

Annex I: Research Methodology

Sampling and Sample Size

The report is a result of Key Informant Interviews (KII) and Focus Group Discussions (FGD) conducted during field research, which was carried out in seven regions in Tanzania, including Arusha, Dar es Salaam, Mwanza, Mtwara, Manyara, Geita and Mwanza. During the field research, a total of 203 individuals were interviewed, national and local government, CHRAGG, extractive sector company personnel, community members, members of the academia, independent experts, and individuals working with CSOs and NGOs on issues of human rights and extractive industries between August and December 2015.

The research also benefited from a review of relevant literature, including laws, policies, and international human rights instruments and published books.

Table 4: Key Respondent Manifest

Place & Institution Visited	Total # of respondents interviewed	Men	Women	Remarks
Dar es Salaam, CHRAGG	3	3	0	KII with CHRAGG leadership
Dar es Salaam, CHRAGG	3	2	1	KII with CHRAGG leadership
Dar es Salaam, the University of Dar es Salaam	3	2	1	KII with academic experts in the area of extractive industries
Dar es Salaam, Tanzania Petroleum Development Corporation (TPDC)	7	4	3	KII with staff of the TPDC/the national oil company
Dar es Salaam, Tanzania Human Rights Defenders Coalition (THRDC) and the Legal and Human Rights Center (LHRC)	5	3	2	KII with experts working in NGOs/CSOs
Dar es Salaam, Attorney General's Chambers	2	1	1	KII with state attorneys in charge of FDI and contracts.

Dar es Salaam, Oil, Natural Gas and Environmental Alliance (ONGEA) and Policy Forum	2	1	1	KII with experts working in NGOs/CSOs
Dar es Salaam, Tanganyika Law Society (TLS) and the Lawyers Environmental Action Team (LEAT)	3	2	1	KII with expert/lawyers working on extractive industries and legal AID/Travelling to Arusha
Arusha, Tanzania Mineral Dealers Association (TAMIDA) and Haki Madini	2	2	0	KII with the executive director of Haki Madini and the counsel/lawyer to the (TAMIDA)
Mererani, Manyara. TanzaniteOne, visiting ward/village leadership and community projects	5	5	0	KII with company officials and creating Rapport with the village/ward leadership
Mererani, Manyara 2 Focus Group Discussions (FGD) with Community members	21	08	13	FGD with community members around extractive operations
Two FGD with small scale miners (employees)	21	21	21	2 FGDs with community small scale members
Mwanza, Mwanza Regional Commissioners office/Regional Administrative secretary	4	2	2	Government leadership/Rapport creation and accessing statistics.
Mwanza, Tanganyika Law Society Mwanza Branch	6	2	4	FGD with lawyers/advocates on legal challenges of legal aid provision in the extractive sector in resource rich regions
Mwanza Press Club* (Appointment	4	2	2	Discussions with

to meet company leadership for AngloGold Ashanti did not work out				journalists working in the area of human rights and the environment in the extractive sector
Mwanza, St. Augustine University of Tanzania (SAUT)	12	6	6	KII with lecturers/experts and graduate students
Geita	22	08	14	Meeting a company official Government officials at the Zonal Mining Office FGD with community members in Katoma Sub-village, Geita District
Geita and Travel back to Mwanza	21	21	21	2 FGDs with community in Nyakabale sub-village, Geita District
Arusha, Arusha Regional Miners Association (AREMA) and an extractives company	3	3	0	KII with leaders of AREMA and Sammy Mollel-managing director of an extractives company
Travel to Mtwara, meeting regional leaders/Regional administrative secretary's office (DAS), district counsel	4	2	2	Reporting at the regional and district leadership and soliciting relevant statistics and updates / rapport creation
Two FGD with villagers at Msimbati village	22	8	14	Two FGD with villagers at Msimbati village

Two FGD with villagers at Msimbati village	23	11	14	Two FGD with villagers at Msimbati village
Meeting CHRAGG directors to go through the first draft and get their recommendations	5	3	2	Meeting CHRAGG directors to go through the first draft and get their recommendations

Data Collection Methods

Each respondent was asked to respond to a series of survey questions in one of two methods – (1) the one-on-one interview or (2) focus group discussion.

In-depth interviews

In the one-on-one interview, the researcher interviewed each respondent using the questions contained in the survey. In-depth interviews were held with key informants who come from different backgrounds but have an interest in the extractive industry. These included national government ministries officials, county government officials, oversight body representatives, extractive companies, religious leaders, village leaders, and civil society.

Focus Group Discussion (FGD)

Representative case studies were selected to undertake FGDs in communities where oil and gas exploration and mining exploration and exploitation are taking place, with a view to highlight the overall challenges and opportunities for government, business, and civil society stakeholders – as well as CHRAGG – to ensure greater human rights accountability and protecting the rights of communities from adverse impacts linked to the extractives sector.

Field Observations

Observation was used to capture the nature of human rights abuses on the ground as well as the activities being undertaken by communities to promote their rights. Observations were presented as anecdotes and used to supplement the analysis of data collected in the other forms.

Desktop Review

A thorough desktop review of literature on the extractive sector, Tanzania and East Africa was carried out.

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http://www.ihrb.org/uploads/reports/2015-02-05%2C_IHRB-UNDP_Report%2C_Promoting_Human_Rights%2C_Ensuring_Social_Inclusion_and_Avoiding_Conflict_in_the_Extractives_Sector.pdf

¹⁴⁹ He draws attention in particular to examples of indigenous-controlled resource extraction. UN General Assembly, “Report of the Special Rapporteur on the rights of indigenous peoples, James Anaya: Extractive industries operating within or near indigenous territories” A/HRC/18/35 (11 July 2011), available at:
<http://unsr.jamesanaya.org/study/report-a-hrc-24-41-extractive-industries-and-indigenous-peoples-report-of-the-special-rapporteur-on-the-rights-of-indigenous-peoples> .

¹⁵⁰ Notably *ILO Convention 169 and the UN Declaration on the Rights of Indigenous Peoples* (UNDRIP).

¹⁵¹ UNDRIP, Article 32, available at: http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

¹⁵² UN General Assembly, “Report of the Special Rapporteur on the rights of indigenous peoples, James Anaya”, Summary of activities: Progress report on study on extractive industries, A/HRC/21/47 (6 July 2012), available at: http://unsr.jamesanaya.org/docs/annual/2012_hrc_annual_report_en.pdf

¹⁵³ Id. pp. 10-11.

¹⁵⁴ IFC, “Performance Standard 7: Indigenous Peoples” (2012), available at:
http://www.ifc.org/wps/wcm/connect/1ee7038049a79139b845faa8c6a8312a/PS7_English_2012.pdf?MOD=AJPERES, and UN Global Compact “A Business Reference Guide: UNDRIP” (2013), available at:
<http://firstpeoples.org/wp/a-business-reference-guide-to-undrip/>

¹⁵⁵ J. Owen, D. Kemp, “Free prior and informed consent’, social complexity and the mining industry: establishing a knowledge base” (2014), available at:
<http://www.sciencedirect.com/science/article/pii/S0301420714000300>.

¹⁵⁶ See section above: “Tanzania’s International Human Rights Obligations” see also:
<http://indicators.ohchr.org/>

¹⁵⁷ This is a charter-based human rights mechanism, which entails UN member states reviewing human rights records of other members. For more details see: Alex Conte, “Reflections and Challenges: Entering into the Second Cycle of the Universal Periodic Review Mechanism” (2011). And also: Obonye Jonas, “Reflection on the Practice and Experiences of African States in the African Peer Review Mechanism (APRM) and the Universal Periodic Review Mechanism (UPR): a human rights perspective”, (2012)

¹⁵⁸ See: http://www.achpr.org/files/instruments/achpr/banjul_charter.pdf

¹⁵⁹ See: <http://www.ohchr.org/Documents/ProfessionalInterest/crc.pdf>

¹⁶⁰ See: <http://www.ohchr.org/Documents/ProfessionalInterest/ccpr.pdf>

¹⁶¹ United Nations Human Rights Office of the High Commissioner, “Report of the Working Group on the Universal Periodic Review: United Republic of Tanzania”, (2011), paragraph 25, available at:
<http://www.ohchr.org/EN/HRBodies/UPR/PAGES/TZSession12.aspx>

¹⁶² United Nations Committee on the Rights of the Child, “Concluding observations on the combined third to fifth periodic reports of the United Republic of Tanzania”, paragraph 21, available at
http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/TZA/CO/3-5&Lang=En

- ¹⁶³ See: http://www.africaminingvision.org/amv_resources/AMV/Africa_Mining_Vision_English.pdf
- ¹⁶⁴ World Bank, "Project paper on a proposed additional credit to the United Republic of Tanzania for the sustainable management of mineral resources project", (April 2015), quoting : "has facilitated transforming these government priorities as set forth in new policy and legislation, into practical applications in key mining areas", available at: <http://documents.worldbank.org/curated/en/846261468304269754/text/PAD11770PJPROPO0Boxx391421B000UO090.txt>
- ¹⁶⁵ Ibid.
- ¹⁶⁶ United Republic of Tanzania, "The Mineral Policy of Tanzania", (2009), available at: https://mem.go.tz/wp-content/uploads/2014/02/0014_11032013_Mineral_Policy_of_Tanzania_2009.pdf
- ¹⁶⁷ United Republic of Tanzania, "The Mineral Policy of Tanzania", (2009), article 4.0, available at: https://mem.go.tz/wp-content/uploads/2014/02/0014_11032013_Mineral_Policy_of_Tanzania_2009.pdf
- ¹⁶⁸ Ibid, article 40
- ¹⁶⁹ Ibid, article 5.5
- ¹⁷⁰ Ibid, article 5.6
- ¹⁷¹ Ibid, article 5.8
- ¹⁷² Ibid, article 5.9
- ¹⁷³ Ibid, article 5.12
- ¹⁷⁴ Ibid, article 5.13
- ¹⁷⁵ Clyde and Co, "Regulations requiring mining firms to register on the Dar es Salaam Stock Exchange", (July 2013), available at: http://www.clydeco.com/uploads/Files/Publications/2013/MEBE_-_006_-_Tanzania_mining_briefing_-_Eng_-_Jul2013.pdf
- ¹⁷⁶ United Republic of Tanzania, "The Mineral Policy of Tanzania", (2009), article 5.8, available at: https://mem.go.tz/wp-content/uploads/2014/02/0014_11032013_Mineral_Policy_of_Tanzania_2009.pdf
- ¹⁷⁷ Ibid
- ¹⁷⁸ United Republic of Tanzania, "The Mining Act, 2010", (2010), Act No. 14 of 2010, available at: <http://parliament.go.tz/polis/uploads/bills/acts/1452071244-ActNo-14-2010.pdf>
- ¹⁷⁹ United Republic of Tanzania, "The Mineral Policy of Tanzania", (2009), article 5.9, available at: https://mem.go.tz/wp-content/uploads/2014/02/0014_11032013_Mineral_Policy_of_Tanzania_2009.pdf
- ¹⁸⁰ Ibid, article 6.1
- ¹⁸¹ Ibid, article 6.2
- ¹⁸² Ibid, article 5.6
- ¹⁸³ United Republic of Tanzania Ministry of Energy and Minerals, "The environmental and social management framework and social assessment for the Sustainable Management of Mineral Resources Project (SMMRP) Phase II", (2014), p. 13, available at: <https://mem.go.tz/wp-content/uploads/2014/12/ESMF-FINAL-VERSION-2.pdf>
- ¹⁸⁴ United Nations Environment Programme, "Analysis of Formalization Approaches in the Artisanal and Small Scale Gold-Mining sector based on experiences in Ecuador, Mongolia, Peru, Tanzania and Uganda: Tanzania case study", (2012), available at: http://www.unep.org/hazardoussubstances/Portals/9/Mercury/Documents/ASGM/Formalization_ARM/Cas e%20Study%20Tanzania%20June%202012.pdf
- ¹⁸⁵ Ibid, p.5
- ¹⁸⁶ United Republic of Tanzania, "The Mineral Policy of Tanzania", (2009), p.15, available at: https://mem.go.tz/wp-content/uploads/2014/02/0014_11032013_Mineral_Policy_of_Tanzania_2009.pdf
- ¹⁸⁷ See:
- ¹⁸⁸ Ibid
- ¹⁸⁹ United Republic of Tanzania, "The Mining Act, 2010", (2010), Act No. 14 of 2010, available at: <http://parliament.go.tz/polis/uploads/bills/acts/1452071244-ActNo-14-2010.pdf>
- ¹⁹⁰ Ibid
- ¹⁹¹ Ibid, section 16
- ¹⁹² Ibid, section 16
- ¹⁹³ J.B. Jonsson & N. Fold, "Handling Uncertainty: Policy and Organizational Practices in Tanzania's Small-Scale Gold Mining Sector", (2009), Natural Resources Forum, pp. 211 at 214, available at: <http://onlinelibrary.wiley.com/doi/10.1111/j.1477-8947.2009.01226.x/abstract>
- ¹⁹⁴ United Republic of Tanzania, "The Mining Act, 2010", (2010), Act No. 14 of 2010, section 4,
- ¹⁹⁵ Ibid, section 41(4)(a) to (i)
- ¹⁹⁶ Ibid, section 41(4)(h)
- ¹⁹⁷ ILO, "Employment and Labour Relations Act", (2004), available at: <http://www.ilo.org/dyn/natlex/docs/SERIAL/68319/66452/>
- ¹⁹⁸ Ibid, section 41(4)(e)
- ¹⁹⁹ Ibid, section 41(4)(g)
- ²⁰⁰ Ibid, section 41(5)
- ²⁰¹ For a discussion on local content in the country's mining sector, see: A. Kinyondo and S. Lange, "Local Content in the Mining Sector of Tanzania", (March 2015), available at: http://www.repoa.or.tz/documents_storage/20ARWS2B_PPT.pdf
- ²⁰² United Republic of Tanzania, "The Mining Act, 2010", (2010), Act No. 14 of 2010, section 23

- 203 Ibid, section 23(2)(a)-(c)
- 204 Borrowing from wildlife management practice for example, the Minister consistently appoints to the Board, a representative of the pastoralist Maasai community who live within the Ngorongoro conservation area authority in spite of lack of such a requirement in the law because the law does not specify which institutions Board members should be appointed from. See the Ngorongoro Conservation Area Act, (1959), available at: <http://faolex.fao.org/docs/pdf/tan17716.pdf>
- 205 See: <http://www.resourcegovernance.org/our-work/country/tanzania>
- 206 United Republic of Tanzania, "The Mining Act, 2010", (2010), Act No. 14 of 2010, section 94
- 207 Ibid, section 95(b)
- 208 Ibid, section 96
- 209 See: <http://portal.mem.go.tz/map>
- 210 TEITI, "Beneficial Ownership Implementation status", (2015), p.4, available: https://eiti.org/files/tanzania_bo_evaluation_report_0.pdf
- 211 TEITI, "Final Annual Progress Report", (2015), p.12, available: <http://www.teiti.or.tz/final-annual-progress-report-january-december-2015/>
- 212 United Republic of Tanzania, "The Mining Act, 2010", (2010), Act No. 14 of 2010, section 10 (1)
- 213 Ibid, section 10(5), which states, "Where this Act or the regulations confer on the Minister or, as the case may be, the Commissioner shall exercise such discretion subject to and in accordance with any relevant stipulation contained in a development agreement made under this section."
- 214 Regarding the legal status of MDAs more broadly, one authority in the area of Mining Law and Policy provides some useful clarifications. Tanzania's MDAs fall in the second category. The author states, "In many jurisdictions, Agreements become part of a subsequent statute passed by the parliament. This structure is not used in many jurisdictions, but where it does arise, it is important to understand the various ways in which it occurs. There are two basic schemes, which have significant differences for the contracting parties and also third parties: The legislation authorizes the Agreement but does not give it statutory force. This provides statutory recognition that the Agreement exists, thereby excluding any challenge to the validity of its original negotiation and entry. However, the Agreement remains a contract between the parties and so any breach of it will be 'illegal' in that it does not break a law of the jurisdiction. The Legislation confers statutory status onto the Agreement. In this form, arrangements specified under an Agreement have effect as if they are statutory provisions. The terms have public legal force beyond a simple contractual arrangement between parties.
- See: J. Southalan, "Mining Law and Policy: International Perspectives", (2012), The Federal Press, Australia
- 215 G.N (Government Notice) 405 of 2010 (not available on line, copy in the author's file)
- 216 Ibid, article 7
- 217 Ibid, article 8
- 218 Ibid, article 9
- 219 Ibid, article 10
- 220 Interview with Dr. John Jingu, University of Dar es Salaam, October 2015.
- 221 R. Hundsbaek Pedersen and P. Bofin, (DIIS) "The politics of gas contract negotiations in Tanzania: a review" (2015), p.5, available at: http://pure.diis.dk/ws/files/276453/WP_2015_03.pdf
- 222 The World Bank, « International Development Association Program Document on a Proposed Development Policy Credit in the amount SDR 65.2 Million to the United Republic of Tanzania for a Second Power and Gas Sector Development Policy Operation » (2014), p.14, available at: http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2014/03/05/000442464_20140305111847/Rendered/PDF/840280PGDOP145010Box382156B000UO090.pdf
- 223 United Republic of Tanzania. 2013. The National Natural Gas Policy of Tanzania. Available at http://www.tanzania.go.tz/egov_uploads/documents/Natural_Gas_Policy_-_Approved_sw.pdf
- 224 See page two of the Policy. The challenges touch on institutional and legal frameworks to administer the industry; availability of human resources with requisite skills, attitude, discipline and knowledge of the natural gas industry; a good working environment for foreign investment and high public expectation.
- 225 Natural Gas Policy, article 2.1.
- 226 Natural Gas Policy of Tanzania, article 2.4.2 (c).
- 227 Natural Gas Policy of Tanzania, article 2.4.2 (h)
- 228 Policy Forum Tanzania, "Analysing the Draft Gas Policy: The Tanzania CSO Extractive Industry Working Group Position" (2012) available at: <http://www.policyforum-tz.org/gas-policy-inputs-csos>
- 229 Natural Gas Policy of Tanzania, article 3.1.7.
- 230 Natural Gas Policy of Tanzania, article 3.1.8.
- 231 Natural Gas Policy of Tanzania, article 3.2.1.
- 232 Natural Gas Policy of Tanzania, article 3.2.3.
- 233 Natural Gas Policy of Tanzania, article 3.1.7.
- 234 The document was finalized in October 2013.
- 235 See the official website of BG Group Tanzania, available at: <http://www.bg-group.com/324/where-we-work/tanzania/operations/>
- 236 The Scholarships are named after BG Group Plc, a British multinational oil and gas company with operations in Tanzania.
- 237 See Ten Tanzanians to begin Oil, Gas studies in the UK, the Guardian, available at <http://www.ippmedia.com/frontend/?l=71773>

- ²³⁸ See 'BG Tanzania supports Tanzanian Graduates and Higher Education Institutions.', available at website <http://bg-group.com/288/where-we-work/tanzania/>
- ²³⁹ Contracts between oil companies and the government are not publically accessible. This is likely to change given the coming to force of the Tanzania Extractive industries (Transparency and accountability) Act, 2015. Specifically, section 16 of the law establishes the obligation to publish all information relating to ensuring transparency and accountability in the extractive sector, such as concessions and licenses.
- ²⁴⁰ Available at <https://mem.go.tz/wp-content/uploads/2014/02/17.06.15A-BILL-PETROLEUM-ACT-2015-Updated-version-15.6.15.pdf>
- ²⁴¹ See article 223(4)(a) and (c) of the Petroleum Act. However during the field research for this report, the researcher could not access them owing to lack of awareness of district council officials in Mtwara who insisted that such a document has not been developed.
- ²⁴² Legal and Human Rights Center, "Human Rights and Business Report 2014: Taking Stock of Labor Rights, Land Rights, Gender, Taxation, Corporate Accountability, Environmental Justice and Performance of Regulatory Authorities" (2014), available at <http://www.humanrights.or.tz/downloads/Human%20Rights%20and%20Business%20Report%202014%20final.pdf>
- ²⁴³ Legal and Human Rights Center (LHRC), "Business and Human Rights Report in Tanzania-2013", (2013) p. 107-108, available at : <http://www.humanrights.or.tz/downloads/LHRC%20Business%20Rep%202013.pdf>
- ²⁴⁴ See for example: <https://www.csr.mq.edu.au/mining-gender-local-level-development>, and see also: <https://openknowledge.worldbank.org/handle/10986/12641>
- ²⁴⁵ Natural Gas Policy of Tanzania, article 3.2.1.
- ²⁴⁶ Ibid.
- ²⁴⁷ Available at <https://mem.go.tz/wp-content/uploads/2014/02/17.06.15BILL-EXTRACTIVE-INDUSTRIES-FINAL-15.6.2015.pdf>
- ²⁴⁸ See <https://eiti.org/news/tanzania-enacts-eiti-legislation>.
- ²⁴⁹ See 3.1.11 of the Natural Gas Policy of Tanzania, which partly provides, "...this situation calls for the need to increase awareness on natural gas operations to the public and stakeholders, particularly local communities where natural gas projects and activities are undertaken. It is everyone's interest that communication and flow of information about the natural gas industry to the public is maintained in a satisfactory condition at all times."
- ²⁵⁰ Global Legal Insights, Ofotsu A. Tetteh-Kujorjie Mkono & Co Advocates, « GLI - Energy Second Edition, Tanzania » (2010), available at : http://www.mkono.com/pdf/GLI-EN2_Tanzania.pdf
- ²⁵¹ Natural Gas Policy of Tanzania, article 3.1.11.
- ²⁵² Natural Gas Policy of Tanzania, article 3.2.3.
- ²⁵³ Paradoxically, the National Mineral Policy does not contain a similar policy statement on HIV/AIDS intervention, and no records indicate that the scourge is more prevalent or more risky in the new oil and gas sector compared to the mining sector.
- ²⁵⁴ United Republic of Tanzania, « HIV/AIDS and Malaria Indicator Survey 2011-2012 ». p. 1, available at : <https://dhsprogram.com/pubs/pdf/AIS11/AIS11.pdf>
- ²⁵⁵ Act no. 21 of 2015, available at <http://parliament.go.tz/polis/uploads/bills/acts/1452057729-ActNo-21-2015-Book-21-25.pdf>
- ²⁵⁶ The policies are the Energy Policy and the Natural Gas Policy discussed above.
- ²⁵⁷ Section 4 of the Petroleum Act 21 of 2015. available at: http://nemc.or.tz/index.php?option=com_content&view=article&id=106&Itemid=250
- ²⁵⁸ See section 5 of the Petroleum Act 21 of 2015. Section 11 of the law establishes PURA and charges it with the regulation and monitoring of the petroleum upstream subsector in mainland Tanzania.
- ²⁵⁹ Section 67 of the Petroleum Act 21 of 2015.
- ²⁶⁰ Section 67(k) of the Petroleum Act 21 of 2015. It requires "environmental impact assessment in respect of development, including the necessary measures to be taken for protection of environment" to accompany an application for a petroleum development license.
- Section 67(l) of the Petroleum Act 21 of 2015.
- ²⁶¹ See Section 221 and 222 of the Petroleum Act 21 of 2015.
- ²⁶² Section 68 of the Petroleum Act 21 of 2015.
- ²⁶³ This assertion is based on the legal requirements to furnish EIA reports as well as employment plans as part of application for a petroleum development license.
- ²⁶⁴ Section 111 of the Petroleum Act.
- ²⁶⁵ United Republic of Tanzania, « Draft Local content Policy of Tanzania for Oil and Gas Industry » (2014), available at http://www.tanzania.go.tz/egov_uploads/documents/Natural_Gas_Policy_-_Approved_sw.pdf
- ²⁶⁶ Sufian Hemed Bukurura and Donald Eliapenda Mmari, « Hydrocarbon resources in Tanzania: Achieving benefits with robust protection », Special Paper 14/3, Dar es Salaam (2014), available at: http://www.repoa.or.tz/documents/REPOA__SP_14_3.pdf
- ²⁶⁷ See page 17 of the Draft Local content Policy of Tanzania for Oil and Gas Industry 2014 (Draft one) supra
- ²⁶⁸ Ibid.
- ²⁶⁹ Available at: <http://tpdc-tz.com/tpdc/downloads.php>
- ²⁷⁰ Government of the United Republic of Tanzania, "Petroleum Development Corporation and Pan African Energy Tanzania Ltd: Production Sharing Agreement relating to the SongoSongo Gas Field, Dar Es Salaam,, Tanzania" available at: [http://repository.openoil.net/w/index.php?title=Special:Ask&offset=550&limit=500&q=\[\[Category%3AContract\]\]&p=format%3Dtemplate%2Fmainlabel%3D-2D%2Fsearchlabel%3Dmore-](http://repository.openoil.net/w/index.php?title=Special:Ask&offset=550&limit=500&q=[[Category%3AContract]]&p=format%3Dtemplate%2Fmainlabel%3D-2D%2Fsearchlabel%3Dmore-)

20contracts...%2Ftemplate%3DCountryBody%2Fintrottemplate%3DCountryHeader%2Foutrottemplate%3DFooter&po=%3FContract%0A%3FContractType%0A%3FContractor%0A%3FHostGovernmentContract%0A%3FLocalStoreURLPlain%0A. It is important to note that before the enactment of the Tanzania Extractive Industries (Transparency and Accountability) Act, 2015, there was no obligation to publish contracts entered into by the government with extractive companies; consequently, PSAs and MDAs were kept confidential.

²⁷¹ Available at <http://parliament.go.tz/polis/uploads/bills/1447070761-A%20BILL%20GAS%20REVENUE-DODOMA%2015%20june.pdf>

²⁷² TEITI Annual Progress Report (2015), p. 12, available at: <http://www.teiti.or.tz/final-annual-progress-report-january-december-2015/>

²⁷³ Ibid. p. 13

²⁷⁴ See the long title to the Act, supra.

²⁷⁵ See section 18 of the Act.

²⁷⁶ Uongozi Institute, "Tanzania Natural Resource Charter Expert Panel Launched", available at http://www.uongozi.or.tz/news_detail.php?news=1873

²⁷⁷ See Section 18(4).

²⁷⁸ See Section 18(7).

²⁷⁹ A glaring example in recent times in the energy sector, relates to the resignation of the then Prime Minister Edward Lowassa and the then minister for energy and mineral. See *The Economist*, "A Struggle for Power: Tanzania loses a Prime Minister after corruption scandal." Feb 11th 2008. available at <http://www.economist.com/node/10676185>

²⁸⁰ The main applicable law at the moment is the "Prevention and Combating of Corruption Act", Chapter 329 of the Laws of Tanzania, available at http://www.gov.go.tz/egov_uploads/documents/PREVENTION_AND_COMBATING_OF_CORRUPTION_ACT_sw.pdf

²⁸¹ Act no. 20 of 2004, available at <http://www.dlist-asclme.org/sites/default/files/doclib/TZ%20EMA%202004.pdf>

²⁸² This is the main, national-level institution charged with the enforcement of environmental laws and regulations in Tanzania. Its objective as stated under section 17 is in part, "to undertake enforcement, compliance, review and monitoring of environmental impact assessment and in that regard, shall facilitate public participation in environmental decision making, exercise general supervision and coordination over all matters relating to the environment assigned to the council..."

²⁸³ The World Bank, « International Development Association Program Document on a Proposed Development Policy Credit in the amount SDR 65.2 Million to the United Republic of Tanzania for a Second Power and Gas Sector Development Policy Operation » (2014), available at: http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2014/03/05/000442464_20140305111847/Rendered/PDF/840280PGD0P145010Box382156B000UO090.pdf

²⁸⁴ The World Bank, « Tanzania Sustainable Management of Mineral Resources Project Implementation Support Mission and Extractive Industry Transparency Initiative Implementation » (2011), available at: <http://documents.worldbank.org/curated/en/946951468777919365/pdf/TZOSMMP0Missi00201100AIDE0M0MOIRE.pdf>

²⁸⁵ The World Bank, « International Development Association Program Document on a Proposed Development Policy Credit in the amount SDR 65.2 Million to the United Republic of Tanzania for a Second Power and Gas Sector Development Policy Operation » (2014), p.32, available at: http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2014/03/05/000442464_20140305111847/Rendered/PDF/840280PGD0P145010Box382156B000UO090.pdf

²⁸⁶ See: IPIECA, "Guide to Integrating Human Rights into Environmental, Social and Health Impact Assessments" (2013), available at: <http://www.ipieca.org/news/20131206/integrating-human-rights-environmental-social-and-health-impact-assessments> and ICMM, « Integrating Human Rights Due Diligence into Corporate Risk Management Processes » (2012), available at: <https://www.icmm.com/page/75929/publications/documents/integrating-human-rights-due-diligence-into-corporate-risk-management-processes>

²⁸⁷ United Republic of Tanzania President's Office, « The Tanzania Five Year Development Plan », 2011/2012-2015/16 », available at: <http://faolex.fao.org/docs/pdf/tan151051.pdf>

²⁸⁸ Made under section 82(1) and 230(2)(h) and (g) of the Environmental Management Act No. 20 of 2004. available at <http://faolex.fao.org/docs/pdf/tan171740a.pdf>

²⁸⁹ See Article 16 of "The Environmental Impact Assessment and Audit Regulations" (2005), available at: <http://www.tic.co.tz/media/Environmental%20Audit%20Regulations%202005.pdf>

²⁹⁰ Mineral Sector EIA Guidelines, Document from the United Republic of Tanzania Ministry for Energy and Minerals, October 2014, p.15, available at <https://mem.go.tz/wp-content/uploads/2014/02/Mineral-Sector-extractive-sectorA-guidelines.pdf>

²⁹¹ See section 173(d) of the Environmental Management Act (2004).

²⁹² Instead, NEMC only provides a list of applicants who have been granted EIA certificates. See NEMC's website http://nemc.or.tz/index.php?option=com_content&view=article&id=106&Itemid=250

²⁹³ United Republic of Tanzania Ministry of Energy and Minerals, Mineral Sector Environmental Impact Assessment (EIA) Guidelines (2014), available at <https://mem.go.tz/wp-content/uploads/2014/02/Mineral-Sector-EIA-guidelines.pdf>

²⁹⁴ See Article 61 of "The Environmental Impact Assessment and Audit Regulations" (2005), available at: <http://www.tic.co.tz/media/Environmental%20Audit%20Regulations%202005.pdf>

²⁹⁵ Ibid.

²⁹⁶ See the vision of the Tanzania Minerals Audit Agency (TMAA), available at: http://www.tmaa.go.tz/tmaa/about/category/aim_mission_vision

²⁹⁷ The United Republic of Tanzania, « Tanzania Minerals Audit Agency Annual Report 2014 », available at http://www.tmaa.go.tz/uploads/ANNUAL_REPORT_2014.pdf

- ²⁹⁸ The United Republic of Tanzania, « Tanzania Minerals Audit Agency Annual Report 2014 », p.6, available at http://www.tmaa.go.tz/uploads/ANNUAL_REPORT_2014.pdf
- ²⁹⁹ Available at <http://parliament.go.tz/polis/uploads/bills/acts/1452053429-ActNo-23-2015-Book-21-25.pdf>
- ³⁰⁰ The Law came to force following presidential assent in August 2014. However, implementing regulations are yet to be formulated.
- ³⁰¹ See the long title to the Tanzania Extractive Industries (Transparency and Accountability) Act.
- ³⁰² TEITI, « Annual Progress Report » (2015), p. 15, available at: <http://www.teiti.or.tz/final-annual-progress-report-january-december-2015/>
- ³⁰³ See Section 4 of the Tanzania Extractive Industries (Transparency and Accountability) Act.
- ³⁰⁴ See section 16 of the Tanzania Extractive Industries (Transparency and Accountability) Act.
- ³⁰⁵ See Section 15 of the Tanzania Extractive Industries (Transparency and Accountability) Act.
- ³⁰⁶ See section 4(2) of the Tanzania Extractive Industries (Transparency and Accountability) Act.
- ³⁰⁷ The respective umbrella institutions nominated the 16 members of the group as follows: five from the government, five from civil society and 5 from extractive companies, plus the executive secretary of TEITI as the 16th member.
- ³⁰⁸ See section 5(4) of the Tanzania Extractive Industries (Transparency and Accountability) Act.
- ³⁰⁹ See section 5(2)(a) of the Tanzania Extractive Industries (Transparency and Accountability) Act.
- ³¹⁰ This is however possible through the slots provided for CSOs, but the law should have provided expressly.
- ³¹¹ Given the unique position of NHRI globally as bridges between CSOs, community members and governments, the law misses an important opportunity of expressly providing for a representative of CHRAGG in the multi-stakeholder group.
- ³¹² See section “27(1), which provides that “All Mineral Development Agreements and Production Sharing Agreements and any other agreements signed prior to the coming into force of this Act, shall, upon coming into force of this Act, be subjected to disclosure requirement under this Act.”
- ³¹³ The relevant section provides, “27 (2), which provides that “Except for information that is confidential as the Committee may determine, all other information contained in the agreements referred to under subsection (1) shall be subject to disclosure requirements under this Act.”
- ³¹⁴ TEITI, « G7-Tanzania Partnership on Transparency in the extractive sector », p. 10, available at: <http://www.teiti.or.tz/wp-content/uploads/2016/04/G7-Tanzania-Partnership-on-Transparency-in-The-Extractive-Sector-Annual-Semi-Annual-Progress-Report.pdf>
- ³¹⁵ See p.9: <http://www.teiti.or.tz/final-annual-progress-report-january-december-2015/>
- ³¹⁶ This is the National Oil Company established under section 8 of the Petroleum Act for the purpose of undertaking Tanzania's commercial aspects in the petroleum.
- ³¹⁷ Ledger Kasumuni, « Muhongo: Why Bunge won't see gas contracts, » The Citizen, November 14th, 2014, available at <http://www.thecitizen.co.tz/News/Muhongo--Why-Bunge-won-t-see-gas-contracts/-/1840392/2521930/-/ff5vvj/-/index.html>, DIIS, R. Hundsbæk Pedersen and P. Bofin, The politics of gas contract negotiations in Tanzania: a review (2015), pp.19-20, available at: http://pure.diis.dk/ws/files/276453/WP_2015_03.pdf, and the National Resource Governance Institute, « Tanzania and Statoil: What does the Leaked Agreement Mean for Citizens » (2014), available at, <http://www.resourcegovernance.org/analysis-tools/publications/tanzania-and-statoil-what-does-leaked-agreement-mean-citizens>
- ³¹⁸ TEITI « Annual Progress Report », (2015) p. 23, available at: <http://www.teiti.or.tz/final-annual-progress-report-january-december-2015/>
- ³¹⁹ As of the writing of this Report, this was still under construction, see: <http://www.teiti.or.tz/contracts/>
- ³²⁰ TEITI, “TEITI Workplan 2015” (May 2015), available at: <http://www.teiti.or.tz/wp-content/uploads/2014/05/TEITI-Workplan-May-2015.pdf>
- ³²¹ TEITI « Annual Progress Report » (2015), p. 20, available at: <http://www.teiti.or.tz/final-annual-progress-report-january-december-2015/>
- ³²² Available at: <http://www.judiciary.go.tz/downloads/Constitution.pdf>
- ³²³ Article 30 of the Constitution of the United Republic of Tanzania 1977 provides that “It is hereby declared that the provisions contained in this part of the Constitution, which sets out the Principles of rights, freedom and duties does not render unlawful any existing law or prohibit the enactment of any law or the doing of lawful act in accordance with such law.”
- ³²⁴ Act No. 3 of 1976 Available at <http://polis.parliament.go.tz/PAMS/docs/3-1976.pdf>
- ³²⁵ Ibid, S. 25 Act No. 3 of 1976 Available at <http://polis.parliament.go.tz/PAMS/docs/3-1976.pdf>
- ³²⁶ Act no. 20 of 2004, available at <http://www.dlist-asclme.org/sites/default/files/doclib/TZ%20EMA%202004.pdf>
- ³²⁷ Section 172(1), *ibid.*
- ³²⁸ Section 172(1), *ibid.*
- ³²⁹ Open Government Partnership, « Tanzania and the OGP: an update », (September 2012), available at: <http://www.opengovpartnership.org/blog/blog-editor/2012/09/11/tanzania-and-ogp-update>
- ³³⁰ The United Republic of Tanzania: « The National Land Policy », 2nd Edition 1997, available at <http://www.tzonline.org/pdf/nationallandpolicy.pdf>
- ³³¹ *Ibid.*, p.9
- ³³² The power to revoke a right of occupancy is vested in the President of Tanzania. Factors that may lead to the revocation of a right of occupancy include an attempt to sell the land to a non-citizen; abandoning the land for not less than two years; breach of conditions listed in the certificate of occupancy

and breach of regulations made under the law. See: The Land Act, 1999, Cap. 113 (R.E) 2002 available at <http://polis.parliament.go.tz/PAMS/docs/4-1999.pdf>

³³³ The Land Act defines the right of occupancy to mean “ a title to the use and occupation of land and includes the title of a Tanzanian citizen of African decent or a community of Tanzanian citizens of African decent using or occupying land in accordance with customary law.” S.2 supra ibid

³³⁴ See for example Section 3 of the Land Act no. 4 of 1999, which defines land to include “the surface of the earth and the earth below the surface and all substances other than minerals and petroleum forming part of or below the surface.”

³³⁵ Act no. 4 of 1999, available at <http://faolex.fao.org/docs/pdf/tan23795.pdf>

³³⁶ Act no. 5 of 1999, available at <http://faolex.fao.org/docs/pdf/tan53306.pdf>

³³⁷ Section 2 of the Land Act (note 17) defines the land Act to mean “all land which is not reserved land or village land.” In practice, it includes areas of land falling in municipalities, townships and cities and which are under the supervision of the commissioner for lands.

³³⁸ This category of land is explained in details under S. 7 of the Village Land Act, supra note 22. It consists of areas of land falling within the jurisdiction of registered villages. A village is the lowest administrative unit in Tanzania. Others are a ward, a district and a region.

³³⁹ See Section 4 of the Land Act no. 4 of 1999.

³⁴⁰ Section 6 of the Land Act no. 4 of 1999.

³⁴¹ Specifically, section 22 merely requires the mineral right owner to provide notice of intention to enter into a national park to exercise the mining right. It provides in part, “22(1) Any person who holds a mining right in, over, under or in respect of land comprised in national park, may enter and exercise the same within a national park if he has first given a written notice to the Trustees and Minister and complies with any condition that the Minister in consultation with the Trustees, may impose: provided that the minister shall not impose any conditions inconsistent with the nature of any such mining right granted to such person.”

³⁴² USAID Country Profile, « Tanzania », available at : http://www.usaidlandtenure.net/sites/default/files/country-profiles/full-reports/USAID_Land_Tenure_Tanzania_Profile.pdf

³⁴³ Tanzania Open Government Partnership Action Plan 2012-2013, p. 4, available at: http://www.opengovpartnership.org/sites/default/files/legacy_files/country_action_plans/OGP%20ACTION%20PLAN%20REVISED%20ON%2026-3-2012-1.pdf9__0.pdf

³⁴⁴ Interview with Emmanuel Sulle, independent expert in land tenure security in Arusha, October 2015.

³⁴⁵ United Republic of Tanzania President's Office, « The Tanzania Five Year Development Plan », 2011/2012-2015/16 », p.56 available at : <http://faolex.fao.org/docs/pdf/tan151051.pdf>

³⁴⁶ See also Part IV, Division E in the 2010 Mining Act.

³⁴⁷ Article 24 of the Constitution.

³⁴⁸ Section 3(1)(g) of the Land Act no. 4 of 1999.

³⁴⁹ See The Land Act 1999 Part 11, Fundamental Principles of National Land Policy.

³⁵⁰ Made pursuant to section 179 of the Land Act, available at <http://faolex.fao.org/docs/pdf/tan28341.pdf>

³⁵¹ Regulation 3 of the Land Regulations of 2001.

³⁵² Regulation 4 of the Land Regulations 2001.

³⁵³ See the USAID Country Profile on Tanzania, p. 13, available at: http://www.usaidlandtenure.net/sites/default/files/country-profiles/full-reports/USAID_Land_Tenure_Tanzania_Profile.pdf

³⁵⁴ See: <https://mem.go.tz/wp-content/uploads/2014/12/ESMF-FINAL-VERSION-2.pdf>, p. ii.

³⁵⁵ See: http://www.usaidlandtenure.net/sites/default/files/country-profiles/full-reports/USAID_Land_Tenure_Tanzania_Profile.pdf

³⁵⁶ See for instance the Courts (Land Dispute Settlements) Act 2002, Part III and the Land Act n°4, Part III article 14(4).

³⁵⁷ See for instance the Village Land Act, Part IV(C), article 52.

³⁵⁸ See the USAID Country Profile on Tanzania, p. 11, available at: http://www.usaidlandtenure.net/sites/default/files/country-profiles/full-reports/USAID_Land_Tenure_Tanzania_Profile.pdf

³⁵⁹ For an overview on business and human rights in Tanzania, see the Danish Institute for Human Rights Country Guide for Tanzania, available at: <http://hrbcountryguide.org/compile/>

³⁶⁰ For further explanations of each step see: European Commission – Oil & Gas Sector Guide on Implementing the Corporate Responsibility to Respect (2014) and see other sources in the bibliography to the guide and the bibliography to this Report. See also: the IPIECA's guide to Integrating Human Rights into Environmental, Social and Health Impact Assessments (2013), available at : <http://www.iecea.org/news/20131206/integrating-human-rights-environmental-social-and-health-impact-assessments> and ICMM, « Integrating Human Rights Due Diligence into Corporate Risk Management Processes » (2012), available at : <https://www.icmm.com/page/75929/publications/documents/integrating-human-rights-due-diligence-into-corporate-risk-management-processes>

³⁶¹ For a further explanation of the responsibilities vis-à-vis business relationships, see: http://www.ihrb.org/uploads/reports/EC-Guide_OG.pdf

³⁶² NRGI has noted in their Tanzania Country Strategy (2015) that these are issues they will be addressing as part of their in-country work. See: http://www.resourcegovernance.org/sites/default/files/documents/nrgi_tanzania-strategy_20160629.pdf

³⁶³ United Republic of Tanzania President's Office, « The Tanzania Five Year Development Plan », 2011/2012-2015/16 », p.40, available at : <http://faolex.fao.org/docs/pdf/tan151051.pdf>

³⁶⁴ See: <https://mem.go.tz/wp-content/uploads/2014/12/ESMF-FINAL-VERSION-2.pdf>, p. 15

³⁶⁵ Jennifer J. Hinton et al., « Women and Artisanal Mining: Gender Roles and the Road Ahead, in Hilson, G et al (eds), *The Social Economic Impacts of Artisanal and Small Scale Mining in Developing Countries*, » Sweets Publishers, the Netherlands. (2003)

³⁶⁶ The World Bank, « International Development Association Program Document on a Proposed Development Policy Credit in the amount SDR 65.2 Million to the United Republic of Tanzania for a Second Power and Gas Sector Development Policy Operation » (2014), p.21, available at: http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2014/03/05/000442464_20140305111847/Rendered/PDF/840280PGD0P145010Box382156B000U0090.pdf

³⁶⁷ See the list of recipients appearing here
<http://www.opengov.go.tz/files/publications/attachments/42ce1f9244e41096627921101557d912.pdf>

³⁶⁸ The World Bank, « International Development Association Program Document on a Proposed Development Policy Credit in the amount SDR 65.2 Million to the United Republic of Tanzania for a Second Power and Gas Sector Development Policy Operation » (2014), p.21, available at: http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2014/03/05/000442464_20140305111847/Rendered/PDF/840280PGD0P145010Box382156B000U0090.pdf

³⁶⁹ See the table indicating issues discussed and the percentage of respondents who vocalized them.

³⁷⁰ For example, the Land Acquisition Act no. 47 of 1967 provides that the President may acquire any land for the purpose of mining for minerals and oil. See section 3 and 4, available at http://www.saflii.org/tz/legis/num_act/laa1967174.pdf

³⁷¹ Section 2 of the Land Act no. 4 of 1999 provides that “land includes the surface of the earth and the earth below the surface and all substances other than minerals or petroleum forming part of or below the surface, things naturally growing on the land, buildings and other structures permanently affixed to or under land and land covered by water.”

³⁷² The government does this pursuant to Section 4(1)(e) of the Land Acquisition Act, 1967, which empowers the president to compulsorily acquire any land for the purpose of mining for minerals of petroleum.

³⁷³ For example, Regulation 6 of the Land (Assessment of Values for Compensation) Regulations 2001 provides, “the commissioner or authorized officer shall cause a notice to be published on a public notice board and serve a notice in a prescribed form on every occupier: (a) Notifying the occupier of the land which is subject to compensation (b) Requiring the occupier to submit his claim for compensation (c) requiring the occupier to appear physically on such date, place and time where assessment shall be done.

³⁷⁴ Judicial intervention in this area (at the courts of records, that is the high court and the court of appeal) has been minimal because the Mining Act provides that disputes or dissatisfaction should be forwarded to the commissioner for mining (out of judicial system).

³⁷⁵ According to Regulation 5 of the Land (Assessment of Values for Compensation) Regulations 2001, “qualified valuers” from the Ministry of land and human settlement and (some of whom work with local government authorities) conduct the land valuation.

³⁷⁶ See the Land Acquisition Act of 1967.

³⁷⁷ The World Bank, « International Development Association Program Document on a Proposed Development Policy Credit in the amount SDR 65.2 Million to the United Republic of Tanzania for a Second Power and Gas Sector Development Policy Operation » (2014), p.32, available at: http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2014/03/05/000442464_20140305111847/Rendered/PDF/840280PGD0P145010Box382156B000U0090.pdf

³⁷⁸ United Republic of Tanzania President's Office, « The Tanzania Five Year Development Plan », 2011/2012-2015/16 », p.63, available at : <http://faolex.fao.org/docs/pdf/tan151051.pdf>

³⁷⁹ See the vision of the Tanzania Minerals Audit Agency (TMAA), available at: http://www.tmaa.go.tz/tmaa/about/category/aim_mission_vision

³⁸⁰ The United Republic of Tanzania, « Tanzania Minerals Audit Agency Annual Report 2014 » (2014, available at http://www.tmaa.go.tz/uploads/ANNUAL_REPORT_2014.pdf

³⁸¹ Ibid.

³⁸³ Land compensation in this village relate to the construction of a gas pipeline aimed at transporting Natural Gas from Mtwara to Dar es Salaam. Interview conducted on 29th of November 2015.

³⁸⁴ According to Regulation 5 of the Land (Assessment of Values for Compensation) Regulations 2001, “qualified valuers” from the Ministry of land and human settlement and (some of whom work with local government authorities) conduct the land valuation.

³⁸⁵ See for example, Abdalah Bakari, 'Mtwara Comes to a Stand Still', *The Citizen*, Friday May 17 2013, available at <http://www.thecitizen.co.tz/News/Mtwara-come-to-a-standstill/-/1840392/1855832/-/ftpgal1-/index.html>

³⁸⁶ DIIS, R. Hundsbaek Pedersen and P. Bofin, *The politics of gas contract negotiations in Tanzania: a review* (2015), p.26, available at: http://pure.diis.dk/ws/files/276453/WP_2015_03.pdf

³⁸⁷ Article 107(A) of the Constitution

³⁸⁸ Article 13(6)(a) of the Constitution

³⁸⁹ Article 108 of the Constitution

³⁹⁰ See: <http://www.tanzania.go.tz/home/pages/362>

³⁹¹ Land Dispute Courts Act of 2002 establishes a District Land and Housing Tribunal with jurisdiction over land matters within the district, region or zone in which it is established see :

[http://www.tanzania.go.tz/egov_uploads/documents/02-2002_The%20Courts%20\(Land%20Disputes%20Settlements\)%20Act,%202002%20-%20.pdf](http://www.tanzania.go.tz/egov_uploads/documents/02-2002_The%20Courts%20(Land%20Disputes%20Settlements)%20Act,%202002%20-%20.pdf)

³⁹² See: <http://www.nyulawglobal.org/globalex/Tanzania.html>

³⁹³ See: <http://www.judiciary.go.tz/background-history/>

- ³⁹⁴ See:
https://www.google.be/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&cad=rja&uact=8&ved=0ahUKEwiXiuie15jOAhWJJsAKHX7CAYYQFggrMAI&url=http%3A%2F%2Fwww.hakiardhi.org%2Findex.php%3Foption%3Dcom_docman%26task%3Ddoc_download%26gid%3D173%26Itemid%3D81&usq=AFQjCNGun8dvj10-Cr2915PJBZyH-Qzakw&bvm=bv.128617741,d.d2s
- ³⁹⁵ United Republic of Tanzania, "Human Rights Action Plan 2013-2017", p.12, available at: www.ohchr.org/Documents/Issues/NHRA/Tanzania_en.doc
- ³⁹⁶ See: <http://www.unep.org/delc/Portals/119/events/enforcement-environmental-law-tanzania.pdf>
- ³⁹⁷ Article 129 to 131 of the Constitution of the United Republic of Tanzania, 1977 (As amended from time to time), available at <http://www.judiciary.go.tz/downloads/constitution.pdf>
- ³⁹⁸ Modeled in accordance with the Paris Principles relating to the Status of National Human Rights Institutions, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N94/116/24/PDF/N9411624.pdf?OpenElement>
- ³⁹⁹ See Section 15(1)(a) and (b).
- ⁴⁰⁰ See Section 15(2)(a) to (c).
- ⁴⁰¹ Interview with CHRAGG staff and commissioners in Dar es Salaam 2nd of December 2015.
- ⁴⁰² Interview with CHRAGG' Director of Research and Publications Mr. Godlisten Nyange in Dar es Salaam 2nd of December 2015.
- ⁴⁰³ Interview with CHRAGG's Director of Research and Publications Mr. Godlisten Nyange in Dar es Salaam 2nd of December 2015.
- ⁴⁰⁴ Interview with CHRAGG senior staff members, 17th November 2015. CHRAGG Offices, Dar es Salaam
- ⁴⁰⁵ See section 102 to 105 of the Mining Act of 2010
- ⁴⁰⁶ See section 102(1) of the Mining Act. It states in part, "The commissioner may inquire into and decide all disputes between persons engaged in prospecting or mining operations, either among themselves or in relation to themselves and third parties other than the government..."
- ⁴⁰⁷ Section 102(1)(c) of the Mining Act.
- ⁴⁰⁸ See for example Section 243(4) of the Petroleum Act.
- ⁴⁰⁹ Section 102(2) of the Mining Act.
- ⁴¹⁰ Section 104 of the Mining Act.
- ⁴¹¹ TEITI G7 Report, p. 23, available at: <http://www.teiti.or.tz/wp-content/uploads/2016/04/G7-Tanzania-Partnership-on-Transparency-in-The-Extractive-Sector-Annual-Semi-Annual-Progress-Report.pdf>
- ⁴¹² See:
<http://www.asclme.org/reports2013/Policy%20and%20Governance%20reports/32%20Tanzania%20Policy%20and%20Governance%20Final%20Report%20ASCLME.pdf>
- ⁴¹³ See p.14 : http://www.usaidlandtenure.net/sites/default/files/country-profiles/full-reports/USAID_Land_Tenure_Tanzania_Profile.pdf
- ⁴¹⁴ United Nations Office of the High Commissioner, « UN Guiding Principles », Principle 29, available at: http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf
- ⁴¹⁵ Ibid., Principle 31.
- ⁴¹⁶ See for instance: International Institute for Environment and Development, "Dispute or Dialogue: Community perspectives on company-led dispute mechanisms", (2013). available at: <http://pubs.iied.org/16529IIED.html>
- ⁴¹⁷ See: <https://business-humanrights.org/en/african-barrick-gold-lawsuit-re-tanzania>
- ⁴¹⁸ Ibid
- ⁴¹⁹ See: <http://www.achpr.org/communications/>
- ⁴²⁰ Tanzania has signed and ratified the Protocol establishing the Court, see: http://en.african-court.org/images/Basic%20Documents/Ratification_and_Deposit_of_the_Declaration.pdf
- ⁴²¹ See: <http://www.achpr.org/instruments/achpr/ratification/>
- ⁴²² Article 5(3) of the Treaty for the Establishment of the East African Community, available at: http://eacj.org/?page_id=33
- ⁴²³ Article 6 (d) of the Treaty : good governance including adherence to the principles of democracy, the rule of law, accountability, transparency, social justice, equal opportunities, gender equality, as well as the recognition, promotion and protection of human and peoples rights in accordance with the provisions of the African Charter on Human and Peoples' Rights
- ⁴²⁴ Interestingly, the Court notes that "The jurisdiction of the Court may be extended to human rights at a suitable date to be determined by the Council"(see: http://eacj.org/?page_id=27.), see also: <http://eacj.huriweb.org/wp-content/uploads/2013/09/Overview-of-the-EACJ.pdf>
- ⁴²⁵ See: <http://eacj.org/?p=2221>
- ⁴²⁶ For the current list of countries adhering to the Guidelines, see: <http://mneguidelines.oecd.org/ncps/>
- ⁴²⁷ OECD, « Guidelines on Multinational Enterprises » (2011), available at: <http://mneguidelines.oecd.org/text/>
- ⁴²⁸ See: <http://www.oecdwatch.org/filing-complaints>
- ⁴²⁹ See: <http://www.ihrb.org/focus-areas/commodities/meeting-report-oecd-national-contact-points-extractive-sector-second-event>
- ⁴³⁰ See: <http://ewebapps.worldbank.org/apps/ip/Pages/Related%20Organizations.aspx>
- ⁴³¹ "Glass Half Full? The state of accountability in development finance", (2016), p. 17 (reflecting the work of 11 civil society organizations), available at: http://grievancemechanisms.org/resources/brochures/IAM_DEF_WEB.pdf.

- ⁴³² SOMO, "The Patchwork of Non-Judicial Grievance Mechanisms", (2014). available at: <http://grievancemechanisms.org/attachments/ThePatchworkofNonJudicialGrievanceMechanisms.pdf>. See also "Glass Half Full? The state of accountability in development finance", (2016)
- ⁴³³ See: http://www.cao-ombudsman.org/cases/case_detail.aspx?id=113
- ⁴³⁴ Ibid
- ⁴³⁵ The Voluntary Principles on Security and Human Rights. available at: <http://www.voluntaryprinciples.org/>
- ⁴³⁶ The International Code of Conduct Association is a multi-stakeholder initiative that aims to set principles and standards based on international human rights and humanitarian law, for the private security industry operating in complex environments, as well as to improve oversight and accountability for these companies. available at: <http://icoca.ch/en/icoc-association>,
- ⁴³⁷ The International Code of Conduct Association, « International Code of Conduct for Private Security Providers, » arts. 66-67. available at: http://icoca.ch/en/the_icoc
- ⁴³⁸ See: <http://icoca.ch/en/complaints-process>
- ⁴³⁹ See:
http://icoca.ch/en/membership?private_security_companies%5Bcompanies%5D=companies&area_of_operation=all&headquarter_country=222&keywords=&op=Search&view_type=list&form_build_id=form-p3EpyO0Kid2ALGMTZzL9MWopG-wqC2r9LV1g4MdZwE&form_id=_search_for_members_filter_form#search_for_members_list
- ⁴⁴⁰ The United Republic of Tanzania, "The Tanzania Development Vision 2025", available at: <http://www.unesco.org/education/edurights/media/docs/061eb2eed52b8f1b09b25a8845436f19d5ae0ad.pdf>
- ⁴⁴¹ OHCHR, "Basic Principles and Guidelines on Development - Based Evictions and Displacement", available at: http://www.ohchr.org/Documents/Issues/Housing/Guidelines_en.pdf
- ⁴⁴² International Finance Corporation, « Performance Standard 5», available at: http://www.ifc.org/wps/wcm/connect/3d82c70049a79073b82cfaa8c6a8312a/PS5_English_2012.pdf?MOD=AJPERES
- ⁴⁴³ United Republic of Tanzania. « National Human Rights Action Plan 2013-2017. » p. 49 available at http://www.chragg.go.tz/docs/nhrap/NHRAP_Final_December_2013.pdf
- ⁴⁴⁴ Section 29 of the Commission for Human Rights and Good Governance Act, no. 7 of 2001 provides, "The funds of the commission shall consist of moneys (a) appropriated by parliament for the purpose of the commission (b) accruing to the commission from any other source, or (c) which are donations or grants from sources within or outside the United Republic.
- ⁴⁴⁵ The United Republic of Tanzania. "National Human Rights Action Plan 2013-2017" p.. 51, available at http://www.chragg.go.tz/docs/nhrap/NHRAP_Final_December_2013.pdf
- ⁴⁴⁶ Ibid
- ⁴⁴⁷ See: <http://www.nanhri.org>
- ⁴⁴⁸ The United Republic of Tanzania. « National Human Rights Action Plan 2013-2017 ». p.51. Available at http://www.chragg.go.tz/docs/nhrap/NHRAP_Final_December_2013.pdf
- ⁴⁴⁹ See: <http://www.ihrb.org/focus-areas/kenya/>
- ⁴⁵⁰ OECD, "OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector », available at: <https://mneguidelines.oecd.org/stakeholder-engagement-extractive-industries.htm>
- ⁴⁵¹ International Finance Corporation, A Strategic Approach to Early Stakeholder Engagement - A Good Practice Handbook for Junior Companies in the Extractive Industries, available at : <http://commdev.org/wp-content/uploads/2015/06/A-Strategic-Approach-to-Early-Stakeholder-Engagement.pdf>
- ⁴⁵² United Nations Guiding Principles, Principle 31
- ⁴⁵³ Columbia Centre for Sustainable Investment, Emerging Practices in Community Development Agreements, (2016), available at: <https://www.commdev.org/emerging-practices-in-community-development-agreements/>

Human Rights in Tanzania's Extractive Sector

Exploring the Terrain

Background

Tanzania is Africa's fourth biggest gold producer and also has a wide range of other mineral resources. 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. In addition, the past few years have seen significant increases in exploration for oil and gas along the coast. Together, exploitation of these resources has the potential to significantly change Tanzania's growth trajectory.

Message

This report is the product of desk-based and on-the-ground interviews to assess the existing human rights and environmental impacts attributed to Tanzania's increasing extractive sector activities.

Recognising that the policy and legal framework plays an important role in setting the conditions to reinforce the corporate responsibility to respect human rights in the extractive sector, the Report includes an in-depth analysis of the policy and legal framework from a human rights perspective. Where these frameworks leave gaps or contradict international human rights standards, they present a challenge to a level playing field among companies, as the gaps can be filled by good – and bad – practices. This can result in significant adverse impacts for local communities, as the field research highlights. The field-based, on-the-ground interviews provide perspectives from local communities, businesses and local governments on challenges and the impacts across a range of human rights.

While the Report highlights a range of impacts, the increasing pace of granting mining and oil and gas concessions in areas occupied by communities has predictably made the adverse impacts on land rights the most prevalent complaint arising from formal and informal extractives activities in Tanzania. This is not only because resource extraction must take place beneath the land that communities rely on for livelihoods, but also because land and extractive laws subordinate community rights to resource exploration and extraction. Community members consistently reported dissatisfaction with compensation for land acquisition, the lack of security of land tenure, and the multiple impacts of resettlement.

Implications

All stakeholders in Tanzania's extractive sector – the Tanzanian Government, oil, gas and mining companies, investors, home governments, and civil society organisations – are encouraged to explore the terrain of human rights in Tanzania's extractive sector. This Report serves as a tool to better understand where the gaps exist and use the stakeholder-specific recommendations to effectively prioritise and advocate to close these gaps, providing a solid basis for the further expansion of Tanzania's extractive sector in line with sustainable development.

