How can the extractive industries provide 'shared value' for rural women in Africa?

Working Paper - March 2015

The impact of the extractive industries is not gender neutral. While the benefits are captured primarily by men, women often bear a disproportionate share of the social, economic, and environmental risks[1]. Often companies do not consult women when they negotiate access to land, compensation, or benefits. And women rarely benefit from formal employment in the mines.

This policy brief focusses on how states and companies can ensure that communities and women in particular, benefit from extractive sector investments in land they occupy or farm, with a view to reducing potential social conflict.

The Gendered Impact of the Extractive Sector

The Beijing +20 Africa Regional Review (2014) reports that the past two decades of fast and sustained economic growth in Africa have failed to translate economic grains into **meaningful gender equality outcomes** for women.

One of the reasons for this is that growth in Africa is commodity based, as African governments are increasingly focusing on the extractive and agricultural sectors as key drivers of their economic development. Both require large tracts of land.

This has profound implications for local communities farming this land. Most African economies are agriculture-based and the majority of smallholder farmers are women; they produce about 70% of food consumed within rural households. Land and the crops grown on this land are critical to their survival.

As a result of extractive investments, communities may lose access to land previously used for agriculture, impacting negatively on their food security and income[2]. The impact is particularly felt by women as they are often solely responsible for subsistence activities and providing food and water for their families. The effects of environmental damage can undermine their capacity to provide adequate food and clean water and increase their workload as they may have to walk greater distances to access water, fuel/wood, forest products and land to plant food crops[3].

> Ensuring that communities, and especially women who lose access to their land as a result of the extractive industries, are not worse off than before, should be a basic precondition for companies' 'social license' to operate.

Participation

Despite the fact that women benefit the least, they rarely participate in decisions made about mining investments. Excluding host communities from crucial decisions which affect their land and livelihoods frequently leads to conflicts with companies around the social, economic and environmental costs of mining[4]. It also contravenes Resolution 224 of the African Commission on Human and People's Rights (2012) which calls on all governments to 'Confirm that all necessary measures must be taken by the State to ensure participation, including the free, prior and informed consent of communities, in decision making related to natural resources governance.'

Compensation

While women have access to land, they rarely control it. Discriminatory cultural norms mean that men, as heads of households, are in charge of the land, so payment of compensation and royalties is often directed to them "on behalf of" their families. This may deny women access to and control over the financial benefits of an extractive project, thus exacerbating existing inequalities. Men also rarely consult women on how the funds should be spent. Studies have shown that if compensation is paid to men, they will not necessarily spend this in a way that benefits their families[5], whereas women are more likely to invest in the education of their children and food[6]. It is therefore **in the interest of the sustainable development of each country that women benefit from compensation and other benefits as much as men do**.

Compensation levels are often grossly inadequate and rarely based on realistic estimates of the real productive value of crops over their lifespan[7]. Accordingly, states should develop national binding compensation frameworks for all crops, economic trees and important resources based on the real value of each over its productive lifespan, which companies are then required to comply with.

In order to ensure that compensation is justly distributed, Government policies could stipulate for companies to provide a percentage of compensation in kind to affected families in ways that benefit women as much as men. For example, vouchers could be provided to households for food, school uniforms, and other areas identified by women during consultations on a regular basis (rather than one-off payments), instead of cash[8].

Benefit-sharing and ensuring improved outcomes for women as economic actors

Qualitative analysis on the gender dimensions of poverty in mining communities in Zimbabwe shows that mining activities contribute to widening gender inequality in communities[9].

When communities lose land, this is rarely replaced by 'land commensurate in quality, size and value, or better' (as stipulated in the UN Guidelines on Development Based Evictions[10]). States should therefore specify in national legislation that companies pay a share of revenues to communities to ensure they, and particularly women, are not worse off than before.

It is already common practice in some countries for companies to pay a share of profits into community development funds/ trusts. This is a welcome step in the right direction. However, gender and other power dynamics in the management of these funds are not always taken into account. In order for women's development priorities to be reflected, they need to participate in decision-making on expenditure/ investments. Women should either be equally represented in bodies managing these funds, or separate decision-making mechanisms should be considered in contexts where cultural norms inhibit them from speaking in the presence of men. The issue is highlighted in a study by the Zimbabwe Environmental Law Association (ZELA) on the next page.

Sharing Benefits: UNKI platinum mine, Anglo-American, Tongogara, Zimbabwe[11]

In Zimbabwe, mining has operated as an enclave sector with minimal development impact on poor host communities. In response to civil society pressure, mining companies and the Government have set up Community Share Ownership Trusts/Schemes (CSOT/S) which are meant to ensure that affected communities benefit. Out of sixty-one CSOT/S launched, the Anglo-American Unki Mine was the first to honour the full $10 million pledge by investing in the Tongogara CSOT/S. Most other companies did not comply. This lack of compliance is mainly attributed to the fact that disposing of shares to CSOT/S is not mandatory in terms of the law.

As trustees on the CSOT/S were appointed by the Government, not elected, there was little accountability from the Trust to the community, leading to a high level of dissatisfaction amongst community members. Financial information was not shared and they did not know how the funds were being used. **What they wanted was a participatory democratic engagement process**.

There was minimal community involvement in all areas of service delivery from policy, planning, implementation, to monitoring and evaluation for both CSR and Tongogara CSOT/S activities. Community members did not feel consulted or properly informed of the Trust's functions and operations, and rarely received any feedback on projects. Women were even less likely to be engaged, receive information relating to CSR or the Trust's activities or attend meetings: only 3% of the 35% attending CSR meetings were women.

There was a lack of clarity as to what percentage of its shareholding the company was supposed to dispose to a CSOT/S in the area in which it is operating and whether this was mandatory or not.

Mining in the Great Dyke, Zimbabwe: Livelihood benefits?

A 2013 study by the Poverty Action Forum Trust of four mining operations in the Great Dykes region concludes that while community members stated that they had seen some benefits as a result of mining activities in the areas of health and education, the contributions of the mining companies to their livelihoods were not so obvious. And this was their most important priority. Researchers were not able to get information from the companies as to what exactly they had done towards improving livelihoods. What was clear, was that for the communities visited, mining companies had not shared clear, measurable and time bound goals for improving livelihoods and reducing poverty.

For example, communities in Shurugwi, especially those living around Unki mine, faced livelihood challenges like unemployment, increasing poverty, shortages of money to educate children, a lack of income to start projects targeting women and water shortages (amongst others). It appears that since women did not participate in the CSOT/S their specific needs were not taken into account.

The research concludes that the adverse effects communities were experiencing as a result of mining seemed to outweigh the benefits. They included environmental degradation, water and air pollution, loss of pastures and other assets and social changes, among others. These problems affected the livelihoods of communities staying near the mining area most. The research concludes that much more needs to be done as part of the mining companies' CSR. This should be accompanied with effective community participation (see CSOT/S example above)[12].

How does this link to Business and Human Rights and the Sustainable Development Goals (SDGs)?

The private sector is increasingly becoming an important actor in delivering development outcomes, alongside the public sector and civil society. This is reflected in SDG Goal 17.16 and 17.17 on 'multi-stakeholder' partnerships in development financing and implementation[13].

While business respect for human rights, which includes women's human rights, appears to be missing from Goal 17, global initiatives to hold the private sector to account for its human rights performance are mushrooming – as exemplified by the UN Guiding Principles on Business and Human Rights (UNGPs) and numerous guidelines for responsible investment practices with regard to mining and land investments[14]. The main problem with these is that they are voluntary, and there appear to be few sanctions for non-compliance.

Given its increasing potential role in delivering development outcomes, it follows that the private sector has a responsibility to contribute to the achievement of the SDGs and the human rights they embody. This includes Gender Goal 5 'Achieve Gender Equity and Empower all Women and Girls' and a number of sub-goals aiming to address poverty and hunger by ensuring women's right to economic resources [1.4; 2.3 and 5.a].

In fragile and conflict-affected countries, the private sector may have an even more important role to play, going over and above government standards and beyond national laws, as they may not be implemented due to weak institutions and regulation. This is in line with the UNGPs, which state that 'business enterprises as specialised organs of society are at all times to comply with applicable laws, however, they also have an independent responsibility to respect all internationally recognised human rights, going beyond compliance with national laws, where necessary. To meet this responsibility, business enterprises should formulate policy statements and frameworks to respect rights, and undertake at the earliest possible stage systematic 'human rights due diligence' (A/HRC/17/31, Annex, 2011). Respecting women's rights should be part of applying human rights due diligence.

Recommendations: How can the extractive sector ensure inclusive development that supports gender equality?

Companies should organize their core business in a way that supports the empowerment of women in the following ways:

> "Community consultation" must include women, who are the most affected and usually benefit the least from mining. Their free, prior and informed consent must be sought.

- **Ensure meaningful participation of women** in all processes related to planning and extractive sector development. Cultural practices that mean that women have a less active or formal role in decision making should not automatically lead to their exclusion. Instead, women's input should be sought on the structure of consultation processes and they should be consulted separately from men as they face different challenges and have differing needs. This also includes involving women in decisions about how benefits should be shared.

- **Improve women's income**: The main benefits derived by local communities from mineral development are the employment opportunities created primarily in the side-stream services sector. Companies should earmark funds and socially invest into women's development and livelihoods priorities equal to those of men after meaningful consultation and participation.

- Support small businesses by providing loans and seed funds and directly investing in business and skills development for affected communities, especially women, to provide quality goods and services. This may involve collaboration with Non-Governmental Organisations (NGOs) or training providers.

- Integrate women-owned Small and Medium Enterprises (SMEs) into their supply chains, and ensure their procurement policies prioritise local community businesses, especially those run by women.

- Ensure compensation/royalty payments are equally distributed between men and women in households so that families can benefit at large. Some compensation may have to be provided in kind over a longer period of time, rather than being disbursed in a one-off payment.

Governments should...

- Comply with **resolution 224 of the African Commission**[15] and ensure that all necessary measures are taken to ensure effective community participation, including their free, prior and informed consent (FPIC) in decision making related to natural resources governance. National mining legislation should not only ensure FPIC but the full inclusion of women in contract consultations, informed consent processes and benefit-sharing agreements.

- Include **mandatory provisions for benefit sharing in national mining legislation**, to provide communities with legally enforceable mechanisms for holding companies accountable. These could make it mandatory for companies to dispose a certain percentage of shares to go towards community development and women's economic empowerment, with an emphasis on long-term livelihoods development and support. They should also include clear mechanisms to ensure accountability, the participation of women, and transparency in the process.

- Ensure that national mining policies are gender-responsive and include specific requirements for companies to take proactive steps to promote women's rights, access to jobs, training and finance.

- Develop national, binding compensation lists for all crops, trees and important resources based on the real value of each over its productive lifespan. These should be included in company compensation frameworks and national policies.

- Prioritise local content to stimulate local economic development and set aside a public procurement quota for women's businesses and SMEs to ensure linkages to the local economy benefit women.

- Enact laws and policies that guarantee women's land tenure and property rights, **dismantle customary barriers** for women to own and access land, and ensure their implementation.

Both states and the extractive industries should comply with their international human rights responsibilities as outlined in the UN Guiding Principles on Business and Human Rights and other relevant guidelines, and internalise the Sustainable Development Goals as a basis for their operations. Ensuring business respect for human rights should not be philanthropy in the sense of corporate social responsibility which remains largely voluntary, but be part of binding corporate accountability regulations and treaties.

If the above recommendations were operationalized and communities could see livelihoods benefits from mining operations, then companies would experience less risk and conflict with local communities due to improved relationships.

Progressio is a UK development agency with offices in a number of African countries, including Zimbabwe. It works for a just world where everyone has choices and opportunities to live a fulfilled life. A world where people's human rights, and particularly women's rights, are respected and they can exert control over their lives.

Notes

1. http://www.worldbank.org/en/topic/extractiveindustries/brief/gender-in-extractive-industries
2. Zimbabwe Environmental Law Association, 2011. Extractive Industries Policy and Legal Handbook. Analysis of the Key Issues in Zimbabwe's Mining Sector. Case Study of the Plight of the Marange and Mutoko Communities. See also Zimbabwe Environmental Law Association, 2012. Mining within Zimbabwe's Great Dyke: Extent, Impacts and Opportunities.
3. See Poverty Reduction Forum Trust (2013): Poverty in Mining Communities in Zimbabwe: A case study of the Great Dyke
4. See Centre for Public Interest Law (CEPIL) and WAKAM (2015), The Right to Decide: Free Prior Informed Consent in Ghana
5. See Jenkins, K. 'Women, Mining and Development' (2014:8)
6. http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTOGMC/EXTEXTINDWOM/0,,contentMDK:21242269~menuPK:3157104~pagePK:210058~piPK:210062~theSitePK:3156914,00.html
7. The United Nations Basic Principles and Guidelines on Development Based Evictions and Displacement clearly express that states must provide or ensure fair and just compensation for any losses and economically assessable damage. This includes accounting for the value of land, trees, crops and other income from the land. All those evicted, irrespective of whether they hold titles to their property, are entitled to compensation (Section VI, para 60-63 'Compensation').
8. As specified in IFC Performance Standards on Environmental and Social Sustainability, 2012
9. See Poverty Reduction Forum Trust (2013): Poverty in Mining Communities in Zimbabwe: A case study of the Great Dyke
10. United Nations Basic Principles and Guidelines on Development Based Evictions and Displacement A/HRC/4/18
11. ZELA (2014), Assessing Corporate Social Responsibility and Community Share Ownership Schemes/Trusts' Activities and the Impacts of Mining on Communities: A Case Study of Unki Mine in Zimbabwe
12. Ibid.
13. Private sector partners should, however be assessed beforehand to meet specific criteria. Whether a company has a history of allegations of human rights abuses, involvement in acts of corruption and full compliance with tax responsibilities are some of the issues to examine in such an assessment.
14. FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, 2012; FAO-OECD Guidance for Responsible Agricultural Supply chains, 2015
15. Resolution 224 of the African Commission on Human and People's Rights (2012) on a Human Rights Based Approach to Natural Resource Governance focusses on strengthening regional efforts to promote natural resources legislation that respect human rights of all and require transparent, maximum and effective community participation in decision-making about prioritisation and scale of and benefits from any development on their land or other resources or that effects them in any substantial way.