
INTEGRATING HUMAN RIGHTS INTO TANZANIA'S MINING INDUSTRY LEGAL REGIME FOR EFFECTIVE ECONOMIC DIPLOMACY: GAPS AND SOLUTIONS

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ABSTRACT

The mining sector in Tanzania has experienced substantial growth over recent decades, attracting significant Foreign Direct Investment (FDI) and playing a vital role in the country's economic development. However, this growth has exposed the country to serious human rights challenges, including forced evictions, toxic spills, inadequate compensation, and unsafe working conditions. The existing legal frameworks aim at regulating these issues, but persistent human rights abuses are reported; hence affecting realization of national economic diplomacy goals. This paper seeks to address these gaps through integrating human rights into Tanzania's mining laws. This would foster a more responsible and sustainable mining and reduction of human rights violations for attaining the country's desired economic diplomacy policy. Through this analysis, the research contributes to the broader discourse on the intersection of human rights, FDI, and economic diplomacy within Tanzania's extractive industries.

Keywords: economic diplomacy, human rights, mining industry, natural resources; legal regime, economic growth, foreign direct investment and international cooperation.

1.0 INTRODUCTION

Economic diplomacy in the mining sector has played a pivotal role in attracting foreign investment and fostering trade relationships in Tanzania. Successive presidential administrations have significantly influenced mining investment through the strategic balancing of international partnerships with national economic and social agendas.¹ However, as the global demand for green minerals rises², Tanzania's mining sector faces mounting scrutiny over environmental and human rights practices, including killings of civilians alleged to have invaded the mine and conducted illegal small-scale mining.³ This context necessitates a shift in economic diplomacy agenda towards a more comprehensive approach, encompassing not only investment attraction but also robust protections for local communities and workers.

To achieve effective economic diplomacy, Tanzania's mining legal regime must adhere to international standards. This involves integrating the UN Guiding Principles on Business and Human Rights, which provide a structured approach for safeguarding worker and community rights. These principles emphasize about corporate responsibility to respect human rights and company's obligation to redress harm to victims of abuse. Likewise, Tanzania ought to adhere to the International Labour Organization (ILO) standards for ensuring fair labor practices and safe working conditions.

This article critically evaluates the existing mining legal regime with regard to promotion and respect of human rights as a tool of achieving effective national economic diplomacy. It is built on the premises that advancing Tanzania's national development ambitions in the mining sector requires integrating human rights in the economic diplomacy agenda. The article applies doctrinal methodology by assessing national laws, international instruments and published scholarly works concerning human rights and economic diplomacy in the extractive sector. Being a qualitative study, the paper does not address economic assumptions or value of integrating human rights in the economic national diplomacy agenda in Tanzania's mining

¹D Shapiro, B Hodadari & CH Oh 'Natural Resources, Multinational Enterprises and Sustainable Development' (2018) 53 *Journal of World Business* 1-14.

²International Council on Mining and Metals (ICMM) 'Human Rights in the Mining & Metals Industry Overview, Management Approach and Issues' (2009) 16-18.

³ Human Rights Watch 'Tanzania Police Linked to Killings at North Mara Gold Mine' 12 June 2024, <https://www.hrw.org/news/2024/06/12/tanzania-police-linked-killings-gold-mine> (accessed 14 November 2024); see also institute for Human Rights and Business (IHRB) 'Human Rights in Tanzania's Extractive Sector: Exploring the Terrain' 2 December 2016, <https://www.ihrb.org/resources/human-rights-in-tanzanias-extractive-sector-exploring-the-terrain> (accessed 17 November 2024).

sector.

2.0 AN OVERVIEW OF TANZANIA'S MINING SECTOR

Tanzania is among the six Africa's biggest gold producers preceded by Ghana, South Africa, Sudan, Mali and Burkina Faso.⁴ It has a wide range of other mineral resources, including diamonds, cobalt, copper, nickel, platinum group metals, silver and Tanzanite.⁵ The mining sector accounts for about 3.2% of Tanzania's GDP and 3.6% of its total tax revenues.⁶ The mineral sector also contributes 52% of total exports, while gold represents about 90% of mineral export value.⁷ There is potential for Tanzania's diversified mining sector to contribute as much as US\$2.5 billion in fiscal revenues in the coming years.⁸

Tanzania is among the African countries which have promoted open governance through the Extractive Industries Transparency Initiative (EITI) since 16 February 2009.⁹ The country has reformed its extractive sector policy framework, including enactment of the Mining Act¹⁰, the Natural Wealth and Resources (Permanent Sovereignty) Act,¹¹ and the Natural Wealth and Resources Contracts (Review and Renegotiation of Unconscionable Terms) Act.¹² Despite these efforts, the benefits of the resource-induced growth are not widely shared, and the mining sector continues to face persistent human rights issues. The current legal structures have not fully integrated human rights considerations, and the effectiveness of these frameworks in providing access to remedy for victims of human rights abuses has been questioned.

3.0 NATURE AND SCOPE OF ECONOMIC DIPLOMACY IN TANZANIA'S MINING INDUSTRY

Economic diplomacy refers to the use of diplomatic tools and government resources to promote a country's economic interests on the global stage. It encompasses actions aimed at enhancing

⁴B Adeye and others 'Top Gold Producers in Africa 2024' The African Exponent (web blog), 31 August 2024, <https://www.africanexponent.com/top-gold-producers-in-africa-2024/> (accessed 15 November 2024).

⁵ IHRB (n .3) 7.

⁶International Trade Administration 'Tanzania – Mining' 14 December 2022, <https://www.trade.gov/country-commercial-guides/tanzania-mining> (accessed 2 July 2024).

⁷International Trade Administration (n 8).

⁸ n 5, 7.

⁹J Poncian & HM Kigodi 'Transparency Initiatives and Tanzania's Extractive Industry Governance' (2018) 5 *Development Studies Research* 109.

¹⁰The Tanzania Mining Act, CAP 123 of 2019.

¹¹The Tanzania Natural Wealth and Resources (Permanent Sovereignty) Act 5 of 2017.

¹²The Tanzania Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Act 6 of 2017.

trade, securing investment, and fostering economic cooperation through negotiations, policy alignment, and strategic partnerships.¹³ Ideally, economic diplomacy is practiced by engaging with foreign governments, multinational corporations, and international organizations through creation of favorable conditions for national industries, including those within the extractive sector. Primarily, economic diplomacy seeks to stimulate economic growth, create employment opportunities, and secure the nation's strategic interests by promoting trade and investment. For resource-rich countries like Tanzania, economic diplomacy plays a crucial role in the extractive industries, as it helps attract Foreign Direct Investment (FDI) and establish trade agreements that benefit local economies.¹⁴

For developing countries like Tanzania, economic diplomacy is not limited to promoting trade and investment but involves negotiating contract terms that protect the country's interests and ensure that resource extraction contributes to sustainable development. Such terms include provisions on revenue sharing, environmental protections, and local content requirements that promote skills development and employment for local communities.¹⁵ Conversely, economic diplomacy concerns in the extractive industries cover essential components such as environmental and social governance (ESG) commitments, which emphasize responsible resource management, environmental protection, and respect for human rights.¹⁶ It also encompasses a broad spectrum of responsibilities, including the negotiation of resource extraction terms that prioritize sustainable development; adherence to international human rights standards, and the promotion of corporate accountability.

Literally speaking, economic diplomacy in the extractive industries involves leveraging the country's vast mineral wealth to foster international relationships, attract foreign investment, drive economic development and long-term growth.¹⁷ The National Foreign Policy of 2015 regards promotion of human rights as an important enabling tool for economic cooperation and development in Tanzania.¹⁸ Similarly, the Policy regards democracy, good governance and human rights promotion as among the policy principles and essential values shared among the

¹³ N Bayne & S Woolcock *The New Economic Diplomacy: Decision-Making and Negotiation in International Economic Relations* (2017) 1-4.

¹⁴ M Okano-Heijmans *Economic Diplomacy: Japan and the Balance of National Interests* (2003).

¹⁵ Tanzania Extractive Industries Transparency Initiative (TEITI) 'The 12th TEITI report for the period July 1 2019 to June 30 2020' (2022).

¹⁶ Organisation for Economic Co-operation and Development (OECD) *Guidelines for Multinational Enterprises* (2011).

¹⁷ W Mutagwaba and others 'Artisanal and small-scale mining in Tanzania – Evidence to inform an 'action dialogue' (2018) *International Institute for Environmental and Development (IIED)* 21-25.

¹⁸ The Tanzania National Foreign Policy of 2015 para 35.

common wealth and SADC countries.¹⁹ Thus, human rights in Tanzania is an integral part of the national sustainable development goals; hence government must integrate human rights in its different plans, laws and economic instruments. This would serve different purposes arising from international commitments and standards governing extractive industry as stipulated hereunder.

4.0 RATIONALE FOR INTEGRATING HUMAN RIGHTS IN ECONOMIC DIPLOMACY IN TANZANIA MINING INDUSTRY

Integrating human rights into Tanzania's economic diplomacy agenda in the mining sector is essential not only for ethical compliance but also for enhancing the country's standing as a responsible investment destination. In sectors like mining, where operations significantly impact communities and the environment, aligning economic interests with human rights considerations is increasingly critical. Generally, incorporating human rights protections in extractive laws, policies and plans seeks to align with international frameworks and standards, including the United Nations Guiding Principles on Business and Human Rights and ILO Conventions No. 29 and No. 105. The following section presents primary rationales for integrating human rights in Tanzania's economic diplomacy in the extractive industry in order to guarantee sustainable and responsible mining practices.

(a) Moral and Ethical Obligations

Ensuring that mining activities respect human rights is generally a moral and ethical obligation. As rightly argued by Shashi, human rights and ethics are two sides of the same coin.²⁰ Similarly, Stephen, avers that human rights have in common an ethical concern for just treatment, built on empathy or altruism in human behavior and concepts of justice.²¹ This means integrating human rights in the extractive sector is equally respecting ethics and morals shared by people in the particular community. Mining companies in any host country have a positive duty to respect the rights of workers and local communities, protecting them from abuses like forced labor, child labor, and unsafe working conditions.²² This stance aligns with the UN Guiding

¹⁹ The Tanzania National Foreign Policy of 2015 paras 25, 28 & 40.

²⁰ M Shashi 'Human Rights, Human Moral Obligations and Moral Cosmopolitanism' (2015) *Oxford University Press* 1-15.

²¹ PM Stephen 'Human Rights-A Brief Introduction' (2016) *Harvard University* 1-3.

²² ICMM (n.3) 16-18.

Principles on Business and Human Rights,²³ which emphasize on both government and mining companies to respect human rights by avoiding infringements and addressing adverse impacts.

Basically, upholding human rights is a fundamental moral duty not only of governments but also of corporations,²⁴ who are expected to commit to principles of human dignity and justice in the mining sector. This moral obligation is particularly relevant in Tanzania, where the mining industry has a history of exploitation and social injustice. Integrating human rights protections into economic diplomacy is likely to establish a standard of ethical practices in resource extraction, fostering a safer and fairer mining environment.

(b) Corporate Responsibility obligations

Mining companies in Tanzania often operate in regions where communities experience socio-economic vulnerabilities, including poverty, limited access to education, and inadequate healthcare. These conditions necessitate corporate responsibility obligation of the company towards members of the local communities where actual mining takes place. By adopting and enforcing human rights standards, companies demonstrate ethical leadership, build trust, and secure a social license to operate. This corporate responsibility aligns with ILO standards on safe labor practices and non-discrimination, ensuring companies do not exploit local populations.

On the other hand, different studies show that mining activities frequently result in land disputes, environmental degradation, and exposure to hazardous chemicals like mercury, posing severe health risks to the people.²⁵ Consequently, companies have obligation to conduct Human Rights Due Diligence (HRDD) in order to identify potential human rights impacts, integrate findings into their operations, and establish grievance mechanisms to address community concerns.²⁶ Thus, by integrating human rights in the extractive industry companies are given an opportunity to demonstrate their commitment to ethical practice and guaranteeing socio-economic benefits to the local communities, such as provision of electricity, construction

²³ United Nation (UN) *Guiding Principles on Business and Human Rights* (2011).

²⁴W Hinsch & S Mark 'Human Rights as Moral Claim Rights' in R Martin & DA Reidy *Rawls's Law of Peoples: A Realistic Utopia?* (2006); see also H Romuald 'Some Reflections on the Foundation of Human Rights – Are Human Rights an Alternative to Moral Values?' (2006) 10 *Max Planck Yearbook of United Nations Law* 367-395.

²⁵International Peace Information Service (IPIS) 'IPIS witnesses land disputes, environmental challenges, use of toxic mercury and human rights violations in small and large scale-mining in Northwest Tanzania' (2017).

²⁶UN (n 23) 17.

of schools and medical centres, which finally safeguards people's right to education, medical care and improvement of standard of living.

(c) Government Accountability Purposes

Governments have a fundamental duty to protect citizens' rights, ensuring that individuals affected by mining operations are not exploited, displaced, or subjected to rights violations. Among these rights include right to information, right to compensation for denial of property right in case of land acquisition by government or pollution by the company and right of access to effective administrative and judicial remedies. Generally, protection and promotion of the above rights seeks to ensure that the government is accountable to the people at all times. The Tanzania Extractive Industries (Transparency and Accountability) Act of 2015²⁷ and Access to Information Act of 2016²⁸ emphasizes on transparency in the extractive sector, by requiring companies to disclose (publish) financial transactions, production volumes, and contract terms. This transparency ensures that stakeholders, including local communities have access to critical data related to mining operations.

Section 4 of this Act establishes the Extractive Industries (Transparency and Accountability) Committee, which oversees transparency measures and monitors compliance by mining companies. Its role includes reviewing financial reports, ensuring adherence to environmental standards, and promoting community engagement.²⁹ The Act also encourages meaningful consultation with affected communities during project planning and decision-making processes.³⁰ The extent to which these two laws have promoted government transparency in Tanzania and associated challenges will be explained in the forthcoming section of this paper.

(d) Human Rights Impact Assessments (HRIAs) Purposes

Human Rights Impact Assessment (HRIA) is an instrument for examining policies, legislation, programs and projects and identifying and measuring their effects on human rights. The objective of HRIAs is to inform decision makers and the people likely to be affected so that they can take measures to mitigate potential negative effects and increase positive ones.³¹

²⁷The Tanzania Extractive Industries (Transparency and Accountability) Act 23 of 2015.

²⁸ The Tanzania Access to Information Act 9 of 2016.

²⁹The Tanzania Extractive Industries (Transparency and Accountability) (n 29) sec 10(2),

³⁰ n 29, sec 10(1).

³¹P Hunt & G MacNaughton 'Impact Assessments, Poverty and Human Rights: A Case Study Using the Highest Attainable Standard of Health (WHO and UNESCO)' (2006).

Basically, every mining project has social and economic impacts to the people and environment, hence a need for conducting social impact assessment, including human rights impact assessment. The idea is to determine vulnerability of a project to the people which to a large extent is influenced by a number of factors, such as political climate; regulatory environment; recognition of human rights; mode of processing of waste management; physical environment and project footprint; and characteristics of affected and nearby communities.

Basically, integrating human rights in the economic diplomacy agenda in Tanzania could introduce HRIA as the basis for assessing the potential human rights implications of mining projects, considering a wide range of factors such as labor rights, community health and safety, indigenous rights, and environmental sustainability. The integration of HRIAs would serve as an initiative-taking approach to protect the rights of communities and workers, ensuring that human rights principles are embedded in the entire lifecycle of mining operations, from planning through to project closure.

Essentially, countries that have integrated HRIAs in the development of their natural resources, such as Denmark, have witnessed a number of benefits. First, it helped mining companies to anticipate and address challenges by providing a structured assessment of the potential human rights impacts. Secondly, it helped to address labour malpractices predominant in the extractive sector by assessing compliance with international standards³²including standards on forced labor, child labor, and fair wages. This ensures that workers and members of community are protected from exploitation, unsafe conditions, and unfair treatment.³³Thirdly, it helped to mitigate direct impacts of the mining project on the health and safety of nearby communities caused by air and water pollution, toxic waste disposal, and physical hazards from mining operations.³⁴Finally, it guaranteed local communities access to environmental justice, including access to a clean and safe environment.

On the aforementioned reasons, integration of human rights in the regime governing extractive industry is crucial if a country has to attain fully its economic diplomacy goals. This is because human rights is a cross cutting issue which affects both investors, government and the local

³²These standards include, *inter alia*, the ILO Labour Standards, UN Guiding Principles on Business and Human Rights, OECD Guidelines for Multinational Enterprises on Responsible Business Conduct and International Finance Corporation (IFC) Performance Standards on Environmental and Social Sustainability.

³³The Danish Institute of Human Rights, 'Human Rights Impacts Assessments: Guidance and Toolbox' (2020) 15.

³⁴The Danish Institute of Human Rights (n 33) 40-41.

communities. The following section seeks to analyze the existing laws regulating the extractive sector and the extent to which they promote human rights in the realization of economic diplomacy agenda in Tanzania.

5.0 LEGAL GAPS IN THE EXISTING LAWS REGULATING HUMAN RIGHTS IN THE MINING SECTOR

Despite the economic importance of mining in Tanzania, significant legal gaps remain in protecting human rights within the sector. These gaps include limitations in environmental, penal, and labor laws, which collectively impact the well-being of communities and workers involved in or affected by mining activities.

5.1 The Environmental Management Act

The Environmental Management Act,³⁵ grounded in the National Environment Policy of 1997, establishes principles for waste management, environmental quality standards, public participation, and compliance matters. This is a crucial instrument which provides for fundamental principles and general framework on sustainable exploitation of environmental resources, including minerals and petroleum. Specifically, the Act requires courts, tribunals and administrative organs to consider various principles of environmental management when making administrative and judicial decisions, namely: public participation; access to justice; access to environmental information; polluter pay principle and precautionary principle.³⁶ Furthermore, the Act states that environment and natural resources should be used sustainably for poverty reduction and social economic development.³⁷

On the other hand, the Act requires project proponent to carry out Environmental Impact Assessment (EIA) prior commencement of the project, including mining and petroleum projects.³⁸ The Act provides for systematic steps or stages and people to be involved in conducting EIA, including registered experts, NEMC officers and the people.³⁹ Similarly, the Act provides for procedure for conducting environmental audit, which is similar to the EIA

³⁵The Tanzania Environmental Management Act 20 of 2004.

³⁶ The Tanzania Environmental Management Act Cap 191 of 2010 secs 5(3) & 7(3).

³⁷The Tanzania Environmental Management Act (n 38) sec 7(3).

³⁸ The Tanzania Environmental Impact Assessment and Audit Regulations of 2018 (Amended regulations) secs 81(1) & (2).

³⁹ National Environmental Management Council (NEMC) 'Environmental Impact Assessment Training Manual in Tanzania' (2005) 34; see also n .36, sec 83.

as it involves registration, approval of terms, environmental assessment, review, recommendations of technical advisory committee, submission to the Minister of the report, approval and grant of certificate.⁴⁰

By its nature, EIA involves identification of negative and positive effects of the project and the available options for mitigating loss or injury; hence an important instrument towards attaining economic diplomacy in the extractive sector. However, the Environmental Management Act appears to have gaps which would likely hinder the realization of human rights in the extractive sector. First, while the Act empowers individuals to bring actions against harmful environmental practices, its guidelines remain broad and lack specificity regarding human health protections near mining operations. For example, the Act outlines procedures for waste collection in urban and rural areas⁴¹ but does not address necessary safety distances between residential zones and waste reservoirs or dumping sites. This omission creates health and safety risks, especially in mining communities where toxic waste may contaminate local water sources and soil.

Secondly, the Environmental Management Act does not integrate human rights impact assessment and social impact assessment prior commencement of the development project. Basically, negative impacts of any project are primarily experienced by human beings as beneficiary of the project in the form of labour, compensation for loss of property and deprivation of social services. Social impacts of mining project could be direct or indirect, for example., immigration of work seekers, overburdening local services due to rapid population increase; tension and conflicts between local people and mining companies. Similarly, mining projects impact human rights in number of ways, such as: preventing people to access land for subsistence livelihood leading to food security concerns in an area; hence affecting the right to an adequate standard of living; discharge of polluted water into natural rivers adversely affects right to portable water and sanitation.

All the above issues cannot be captured in the normal EIA process as stipulated by the Environmental Management Act. There is need for development of Social Impact Assessment Guidelines and Human Rights Impact Assessment Guidelines so as to assess both social and human rights impacts of the project to the local people. These Guidelines should among others

⁴⁰ Tanzania EIA and Audit Regulations 2018 (Amended regulations); see also NEMC (n 41).

⁴¹ Section 138 of The Tanzania Environmental Management Act (n 36) sec 138.

stipulate procedures for systematic monitoring and management of impacts, and define key stakeholders to be consulted. Essentially, a range of stakeholders have a role to play in analyzing and managing risks and impacts associated with large scale mining. These stakeholders may include the following: companies and suppliers; state legislature; government services agencies; lenders and insurers; civil society and advocacy groups; communities and their representatives. The adoption and enforcement of these Guidelines would be very instrumental in determination of vulnerability of the project to the people and timely redressing potential harm.

5.2 The Tanzania Penal Code

Tanzania's Penal Code provides for general penal provisions for what is regarded as crimes in Tanzania, including murder, manslaughter, theft, burglary, rape and other crimes. While the National Foreign Policy of 2015 acknowledges the need to preserve the environment arising out from international efforts to combat global warming, however the Penal Code does not have any clear provision which punishes most offences committed by mining companies and its officers. There is evidence that mining companies release untreated or poisonous wastes into the river systems which function as source of water to local communities. Lack of strict penalties for unauthorized waste dumping or sewage discharge into drainage systems and rivers contributes to ineffective waste management.

Basically, the Penal Code merely classifies the contamination of public water sources as a misdemeanor, imposing relatively lenient consequences.⁴² The absence of robust criminal penalties for environmental harm undermines accountability, as harmful actions affecting community health are often treated as environmental crimes punishable by administrative penalties. Sections 187(2) and 195(1) of Environmental Management Act permits use of administrative sanctions such as fines, confiscation of materials, suspension or cancellation of permits or licences, warnings, compensation and clean up orders where environmental crime is committed. Unfortunately, Tanzanian courts have awarded civil penalties for environmental related crimes despite its gravity and effect to the citizens. For instance, in the case of *Felix Joseph Mavika versus Dar-es-salaam city commissioner*⁴³ and *Festo Balegale and 974 others. v Dar-es –salaam city*,⁴⁴ where right of lives of people was seriously violated and to some

⁴² Tanzania Penal Code Cap 16 of 2022 sec 184.

⁴³ Tanzania Vingunguti waste Civil Case 316 (2000).

⁴⁴ Tanzania Misc Civil Cause 90 (1991).

extent people's health got injured because of sewages spilled from the Vigunguti abettor and dumping sites which were located in residential areas.

The above state signifies one key assumption, that despite criminalization of environmental crimes, there is less punitive measures taken by the government. Different empirical studies have clearly shown described this approach by the government. A study by Mhini,⁴⁵ shows that administrative sanctions are mostly used because they are considered appropriate, effective and speedier than use of criminal prosecution of environmental offences; and there is reluctance on the part of prosecution. This is also supported by Mapunda,⁴⁶ who argues that enforcement of environmental laws through civil and criminal litigation is poor because the law does not give powers to NEMC to prosecute offenders, lack of coordination between the police and NEMC officers and availability of provisions which permit compound of offences.⁴⁷

5.3 The Labor Laws in Tanzania Mining Areas

The extractive sector is highly affected by the international and national labour standards. Being a member to ILO since 1962, Tanzania has taken different initiatives to protect labour rights, including signing and ratifying core ILO instruments⁴⁸ and international bill of rights.⁴⁹ Tanzania has also enacted legislations to regulate workers' rights, including the Employment and Labour Relations Act which covers key workers' rights and fundamental protections. These workers' rights and protections include: protection against unfair discrimination, forced labour, child labour and freedom to associate.⁵⁰ Other worker's rights are expressed as labour standards, including right to statutory leave (annual, maternity, paternity, sick and compassionate leave), right to work for reasonable hours not exceeding 9 hours unless extra payment is made; right to receive fair remuneration and rights against unfair termination.

⁴⁵GJ Mhini 'Prosecution of Environmental Crimes: A Critical Assessment of the Environmental Management Act:-Case Study Tanzania' LLM dissertation, The Open University of Tanzania, 2017 89-94.

⁴⁶BT Mapunda 'Environmental Law and Policy in Tanzania: Reflections on the Enforcement of the Environmental Management Act' (2019) 46 *East Africa Law Review*.

⁴⁷ Mapunda (n 48) 170-180; see also BV Mtavangu 'The Efficacy of Administrative Orders and Sanctions in Regulating Corporate Environmental Crimes in Mining Areas in Tanzania' (2024) 20 *LEAD Journal* 35-50.

⁴⁸ These Conventions include: Forced Labour Convention 29 of 1930; Freedom of Association and Protection of the Right to Organize Convention 87 of 1948; Right to Organize and Collective Bargaining Convention 98 of 1949; Equal Remuneration Convention 100 of 1951; Abolition of Forced Labour Convention 105 of 1957; Discrimination (Employment and Occupation) Convention 111 of 1958; Minimum Age Convention 138 of 1973; Worst Forms of Child Labour Convention 182 of 1999.

⁴⁹ This includes: the Universal Declaration of Human Rights of 1948, the International Covenant on Civil and Political Rights of 1966 and the International Covenant on Economic, Social and Cultural Rights of 1966

⁵⁰ Tanzania Employment and Labour Relations Act of 2019.

Basically, the above legal stipulations are binding to employers in the public and private sector in Mainland Tanzania, except employees on calls.

Apart from the above general labour framework, Tanzania adopted specific legislations to address workers concerns including occupational health and safety,⁵¹ environmental operating standards,⁵² social security⁵³ and protection of migrant workers.⁵⁴ These three legal instruments stipulate employers obligations towards safeguarding health and safety of its workers, products and process standards, right to social security protection and protection of non-citizen's rights in Tanzania respectively. However, the existing labour statutes do not address specific human right violations facing workers in small-scale mining industry, particularly violence and harassment at workplaces. Workers in small scale mining sector are exposed to a number of risks, including lack of adequate wages, long working hours, poor living conditions, forced evictions, violence by enforcement organs including killings and exposure to sexual harassment and pollution. Generally, violence and harassment against workers in the mining sector is incompatible with the promotion of sustainable enterprises and adversely affects the organization of work, workplace relations, worker engagement, enterprise reputation and productivity.

Similarly, workers in the small-scale mining sector have no any formal employment contracts or any written statement of particulars as prescribed by the labour laws. This is because small scale miners are characterized as workers in training, interns and apprentices, volunteers, jobseekers or individuals exercising the responsibilities of an employer (independent contractors). Principally, the nature of these contracts is that of specific task contracts which begin in the morning and expire at the end of the working day; hence excluded from application of labour standards, including unfair termination. Furthermore, Tanzania does not have specific institution for settlement of conflicts involving workers in the informal sectors (including small scale miners) and third parties, including violence and harassment claims.

⁵¹ The Tanzania Occupational Safety and Health Act 5 of 2003; see also Tanzania Occupational Safety and Health (General Administrative) Rules, GN 149 of 2015.

⁵² The Tanzania Standards Act Cap 130 of 2009; see also Tanzania Standards (Registration of Premises and Certification of Products) Regulations, GN 683 of 2021.

⁵³ The Tanzania National Social Security Fund Act Cap 50 of 2018 (as amended in 2021); Tanzania Public Service Social Security Fund Act Cap 341 of 2018; Tanzania Social Security Laws (Amendments) Act 3 of 2024; Tanzania Social Security Schemes (Benefits) (Amendment) Regulations, GN 140 of 2024; Tanzania Social Security Schemes (Benefits) Regulations, GN 467 of 2018.

⁵⁴ The Tanzania Non-Citizen Employment Regulation Act 49 of 2015.

The above gaps need to be addressed if economic diplomacy goals in the mining sector have to be realized. According to different reports, mining sector in Tanzania including small scale mining contributes significantly to the national GDP. For the year 2021/22 a total of USD 3,199,240,946.44 was collected from exportation of different types of minerals.⁵⁵ During the same period small-scale miners are reported to have produced 19,808.41 kg of gold in 2021/22 compared to 16,993.70 kg produced in the year 2020/21.⁵⁶ Similarly, in the year 2020/2021 about 145 billion shillings was generated from exporting gold by small scale miners.⁵⁷ This means that small scale and artisanal miners and workers play a crucial role towards achieving economic diplomacy goals; hence a need for protection. This could be guaranteed if Tanzania enacted a law which protects workers in the informal sectors as prescribed by International Labour Organization (ILO) Convention No.190 of 2019 which protects workers against violence and harassment at workplaces. According to article 1 the term “violence and harassment” in the world of is defined to mean ‘a range of unacceptable behaviors and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment.’

Basically, ILO Convention No.190 of 2019 seeks to ensure that employers or managers in formal and informal sectors (both public and private) do not deprive people of their right to dignity, decent work and social justice through prevention and protection against violence and harassment regardless of nature of employment contract or occupation/ industry.⁵⁸ It further prohibits exploitative labour including forced labour, child labour and discrimination in respect of employment and occupation.⁵⁹ State parties to this Convention are legally obliged to take legal and administrative measures to prevent violence and harassment involving third parties by providing sanctions, access to remedies and support to victims, strengthening enforcement and monitoring mechanisms and ensuring effective means of inspection and investigation of cases of violence and harassment.⁶⁰

Basically, victims of violence and harassment should be able to institute a suit in appropriate

⁵⁵Tanzania Extractive Industries Transparency Initiative (TEITI) ‘The 14th Report for the Fiscal Year 2021/2022’ (2024) 23-24.

⁵⁶TEITI (n 58)

⁵⁷ Mining Commission ‘Annual Report 2020/2021’(2022) 16-17.

⁵⁸ International Labour Organization (ILO) Convention 190 of 2019 arts 2 & 3.

⁵⁹ ILO (n 58 arts 5 and 6.

⁶⁰n 58, arts 4, 7,8,9 & 10.

court, subject to free legal advice and assistance, counselling and medical care as case may be.⁶¹ Where the court or tribunal establishes violence and harassment in working places, the victim will be entitled to adequate remedies, including the right to resign with compensation; reinstatement; and appropriate compensation for damages. The court may also make orders requiring measures with immediate executory force to be taken to ensure that certain conduct is stopped or that policies or practices are changed; and legal fees and costs according to national law and practice.⁶² Thus, a specific legislation addressing labour malpractices in the informal sectors, including violence and harassment by third parties is very important for realization of economic diplomacy targets in the extractive sector.

5.4 The Mining Act and its respective Local Content Regulations

The Mining Act is a framework law which regulates all activities related to exploration and extraction of minerals in Tanzania. It stipulates the ownership model of minerals in Tanzania and vests resources in the President as trustee for the benefit of the people. Any investor interested in engaging in the business must apply for a mining license granted by the Minister responsible for mining sector. As a matter of law every holder of a mining license has obligation to exercise mineral right reasonably and fairly, so as not to affect rights of the occupier of land, including payment of fair and reasonable compensation in respect of any property loss.⁶³ However, in case the mineral right cannot be exercised without affecting interests of land over which mineral right is extended, then the investor should advise the occupier to vacate the area, consult with respective local government authority for amendment of the land use plan, and submit a proposed plan on compensation based on market value of the land.⁶⁴

The above provision safeguards the citizen's right to property which if denied the law awards compensation to the victims. If citizens are not satisfied with compensation assessed, then the matter can be referred to the Mining Commission for determination, and in case of appeal to the High Court of Tanzania. On the other hand, the Mining Act protects citizen's right to self-determination and right to benefit from mineral resources through local content and corporate social responsibility. With regard to local content, every investor or contractor in the mining sector is required to give preference to locally produced goods or services rendered by

⁶¹n .58, 206 paras 16, 17 & 18.

⁶²N.58, 206 paras 14 & 15

⁶³The Tanzania Mining Act, secs 96(1), (2) & (3).

⁶⁴n.63, secs 97(1) & (2).

indigenous companies or firms through preparation of local content plan.⁶⁵ The local content plan must stipulate preference to services locally available including legal and financial services; priority in employment and training of Tanzanians; preference to locally produced products which meet specified standards; technological transfer and research promotion.⁶⁶ Every local content plan must be submitted and approved by the Local Content Committee and the Mining Commission.

As a matter of law, mining companies are required to recruit Tanzanians over non-nationals, unless employers have sought for and been granted work permit, subject to conditions as to residence permit, succession plan and payment of fees.⁶⁷ This requirement safeguards citizen's right to employment opportunities in the mining sector and provides opportunity to investors to engage experts to suit their demands. Nevertheless, this Act appears to create unfavorable working environment to investors on two grounds. First, restrictions on employer's discretion to recruit foreign experts to suit their operations, hence exposing companies to financial and property security concerns. Secondly, fees and other charges for certain category of work permits appear to be exorbitant; hence creating migration barrier to non-citizens who are not sponsored by the companies.⁶⁸ This is further supported by the Association of Tanzania Employers (ATE)⁶⁹ which describes challenges facing employers in Tanzania, namely: limited access of low-to mid-skilled labour opportunities due to high residence and work permit fees; and difficulties and complexity in getting work permits due to lengthy and bureaucratic processes. Above all, ATE provides that Tanzania lacks a comprehensive legal and policy framework on labour migration that provide clear objectives, guidance and actions in the governance and management of labour migration.

Moreover, some administrative and legal measures have been taken by the government to resolve the above challenges through applying for and grant of certificate of incentives by the Tanzania Investment Centre (TIC) under s.19 of the Tanzania Investment Act, subject to

⁶⁵N.63, sec 102; see also Tanzania Mining (Local Content) Regulations, GN 3 of 2018.

⁶⁶GN 3 (n 65).

⁶⁷ n 50, sec 7(6); The Tanzania Non-Citizen Employment Regulation Act (n 57); Tanzania Investment Act Cap 38 of 2022; see also SJ Mramba & GK Rwebangira *Labour Law and Practice in Tanzania: Cases and Materials* (2023) 64-65.

⁶⁸ There are four types of work permits, namely: Class A (for investors and self-employed); Class B (non-citizen in possession of prescribed professions -Medical and Health Care professionals, experts in oil & Gas, Teachers and University Lecturers in Science and Mathematics) Class C (non-citizen in possession of other professions) and Class D (non-citizen employed or engaged in a registered religious and/or charitable activity).

⁶⁹ Association of Tanzania Employers (ATE) 'Migration Policies in View of Changing Employment Landscape- A Call for stronger dialogue' (2022) *Members Briefing Sustainable Migration* 1-10.

payment of fees.⁷⁰ Basically, certificate of incentives prescribes investment conditions for each investor including exemptions, and may be renewed after application by the investor.⁷¹ Similarly, designation of one stock center at the Tanzania Investment Centre to address all investment concerns, including issues of work permits. Nevertheless, there is a need for making necessary reforms so as to reduce work and residence permit fees for sustainable labour migration in Tanzania.

On the other hand, the Mining Act safeguards the right of participation in the decision making by non-state and state actors. The law provides that the Mining Commission may, during review of the local content, provide persons involved in the mining industry or any other person likely to be affected by the decision, a reasonable opportunity to be heard.⁷² However, this right to participate in the making of local content is not legally binding because the authority has discretionary powers; hence capable of disregarding or dispensing with consultation process. Hence, there is a need for amendment of the law to make public engagement as mandatory as possible for effective realization of economic diplomacy in the extractive sector.

5.5 Access to Information Act, No.6 of 2016 and the Tanzania Extractive Industries (Transparency and Accountability) Act, No.23 of 2015.

These two Acts regulate issues pertaining to access of information including information concerning with beneficial owners, resource contracts and revenues. The Act protects citizen's right to information, imposes a duty to information holders, including government ministries and departments to disclose information to the public in compliance with principles of accountability, transparency and public participation; and offers protection to persons who disclose information in good faith.⁷³ However, the Act stipulates conditions whereby information may be restricted on public interest, including matters of defense, international relations and national security. Other lawful causes for withholding information include: impeding due process of law, endangering safety of others; undermining lawful investigation by enforcement agency; invading privacy of an individual or infringing commercial interests.⁷⁴

Similarly, the Access to Information Act restricts disclosure of information that is likely to

⁷⁰ Tanzania Investment Act

⁷¹ Tanzania Investment Regulations 2023 GN 477 of 2023.

⁷² n.63

⁷³ The Tanzania Access to Information Act, secs 4, 5(1) & (2).

⁷⁴ n 73, sec 6; see also The Constitution of the United Republic of Tanzania, 1977.

hinder or cause substantial harm to the government to manage the economy or undermine cabinet records and those of its committees. However, the Act does not define or give any guide on what kind of information may lead to substantial harm to the government ability to manage the economy. Similarly, the Act does not define what amounts to ‘public interest’, ‘national security’ or other exclusionary clause referred in the law. This contravenes international standards which provide that any limitations imposed on a right to be acceptable must be ‘provided by the law’; must be reasonable, accessible, precisely worded and unambiguous;⁷⁵ and be applied by independent body, free of any political, commercial or other unwarranted influences. Other conditions for justifying limitations on disclosure of information is that the limitation must be ‘necessary’ and ‘proportionate’ to the pressing and legitimate social aims;⁷⁶ and should not affect or impair democratic functioning of the society.⁷⁷

By reading provisions of the Access to Information Act, it can be concluded that the right of the people to information has not been effectively guaranteed because of existence of exclusionary and exempt clauses and discretionary powers vested on the information holders, including government departments, to withhold information. This explains why the government of Tanzania has not disclosed mining contracts to the National Assembly and the Transparency Committee despite the disclosure requirement under the extractive legislations. Generally, the provisions of the Tanzania Extractive Industries (Transparency and Accountability) Act,⁷⁸ the Natural Wealth and Resources Contracts (Review and Renegotiation of Unconscionable Terms) Act⁷⁹ and the Natural Wealth and Resources (Permanent Sovereignty) Act⁸⁰ require the government to disclose mining agreements and mining arrangements to the National Assembly, key stakeholders and the Tanzania Extractive Industries Transparency and Accountability Committee.

Thus, while there is an obligation on investors to respect human rights, including labour and child rights and duty to respect national laws and policies,⁸¹ there appears to be no similar

⁷⁵International Commission of Jurists (ICJ) ‘Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and political Rights’ (1966) 15-18.

⁷⁶ ICJ (n 74) 10.

⁷⁷ n.74, 19-21.

⁷⁸ n.27.

⁷⁹ The Tanzania Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Act (n 12); see also Tanzania Natural Wealth and Resources Contracts (Review and Renegotiation of Unconscionable Terms) Regulations, GN 57 of 2020.

⁸⁰ The Tanzania Natural Wealth and Resources (Permanent Sovereignty) Act (n 12); the Tanzania Natural Wealth and Resources (Code of Conduct for Investors in Natural Wealth and Resources) Regulations, GN 58 of 2020.

⁸¹ GN 58 (n 80).

requirement on the part of the government when it comes to realization of the right to information. Hence, there is need to harmonize the provisions of the Access to Information Act with other legislations specific to the mining sector so as to allow disclosure of information related to mining contracts, mining arrangements and revenues to people-accountable institutions. On the other hand, it is important that the government amends the above-mentioned legislations to effectively integrate human rights for effective realization of economic diplomacy in the mining sector.

6. Human Rights vis-à-vis Economic Diplomacy in Extractive Sector from Other Countries

Integrating human rights into Tanzania's mining sector for effective economic diplomacy can benefit from examining the policies and sustainable practices of countries that have successfully incorporated human rights, transparency, and sustainable development into their resource governance frameworks. Such an analysis requires understanding how foreign policies, legal frameworks, and economic strategies align to uphold human rights in the extractive industries. Several countries provide insightful models that Tanzania could adapt and contextualize as explained hereunder.

(a) Case Study of France

France is reported to have strategically expanded its diplomatic influence, prioritizing public relations and investment attraction in Eastern Europe during post-cold-war period. Its approach emphasizes corporate responsibility, particularly in resource-rich markets, by integrating human rights considerations into bilateral agreements and business practices.⁸² A cornerstone of this effort is the Duty of Vigilance Law (2017) (Loi n° 2017-399 relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre), which legally obligates large French companies to implement a vigilance plan aimed at identifying and mitigating risks of human rights violations and environmental harm across their operations, including supply chains and subcontractors.⁸³ Codified in Article 1 of the French Corporate Duty of Vigilance Law (amending the French Commercial Code, Article L. 225-102-4), the legislation applies to

⁸²MR Madsen 'From Cold War instrument to supreme European court: The European Court of Human Rights at the crossroads of international and national law and politics' (2007) 32 *Law & Social Inquiry* 144-147.

⁸³Vie Publique 'Law of 27 March 2017 on the duty of vigilance of parent companies and contracting companies' 28 March 2017, <https://www.vie-publique.fr/loi/20976-devoir-de-vigilance-des-societes-meres-et-des-entreprises-donneuses-dor> (accessed 14 December 2024)

companies with at least 5,000 employees in France or 10,000 worldwide, requiring them to publish and enforce plans that include risk mapping, regular assessments of subsidiaries and suppliers, concrete measures to prevent violations, monitoring mechanisms, and grievance channels for affected stakeholders.

As a general norm the law explicitly mandates respect for fundamental human rights such as the prevention of forced labor and child exploitation alongside health, safety, and environmental sustainability.⁸⁴ Its enforceability ensures accountability, with judicial action, fines, and reparations for non-compliance.⁸⁵ Particularly significant for the extractive sector, where human rights and environmental risks are acute, this law underscores France's commitment to ethical and sustainable practices by multinational corporations, both at home and abroad.⁸⁶

(b) Case Study of Germany

Germany's approach to foreign economic policy is characterized by structured support for businesses seeking to enter international markets. This strategy is reflected in the Federal Government's foreign trade and investment promotion policies, which provide guidance and resources to firms aiming to expand their global presence.⁸⁷ A key element of this approach is the National Action Plan for Business and Human Rights (NAP), adopted in 2016, which integrates human rights considerations into the country's foreign economic activities.⁸⁸ Under the NAP, German companies operating abroad are expected to respect human rights, including in sectors vulnerable to exploitation such as mining by conducting due diligence to identify, prevent, and mitigate human rights risks in their supply chains.⁸⁹

In tandem with the above requirements, German diplomacy focuses on fostering knowledge-

⁸⁴ European Coalition for Corporate Justice (ECCJ) 'France adopts corporate duty of vigilance law: a first historic step towards better human rights and environmental protection' 21 February 2017, <https://media.business-humanrights.org/media/documents/b92ac2ff022499412efc36975d975ad898b095fa.pdf> (accessed 14 December 2024)

⁸⁵ Sherpa 'Duty of Vigilance: A step-by-step approach' 2020, <https://www.asso-sherpa.org/wp-content/uploads/2021/05/2021.05-Position-Paper-DV-Public-Enforcement.pdf> (accessed 14 December 2024).

⁸⁶ Organization for Economic Co-operation and Development (OECD) 'Due Diligence Guidance for Responsible Supply Chains in the Extractive Sector' (2018) 20-34.

⁸⁷ BMZ Federal Ministry for Economic Cooperation and Development 'Economic Development and Employment' (2018).

⁸⁸ Federal Foreign Office 'National Action Plan: Implementation of the UN Guiding Principles on Business and Human Rights' 2016, <https://www.auswaertiges-amt.de/resource/blob/610714/fb740510e8c2fa83dc507afad0b2d7ad/nap-wirtschaft-menschenrechte-engl-data.pdf> (accessed 16 December 2024).

⁸⁹ CSR Business and Human Rights 'The National Action Plan of Germany' 2011, <https://www.csr-in-deutschland.de/en/business-human-rights/nap/nap.html> (accessed 16 December 2024).

based economies and forging partnerships that emphasize human capital development, transparency, and accountability in global trade. This commitment is illustrated by the efforts of the Federal Ministry for Economic Cooperation and Development (BMZ) and the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), which prioritize capacity-building, skills development, and sustainable resource management in international cooperation.⁹⁰ By linking economic growth with ethical standards and sustainable resource governance, Germany's approach supports robust economic performance and responsible stewardship of global markets.

(c) Case Study of South Africa

South Africa offers a compelling model for embedding human rights into natural resource management through its constitutional and legal framework. Its economic diplomacy agenda underscores the balance between development and human rights protection. Section 24⁹¹ guarantees the right to a clean and healthy environment and imposes a duty on the state to protect the environment for current and future generations. This provision compels the government and private actors, including mining companies, to adopt sustainable and ethical practices. It also empowers citizens to seek legal recourse for violations, ensuring accountability. For clarity purposes, the Constitution of the Republic of South Africa provides as follows:

“Everyone has the right to an environment that is not harmful to their health or well-being, and to have the environment protected for the benefit of present and future generations through reasonable legislative and other measures that prevent pollution and ecological degradation; promote conservation; and secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.”

Furthermore, section 25 of the Constitution of the Republic of South Africa safeguards property rights, preventing arbitrary deprivation and ensuring fair compensation in cases of expropriation, such as land acquisitions for mining projects. Courts in South Africa have been instrumental in ensuring justice for affected communities, providing redress for environmental and social harms caused by mining operations. It is reported that in the year 2023/2024, the

⁹⁰BMZ Federal Ministry for Economic Cooperation and Development (n 92).

⁹¹The Constitution of the Republic of South Africa, 1996.

South African Police services recorded over 2,800 environmental offences, out of which 1800 cases surrounded marine and fish.⁹² Unlike Tanzania, courts in South Africa impose stiff penalties, including payment of fine equivalent to the value or advantage gained, forfeiture, reparations, revocation of license and imprisonment.⁹³ However, it appears that recently courts in South Africa do not prefer the use of imprisonment for environmental-related convictions.⁹⁴

From the above constitutional provisions and empirical evidence, it is evident that South Africa gives high consideration of human rights in realization of national economic diplomacy. The penalties for failure to comply with human rights, including environmental rights, appear to be severe and the investor has the burden of disproving non-compliance. This trend has recently been challenged by scholars. For example, Strydom, S., who observes that use of criminal penalties (overcriminalization) should be of last resort when use of administrative compliance and enforcement measures cannot achieve the intended state purpose.⁹⁵ Notwithstanding critics, South Africa presents commitment to ethical resource governance and provide a robust legal framework for addressing human rights concerns in the mining sector.

(d) Case Study of Canada

Canada, as a global leader in the mining industry, has strategically integrated human rights and environmental standards into its economic diplomacy by embedding corporate social responsibility (CSR) principles within its extractive sector approach, leading to sustainable development.⁹⁶ This commitment is reflected through policies and programs that guide Canadian companies operating abroad to uphold ethical standards, mitigate environmental impacts, and safeguard human rights, particularly in regions where resource extraction poses heightened risks.⁹⁷ On the other hand, the government established the Canadian Ombudsperson

⁹²<https://www.statista.com/statistics/1448526/environmental-crimes-in-south-africa-by-type/> (accessed 24 December 2024); see also the Republic of South Africa-Department of Forestry, Fisheries and Environment 'National Environmental Compliance and Enforcement Report of 2022/2023' (2024) 12-34.

⁹³M Kidd 'Sentencing Environmental Crimes' (2004) 11 *South African Journal of Environmental Law and Policy* (SAJELP).54-79.

⁹⁴S Strydom 'The Use and Impact of Criminal Sanctions for Environmental Law Transgressions in Industrial Facilities in South Africa: Determining the boundaries of over criminalization' PhD thesis, University of the Witwatersrand, 2022 257-259.

⁹⁵Strydom (n 94, 221-247; see also S Strydom & T Field 'Is the Stick Real? Trends from Concluded Prosecutions of Industrial Environmental Crimes in South Africa' (2023) 26 *Potchefstroom Electronic Law Journal* 2-31.

⁹⁶Natural Resources Canada-Minerals and Mining, <https://www.nrcan.gc.ca/our-natural-resources/minerals-mining/> (accessed 16 December 2024).

⁹⁷Global Affairs 'Canada-Doing Business the Canadian Way: A Strategy to Advance Corporate Social Responsibility in Canada's Extractive Sector Abroad' 2014, <https://www.international.gc.ca/trade-agreements-accords-commerciaux/topics-domaines/other-autres/csr-rse.aspx?lang=eng> (accessed 16 December 2024).

for Responsible Enterprise (CORE), which provides independent oversight and accountability mechanisms for companies' international activities, ensuring that mining operations align with recognized human rights norms and environmental regulations.⁹⁸ Additionally, Canada's strategy includes the Extractive Sector Transparency Measures Act, mandating disclosure of payments made to governments, fostering greater transparency and reducing opportunities for corruption.⁹⁹ Beyond regulatory measures, the country supports global initiatives like the Extractive Industries Transparency Initiative (EITI) to strengthen resource governance and encourage responsible management of natural resources worldwide.¹⁰⁰ Together, these elements—domestic oversight, international engagement, mandatory reporting requirements, and alignment with global standards—not only reinforce Canada's dedication to CSR within the mining sector but also illustrate its broader aspiration to promote equitable, transparent, and sustainable practices in global mineral resource development.

(e) Case Study of Norway

Norway's economic diplomacy exemplifies a commitment to transparency, sustainability, and ethical governance, particularly in the management of its abundant oil and gas resources.¹⁰¹ The Petroleum Act¹⁰² and the Environmental Protection Act¹⁰³ serve as foundational legal frameworks, mandating that natural resource extraction is conducted in a manner that ensures long-term societal benefits while safeguarding environmental and human rights. Under sections 1 and 2 of the Petroleum Act of 1996 emphasize on sustainable resource utilization, requiring that petroleum activities contribute to value creation for society and are managed to ensure optimal resource utilization for future generations. Similarly, the Environmental Protection Act of 1981 underscores the importance of preventing pollution¹⁰⁴ and preserving biodiversity as integral components of national development. Section 11,¹⁰⁵ establishes the polluter pays principle, requiring those responsible for pollution to take measures to mitigate and prevent environmental harm. Norway's Sovereign Wealth Fund (Government Pension

⁹⁸Canadian Ombudsperson for Responsible Enterprise (CORE). 'Mandate and Role' 2023, <https://core-ombuds.canada.ca> (accessed 16 December 2024).

⁹⁹ <https://www.nrcan.gc.ca/our-natural-resources/minerals-mining/extractive-sector-transparency-measures-act/18180> (accessed 20 December 2024).

¹⁰⁰ <https://www.nrcan.gc.ca/our-natural-resources/minerals-mining/mining-resources/extractive-industries-transparency-initiative-eiti/19170> (accessed 20 December 2024).

¹⁰¹P Lujala 'An analysis of the Extractive Industry Transparency Initiative implementation process' (2018) 107 *World Development* 358-381.

¹⁰² The Norway Petroleum Act 72 of 1996.

¹⁰³The Norway Environmental Act 6 of 1981.

¹⁰⁴ n. 103, sec 1,

¹⁰⁵ n 103 sec 11.

Fund Global), one of the world's largest, channels revenues from the oil and gas sector to secure benefits for future generations.¹⁰⁶ Operating under ethical guidelines established by the Norwegian Ministry of Finance, the fund explicitly prohibits investments in companies complicit in severe human rights violations, corruption, or environmental degradation,¹⁰⁷ reflecting Norway's commitment to responsible economic practices.

7.0 CONCLUSION AND RECOMMENDATIONS

The Tanzanian mining sector stands at a critical juncture, where the integration of human rights into its legal frameworks is essential to advancing both ethical resource management and effective economic diplomacy. The persistent challenges of human rights abuses, including forced evictions, unsafe labor practices, and environmental degradation, underscore the necessity for transformative reforms to address the above concerns. This requires the government to undertake minimum legal reforms to establish binding provisions to punish environmental crimes through compulsory imprisonment or severe penalties. Amendment of the Tanzania Penal Code and Environmental Management Act is important so as to limit powers of NEMC to resort to administrative penalties and permit NEMC officers to prosecute environmental crimes.

Furthermore, the government should amend the labour legislations to extend the application of labour standards to informal sectors characterized of malpractices such as harassment and violence. This could be achieved by ratification and domestication of the International Labour Convention No.190. Likewise, the government must amend the laws governing labour migration in Tanzania to allow free movement of labour and reduce fees and charges related to work permits. Furthermore, the laws regulating access to information need to be harmonized to guarantee unfettered disclosure of information including mining contracts for maximum citizen participation in the decision making. This would allow sustainable labour migration and effective transparency and accountability, important aspects of effective economic diplomacy in the mining sector.

¹⁰⁶Norges Bank Investment Management 'Management of the Government Pension Fund Global' 1 December 2021, <https://www.nbim.no/en/news-and-insights/submissions-to-ministry/2021/review-of-the-management-of-the-government-pension-fund-global/> (accessed 20 December 2024).

¹⁰⁷Norwegian Ministry of Finance 'Ethical Guidelines for the Government Pension Fund Global' 27 January 2022, <https://www.regjeringen.no/en/topics/the-economy/the-government-pension-fund/responsible-management/ethical-guidelines/id447009/> (accessed 20 December 2024).

On the other hand, adoption of global best practices, including Human Rights Impact Assessments (HRIAs), as well as adherence to frameworks such as the UN Guiding Principles on Business and Human Rights, is vital for ensuring that mining activities contribute to sustainable development while mitigating harm to vulnerable communities. This would require amendment of the laws to require all investors to conduct Human Rights Impact Assessment prior commencement and during implementation of project. Thus, the government is advised to must adopt binding Regulations and rules to govern the above two aspects which meet the international standards and experiences derived from France, Germany, Canada, South Africa and Norway with robust institutional accountability, transparent governance, and ethical resource management.

Moreover, effective implementation of labor protections, environmental safeguards, and grievance mechanisms is needed to strengthen Tanzania's reputation as a responsible investment destination. This would require establishment of institution for settlement of labour-related disputes involving workers in the informal sectors, including small -scale mining. Alternatively, the existing institutions such as CMA and Mining Commission could be vested powers to resolve labour disputes involving workers in the informal sectors including small-scale mining. Above all, different non-state actors must continue providing awareness programs to workers and companies in the mining industry for easy enforcement and compliance of human rights obligations.

By so doing, the government of Tanzania will have met its obligation to protect individuals and groups against business-related abuses and achieve sustainable development goals. This is because alignment of human rights and economic diplomacy is not only a moral and legal imperative but also a strategic advantage in an era where global markets increasingly value ethical and sustainable practices.

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