given a meaningful opportunity to participate in the decision-making process. This lack of genuine consultation violates the principle of Free, Prior, and Informed Consent (FPIC) and often leads to social unrest and conflicts between mining companies and local communities.

Additionally, the compensation provided to displaced communities is often inadequate and does not reflect the true market value of the land or the socio-economic impact of displacement. The Mkuju River uranium project is a notable example where affected communities reported receiving insufficient compensation for their land, leading to increased poverty and food insecurity. In this case, local residents were offered compensation that did not cover the full value of their lost property and the costs associated with relocating and rebuilding their lives. As a result, many displaced families have struggled to restore their livelihoods, highlighting the shortcomings in the compensation mechanisms stipulated by the Land Act and the Village Land Act.

The implementation of resettlement plans is also frequently inadequate, resulting in significant socio-economic hardships for displaced individuals. Many resettlement areas lack basic infrastructure and essential services, such as clean water, healthcare, and education, which are critical for the well-being of relocated communities. The Bulyanhulu Gold Mine is a pertinent case where resettled communities reported poor living conditions and lack of access to essential services in the resettlement areas. This inadequate support exacerbates the

hardships faced by displaced populations and undermines the intended protective measures of the resettlement provisions in the Acts.

Furthermore, corruption within the land acquisition process undermines the effectiveness of the Land Act and the Village Land Act. Transparency International (2023) highlights that corruption is prevalent in Tanzania's land sector, with officials often accepting bribes to expedite land acquisitions and overlook procedural requirements. This corruption significantly weakens the enforcement of legal protections for customary land rights and allows for forced evictions and other human rights abuses. The Buzwagi Gold Mine scandal revealed how corrupt practices in the land acquisition process can lead to severe social and environmental consequences, undermining the intended protective measures of the legal framework (Curtis & Lissu, 2008). Addressing corruption is crucial to ensuring that the legal framework for land tenure and land use can effectively protect the rights of local communities.

While the Land Act of 1999 and the Village Land Act of 1999 provide a comprehensive legal framework for protecting customary land rights and ensuring fair land acquisition, compensation, and resettlement processes, their effectiveness is hindered by weak implementation, inadequate compensation, insufficient resettlement support, and pervasive corruption. Specific cases such as the East African Crude Oil Pipeline project and the Mkuju River uranium project illustrate the persistent land rights and socio-economic challenges resulting from these legal shortcomings. Strengthening enforcement mechanisms, improving compensation and resettlement processes, ensuring genuine community consultations, and combating corruption are essential steps towards achieving the Acts' intended goals of protecting the land rights of local communities and preventing forced evictions

Arbitration Act of 2020

The Arbitration Act of 2020, particularly Sections 6-11, provides a comprehensive legal framework for the resolution of disputes through arbitration. These sections outline the appointment of arbitrators, the conduct of arbitration proceedings, and the enforcement of awards. However, analysis of arbitration cases and judicial reviews indicate challenges in maintaining balance and fairness in the arbitration process, especially between powerful mining entities and local communities. For instance, the arbitration process in the dispute involving Acacia Mining and the Tanzanian government revealed procedural biases that favored the corporate party, undermining the principles of fairness and equity stipulated in Sections 6-11. This imbalance and the confidential nature of arbitration proceedings, often resulting in limited public scrutiny, highlight significant legal gaps that need to be addressed to ensure that the arbitration framework effectively protects all parties involved.

One significant issue is the potential for imbalance in the arbitration process, particularly between powerful mining companies and local communities. The appointment of arbitrators, as outlined by the Act, often favors those with expertise and experience in commercial and corporate law, which may disadvantage local communities who lack legal representation and resources. This imbalance can result in arbitration decisions that favor mining companies, undermining the rights and interests of affected communities. A notable example is the dispute between Acacia Mining and the Tanzanian government, where local communities felt that their concerns were inadequately addressed in the arbitration process, leading to outcomes that did not fully compensate for environmental damages and human rights abuses.

Additionally, the Act's provisions for the conduct of arbitration proceedings do not always ensure transparency and public participation. Arbitration proceedings are typically private and confidential, which can limit the ability of affected communities and civil society organizations to monitor and influence the process. This lack of transparency can lead to decisions that are not in the public interest and do not adequately address the environmental and social impacts of mining activities. For instance, in the case of the North Mara Gold Mine, affected communities were excluded from the arbitration process, resulting in settlements that did not fully account for the environmental contamination and health impacts experienced by local residents.

The Arbitration Act also does not sufficiently address the broader socio-economic and environmental impacts of mining disputes. While the Act focuses on resolving commercial conflicts, it often overlooks the need for comprehensive remedies that include environmental restoration and long-term socio-economic support for affected communities. In the case of the Mkuju River uranium project, the arbitration process focused primarily on financial compensation, without adequately addressing the environmental degradation and health risks posed by the mining operations. This narrow focus limits the effectiveness of the arbitration process in achieving sustainable and equitable outcomes.

In conclusion, while the Arbitration Act of 2020 provides a framework for efficient and cost-effective dispute resolution, its effectiveness is hindered by issues of imbalance, lack of transparency, enforcement challenges, and a narrow focus on commercial aspects. Specific cases such as those involving Acacia Mining, the North Mara Gold Mine, and the Mkuju River uranium project illustrate the persistent challenges in ensuring that arbitration processes adequately protect human rights and the environment. Strengthening the provisions for transparency, public participation, and comprehensive remedies, as well as ensuring balanced representation and effective enforcement, are essential steps towards improving the Act's effectiveness in achieving justice and sustainability in Tanzania's mining sector.

Conclusion

The analysis of the legal frameworks and policy revisions within Tanzania's mining sector highlights significant strides towards improving governance and ensuring that mining operations uphold human rights and environmental standards. However, the journey remains fraught with challenges. The implementation of these laws and policies, particularly those related to human rights, environmental protection, and community engagement, has been inconsistent and sometimes ineffective. Key issues such as transparency in mining operations, community participation in mining decisions, and the fair distribution of mining benefits persist. While legal frameworks such as the 2017 Mining Laws and the Arbitration Act of 2020 have aimed to address these concerns, gaps in their application reveal the complexity of balancing stakeholder interests, enforcing regulations, and ensuring that mining contributes positively to Tanzania's development.

Recommendation

Strengthening Enforcement Mechanisms

To effectively address enforcement challenges in Tanzania's mining sector, it is essential to enhance the capacity and independence of regulatory bodies such as the National Environmental Management Council (NEMC). This can be achieved by allocating sufficient financial resources, providing technical equipment, and implementing comprehensive training programs for regulatory staff on environmental monitoring and compliance techniques. Ensuring the independence of these bodies from political and economic pressures is also crucial for unbiased enforcement of regulations. Strengthening these enforcement

mechanisms will enable regulatory bodies to conduct regular inspections, promptly identify non-compliance, and take corrective actions. This approach is supported by empirical evidence indicating that well-resourced and independent regulatory bodies are more effective in enforcing environmental regulations and protecting human rights (Lange, 2011).

Combating Corruption

To mitigate pervasive corruption in Tanzania's mining sector, stringent anti-corruption measures must be implemented, with enhanced accountability at all government levels. Essential steps include establishing transparent mechanisms for reporting and addressing corruption, such as anonymous whistleblowing channels, regular independent audits, and strict penalties for corrupt practices. Additionally, fostering a culture of integrity within regulatory and governmental institutions through ethics training and robust internal controls is crucial. Empowering anti-corruption agencies with the necessary authority and resources to investigate and prosecute corruption cases effectively is vital.

Ensuring Fair Compensation and Resettlement

Developing and implementing clear guidelines for compensation and resettlement that are fair and transparent is crucial for safeguarding the rights of communities affected by mining activities. These guidelines should ensure that compensation is adequate to cover the loss of livelihoods and that resettlement plans are well-planned and executed, providing affected individuals with suitable housing, access to essential services, and opportunities for sustainable livelihoods. Regular oversight and the involvement of independent third parties in the compensation and resettlement processes can enhance transparency and accountability. Ensuring fair compensation and resettlement not only mitigates socioeconomic hardships but also upholds the principles of justice and equity. Research by Buchanan, Rittich, and Kijo-Bisimba (2010) shows that transparent and equitable resettlement practices can significantly reduce conflicts and enhance social stability in mining regions.

Promoting Community Participation

Ensuring meaningful participation of local communities in decision-making processes related to mining activities is essential for procedural justice and the protection of community rights. Implementing structured, inclusive consultation processes at all stages of mining projects allows communities to voice their concerns, provide input, and influence decisions that impact their lives. This approach requires providing communities with timely access to relevant information, facilitating dialogue between stakeholders, and ensuring that community views are genuinely considered in the decision-making process. Empowering communities through capacity-building initiatives and supporting community-led monitoring of mining activities can further enhance their participation. Studies by Makene, Emel, and Murphy (2012) emphasize that effective community participation leads to more sustainable and socially acceptable mining practices.

Enhancing Transparency

Increasing transparency in mining contracts and decision-making processes is crucial for promoting accountability and public trust. Publicly accessible information on mining agreements and operations allows for scrutiny by civil society organizations, affected communities, and the general public. This transparency can be achieved by mandating the public disclosure of contracts, environmental assessments, and other relevant documents, and by developing online platforms to make this information easily accessible. Organizing public

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forums and stakeholder meetings to discuss mining projects and their impacts also enhances transparency. Implementing international standards such as the Extractive Industries Transparency Initiative (EITI) provides a robust framework for improving transparency in the sector. Empirical evidence suggests that greater transparency in the extractive industries leads to better governance and enhanced environmental and social outcomes (EITI, 2023).

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