
**“BLESSING OR CURSE”:
THE ACQUISITION OF LAND FOR MINERAL EXTRACTION AND ITS EFFECTS
ON RURAL WOMEN’S LIVELIHOODS:
A CASE OF SHURUGWI, ZIMBABWE**

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BY

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Abstract

There have been many discussions about how the livelihoods women, their families and ultimately their communities who are affected by mining operations, especially large-scale operations, invade their rural home areas. However, they have focused mainly on the issue of women's participation in mining. Usually, women who intend to participate in mining are already financially privileged. The original and poor inhabitants of a community, however, are usually forgotten as soon as mining activities kick off and their women are the most adversely affected as a result. This is because men find it easy to adjust and participate in mining activities of their own or provide manual labour to organized mining operations. Taking the women from Shurugwi communal area as an example, this dissertation conducts a critical analysis of the effects and impact of mining activities on their lives. Methodologies included but were not limited to the women's law approach and its various perspectives that looked at equality and non-discrimination, sex-gender analysis and the actors and structures approach which were employed in the collection of data in order to unpack women's lived realities. Appropriate data collection methods that include focus group discussions and individual interviews among others were also used to collect and present data contextually. Despite the presence of favourable legal provisions seeking to protect the rights of women as they lose their land to mining interests and purposes in Zimbabwe, women continue to have their rights violated as very little is being done to reduce its devastating effects. Mining laws are not implemented to protect women's socio-economic rights which are grossly violated as a direct result of the hugely invasive extractive industry. This results in women resorting to alternative hazardous economic livelihoods. The writer suggests several recommendations for the state and relevant stakeholders to adopt to implement in order to address the challenge that Shurugwi women are facing. There should be strict implementation of policies that ensure farming communities are well compensated when their land is acquired for mining purposes and stringent penalties for mining companies that pose environmental hazards must be introduced and implemented

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Declaration

I, Vimbayi Gladys Mupazviripo, certify that this thesis is my original work; it is an honest and true effort of my personal research. I certify that the work has not been presented anywhere else before any other thesis.

Signed.....

Date.....

This dissertation was submitted for examination with my approval as the University Supervisor.

Signed.....

Date.....

Dedication

I dedicate this work to my son, Usher. You have always been the reason why I wake up to work harder. I thank God for entrusting me with your life. I did this for you, so that you could grow to understand the significance and value of education for one to be successful in life.

To myself, the sky is not the limit. I am proud of myself for making it, finally.

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List of abbreviations and acronyms

CEDAW	Convention on the Elimination of All Forms Against Women
CNRG	Centre for Natural Resource Governance
CSOT	Community Share Ownership Trust
EIA	Environmental Impact Assessment
EMA	Environmental Management Act [Chapter 20:27]
FGD	Focus Group Discussion
ICESCR	UN International Covenant on Economic, Social and Cultural Rights
Maputo Protocol	Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa
NGO	Non-governmental organisation
RDC	Rural District Council
SDG	Sustainable Development Goal
SI	Statutory instrument
ZELA	Zimbabwe Environmental Law Association
ZIMASCO	Zimbabwe Mining and Smelting Company
ZRP	Zimbabwe Republic Police

List of international human rights instruments

African Charter on Human and Peoples' Rights

Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Maputo Protocol)

Convention on the Elimination of All Forms Against Women (CEDAW)

Sustainable Development Goal (SDG)

UN International Covenant on Economic, Social and Cultural Rights (ICESCR)

SADC Protocol on Gender and Development

List of local legislation

Communal Lands Act [Chapter 20:04]

Constitution of Zimbabwe Amendment (No. 20) Act, 2013 (the Constitution)

Environmental Management Act [Chapter 20:27] (EMA)

Indigenization and Economic Empowerment Act [Chapter 14:33]

Land Acquisition Act [Chapter 20:10]

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CHAPTER ONE

1.0 INTRODUCTION AND BACKGROUND TO THE STUDY

1.1 Introduction

When I was 15 years old, I took part in a vending business. Together with young women from my village we would wake up and walk more than ten kilometers to the area just south Shurugwi town where we sold vegetables, cooked food and fruits. I witnessed the setting up of Unki Platinum Mine and the expansion of informal mining activities in the same area. From the daily conversations we had with our customers and other villagers along the way to Boterekwa, I became aware of the relocations of people from their pieces of land in order to pave way for mining activities. Having witnessed Unki Mine's rising to be one of the richest mines in Southern Africa, I still harbour doubts about the welfare of women who were relocated from what is now Unki, about women whose land has been encroached upon by artisanal miners and what became of their livelihoods.

The expansion of mining activities in communities, especially rural set-ups in Zimbabwe, changes family wealth and their welfare. For women in Shurugwi, the growth of both formal and informal mining activities meant a sudden shift in their socio-economic livelihoods. Loss of economic livelihoods has contributed to a myriad of activities like the substitution of mining mechanized (as opposed to panning) and preparation of food for sale to miners for farming, a shift in household power relations and relocations among other changes. Gender roles were also redefined to some extent as women became involved in mining activities which activities were regarded as suitable for males only.

The mining activities had far reaching positive and negative impacts. Formal mining activities were revived towards the year 2000 and this saw the setting up of a large-scale Anglo-American mining company, Unki. The mine was pegged at Shungudzvhu, a village, where inhabitants survived from the operations of horticulture. The villagers were relocated to Ruchanyu whilst some were resettled at Village 17, Shurugwi. These changes brought about many losses to women and children in particular. For instance, the relocation of villagers to Village 17 was without compensation and livelihoods were destroyed. In addition, women bore the brunt of several environmental impacts from formal mining activities as well as artisanal mining. Soil and water resources were negatively impacted as water was polluted and there was massive deforestation caused by the mining companies as

they effectively cleared large tracks of land in order to expose mineral ore. Land degradation is also a common feature and as the then Deputy Minister of Environment said in the year 2007¹:

“The environment has been ruined. If we allow panning to continue the country cannot afford its reclamation ... What I have seen is land destruction at its worst. Who will be responsible for filling these shafts? The extent of the plunder is shocking. It is as if these people were using motorized machinery like graders when they were using picks and shovels ...”

Although the above was said in relation to Chiadzwa in Manicaland, the same can be said about Shurugwi. Deaths have also been witnessed. When I embarked on my study, I witnessed the same situation. Both mechanized and manual mining activities are causing massive land degradation. The existent biodiversity was severely damaged as the mining operations created an environment unsuitable for the survival of many biological species.

As a result of the above changes, I conducted this study to ascertain the extent of the above impacts on women. The study sought to obtain insights into and obtain reliable experiential data about the plight of the women by interviewing the women, state actors and the men in the community. There arose the need to analyze women’s position in all the developments that have taken place in the mining town. Assumptions relating to women’s loss of land, encroachment on their land by miners and the extent of other effects of mining on women and children had to be confirmed by thorough research. Several findings were gathered and information was sifted accordingly. After concluding the study, I found it imperative to draw conclusions from my findings and come up with feasible recommendations.

1.2 Background and significance of the study

I spent the better part of my childhood in Shurugwi and witnessed various injustices being perpetrated against women in my community. This explains why I chose to pursue a study related to women’s socio-economic rights despite the fact that I have experience in private legal practice. I witnessed the transformation of the community for the past two decades and I have always been motivated to see to it that injustices that befell women from Shurugwi during the transformative period from a farming to a mining community are remedied. Literature has confirmed my assumption that:

¹ The Manica Post, 16 March 2007.

“mining operations impose high negative social costs on local community members, with very limited benefits. Communities in mineral resource-rich areas suffer from mining-induced irregular displacements, degradation of their lands and environment, loss of life and livestock to deep open pits left by mining operations, and loss of communal land and natural resources. Because local communities do not have strong communal title, mining companies typically fail to pay compensation to local community members in cases where they are displaced” (Makore, 2016).

Further, my wish to see the socio-economic injustices being addressed was exacerbated by the fact that previous studies and reports have mainly been focused on the general effects of mining on communities and participation of women in mining. Very little attention has been paid to the impact that mining activities have upon local women’s economic livelihoods. The shift and concentration on mining instead of agriculture has a huge impact on women who are forced to resort to alternative means to sustain themselves and their families. Mining greatly affects women’s livelihoods. The mining industry globally is a classic male-dominated sector (Benya 2009; Lahiri-Dutt & Macintyre 2006; Andersson, Faltholm, Abrahamson& Lindberg, 2013). This is mainly premised on the fact that mining is greatly engendered and men tend to benefit more from mining activities. It is indisputable that men and women are affected differently. The study explores and interrogates women’s experiences in an attempt to have a clear understanding of the reality of what women in Shurugwi go through in their daily lives.

1.3 Statement of the Problem

Section 71(2) and (3) of the Constitution of Zimbabwe Amendment (No. 20) Act, 2013 (the Constitution) provides that the state has an obligation to ensure that everyone, including women, enjoys their rights to own, possess, lease, hypothecate and transfer land. Women are not excluded from enjoying this right. Further, Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa (Maputo Protocol) to which Zimbabwe is a party also imposes an obligation to the state to take appropriate measures “to promote access to and control over productive resources such as land and guarantee their right to property” under its Article 19(c). However, in Shurugwi, women are not enjoying their right to land as their land was acquired by large scale mining companies for mining purposes and they were relocated.

The land available is also being encroached upon by artisanal miners among other violations to women’s right to own land. Although the Constitution provides for such real rights,

the Mines and Minerals Act² prioritizes mining over other land uses, further weakening women's land rights. There is often perceived collusion between Government and mining companies due to Government's efforts to promote investments "at all costs" (Makore, 2016). This is mainly due to the gaps manifest in our legislation. The Mines and Minerals Act and its several amendments and regulations are not aligned to the Constitution which renders implementation of Constitutional Provisions a futile exercise. Alignment of mining laws to the Constitution will guarantee full enjoyment of land rights by women.

1.4 Objective of the research

The main objective of the research was to investigate the position of women from Shurugwi with regard to their equal enjoyment of access and ownership of land and land rights after the expansion of formal and informal mining activities in their community, that is, to ascertain whether land rights are enjoyed equally and fairly.

1.5 Research assumptions

1. Large scale platinum and gold mining activities taking place in Shurugwi communal lands are encroaching on agricultural land resulting in women's access to land being affected.
2. It is mostly men who benefitted and are still benefitting from the mining activities taking place in Shurugwi because the employment criteria at the mining companies discriminate against women and perpetuate gender roles.
3. Women have been adversely affected by the mining activities through increased health hazards and the perpetuation of the burden of care-giving due to ineffective control mechanisms.
4. The setting up of a platinum mine in Shurugwi has led to loss of viable economic livelihoods for women.
5. The appropriation of agricultural land by Unki and other mines has compelled women to look for alternative sources of livelihood and food.

² [Chapter 21:05].

1.6 Research questions

1. Are the large-scale mining activities in Shurugwi encroaching on agricultural land?
2. Is the Shurugwi women's right to access land affected by the large-scale mining activities?
3. Are men benefitting more than women from the mining activities taking place in Shurugwi?
4. Do the employment criteria at the mines in Shurugwi discriminate against women and perpetuate gender roles?
5. Are women being adversely affected by the mining activities in Shurugwi through increased health hazards and perpetuating the burden of care-giving?
6. Are the effects of the mining activities being felt by women in Shurugwi a result of ineffective control mechanisms?
7. Did women in Shurugwi lose their viable economic livelihoods as a result of the setting up of a platinum mine?
8. Were women forced to look for alternative sources of livelihoods as a result of the appropriation of land for mining purposes by Unki and other mines?

1.7 Demarcation of the research

In the Midlands Province of Zimbabwe lies Shurugwi Township, formerly known as Selukwe, established in the year 1989 by the British South Africa Company. It is located around 32 kilometres from Gweru, the Midlands capital. The small township is surrounded by communal land and mining companies. It is Zimbabwe's largest chrome producer and minerals such as nickel, gold and platinum are also mined. The largest mining employers in the area are Zimbabwe Mining and Smelting Company (ZIMASCO) which mines chrome and Unki Mine which mines platinum. The former, however, is being wound up.

Shurugwi communal land falls under the jurisdiction of several Chiefs namely Banga, Nhema, Ndanga, and Mudzengi. The communal area used to thrive on agricultural activities until recently with the expansion of mining operations. Most farmers from the communal land practice peasant farming as they produce high grain producing crops such as maize and wheat.

The study was conducted in Chironde area (ward 21), Hanke Mission (ward 13), Tongogara area and partly Makusha Township in Shurugwi urban. These areas fall under Tongogara Rural District Council (RDC) except for Makusha Township. The areas contain a fusion of communal resettlement and mining areas. Chrome, gold and platinum are the major minerals that are being extracted by both large-scale and artisanal miners. Artisanal mining takes place along the Mutevekwi River as well as just below the Danraven Falls or the famous Boterekwa Pass whereas the platinum mine is found at Unki Mine, a subsidiary of Anglo-American which is located in the formerly Shungudzevhu area and expands into Makwikwi resettlement area.

1.8 Definitions of key words and terms

This part provides definitions of key terms related to the study as defined by the relevant Acts or dictionary. They will help to give a clearer picture of issues that are to be explored and discussed in the study.

Land is the earth's surface that is not covered by water³ and includes anything permanently attached to or growing on it.⁴

Ownership consists of a bundle of rights and powers, it comprises the right to possess, the right to use, the right to manage, the right to the income of the thing, as well as the right to the capital and the right to security (Bell & Parchomovsky, 2005).

Environment is defined under section 2 of the Environmental Management Act⁵ as “the natural and man-made resources, physical resources, both biotic and abiotic, occurring in the

³ Thesaurus, English Dictionary, 5th Edition.

⁴ Constitution of Zimbabwe, section 72(1).

⁵ [Chapter 20:27].

lithosphere and atmosphere, water, soil, minerals and living organisms, whether indigenous or exotic, and the interaction between them.”

Environmental Impact Assessment (EIA) is an evaluation of a project to determine its impact on the environment and human health and to set out the required environmental monitoring and management procedures and plans.⁶ In mining, it is a requirement for an EIA to be conducted before the commencement of mineral extraction.

Natural resources are resources that are not man-made like trees, air, soil, water, land, animals, minerals and vegetation among others.

Pollution refers to the direct or indirect alteration of the normal or ordinary properties of the environment caused by the discharge, emission or deposit of a substance into the environment in such quantity and for such duration and under such conditions causing actual or potential danger to the environment or to human health.

To sustain means “to hold up; to bear; to support; to provide for; to maintain; to sanction; to keep going; to keep up; to support the life of: to prolong”⁷ (Oxford English Dictionary)

Sustainable development refers to economic development that is carried out without depletion of the environment or natural resources.

Communal land refers to certain rural land. It is usually governed by traditional chiefs.

Extractives refers to the processes that involve the extraction of raw materials like minerals and metals from the earth.

Exploration is the process whereby mining licence holders collect geological information and analyse it as they try and identify mineral deposits before carrying out mining processes.⁷

Prospecting is a stage that comes before exploration of minerals. It is also a geological analysis. Persons with prospecting licenses can prospect on pieces of land.

⁶ Section 2, EMA Act.

⁷ Oxford English Dictionary.

Compensation refers to the award that someone receives in recognition of loss, injury or suffering. It is also meant to offset a psychological difficulty.

Artisanal mining refers to mining that is carried out by people who are not officially employed by mining companies. Artisanal miners use their own resources and are known for operating illegally.

CHAPTER TWO

2.0 THEORETICAL AND METHODOLOGICAL FRAMEWORK

2.1 Introduction

When I opted for Women, Land and Environmental Resources as a subject in the Masters of Women's Law degree at SEARCWL, I had no interest in mining but the lectures from the visiting and resident lecturers sparked and increased my interest. I developed the desire to study how mining is impacting the livelihoods of women from the poor segments of our society who identify with my social background. During the course of the research, I saw the need to unearth the lived realities of women in Shurugwi with regard to how the expansion of mining activities in their community has impacted their lives. I adopted several methodologies and employed appropriate theories that enabled me to successfully access the relevant information that I needed from the respondents in order to answer the research questions. Each of the above played a critical role throughout the research. Further, the methods that I employed also enabled me to identify the relevant and crucial informants I needed to properly inform this research.

2.2 Theoretical framework

2.2.1 Marxist and socialist feminist theories

Marxist feminism recognizes that women are oppressed and urges us to understand women's oppression as a product of the political, social and economic structures that are associated with capitalism. Capitalism can be characterized as a private property system to which women's oppression is attributed. Key issues under marxist feminist include the role of class, socialisation of housework and wages for housework. Class is said to play an important part in society because when it is instituted in a society women end up being oppressed. The question of who does what in the home always comes into play. Marxist feminists believe and insist that the only way to end women's oppression is to overthrow the capitalist system.

Feminists are of the view that in industrial production, which is primarily carried out by men, the owners of the means of production, appropriate the profit. This profit represents the difference between the wage, which the workers are paid for their reproduction, and the real value of the products they produce. The wage covers expenses for, for example, the food and rent of the whole family, but does not remunerate the reproductive labour mostly done by women (Federici 2012, 25ff.).

Furthermore, feminist economists emphasize that power relations remain in place. First, they argue that power relations manifest themselves in the form of low payment of equal and fair remuneration for women or the double burden of women, who apart from wage labour, carry out most of the reproductive labour. They also say that capitalist production is not only based on the exploitation of women, which is the main feature of capitalism, but also on the exploitation of nature. Women's contribution to the economy and natural resources are systematically undervalued.

Socialist feminism is a combination of Marxism and radical feminism in which Marxism plays a dominant role (Alison, Jaggar and Rothenberg, 1993). One notable aspect differentiating Marxists and socialists is the fact that they refer to themselves as radical but they normally use the term to refer to the economic system which is a completely different root of the society.

Using this theory, I managed to assess the social and economic structures of the community. It became evident that women do most of the work and manage their families' livelihoods through various economic activities. Before the expansion of mining activities farming was a major source of livelihoods and women were at the forefront of farming activities. However, they were or are still oppressed as a result of the societal set-up which disregards their efforts. Men are considered the landowners with rights to sell and dispose farming produce, whereas women are labourers whose contributions are routinely undervalued.

Further, during the Focus Group Discussions⁸ it emerged that women who are lucky enough to get employed by large-scale mining companies are allocated low paying jobs. In artisanal mining, the same is witnessed where gold buyers offer meagre payments for gold when they buy from women.⁹ Power relations still influence the remuneration and value placed on women's economic contributions.

2.2.2 *The Resource Curse Theory*

This theory, introduced by Richard Auty in 1993, describes how societies rich in natural resources were not able to utilize their wealth in order to improve their economies and how the same countries had lower economic growth compared with companies with fewer or less

⁸ Focus Group Discussion held at Chironde Business Centre on 21 December, 2019.

⁹ As indicated by women who were panning gold near Boterekwa Hills and along Mutevekwi River.

natural resources (Auty, 1993). This theory brings out the links between the availability of resources in a particular country and the poverty that is usually prevalent in such countries.

Resource curses include the mismanagement of resources and gender inequalities that result in gender specific forms of harm. According to Mailey (2015):

‘for the vast majority of resource rich African states, oil and mineral wealth has not translated into improved living conditions for citizens but contributed to growing disparity, corruption, and repression.’

A similar situation is witnessed in Shurugwi as it is evident that although it boasts vast amounts of mineral resources, its local residents have hardly benefitted from them. Women are the most disadvantaged as they find it difficult to engage in lucrative large-scale mining which is monopolized by huge companies like Unki Mine. Furthermore, they find it difficult to secure employment with these mining companies and end up risking their lives in artisanal mining activities to sustain themselves. When they do manage to secure contracts to collect chrome for these companies, they suffer horrific environmental disasters like pits collapsing in on them and they are also severely under paid.

2.2.3 Eco-feminism

This type of feminism brings out feminist perspectives on the environment. It can be described as being more spiritual than political or theoretical in nature. Its main argument is that a society exploits its resources without taking cognizance of its long-term effect on the environment. This is said to result from the attitudes present in a patriarchal or hierarchical society. A society’s treatment of the environment and its natural resources alongside its treatment of women are often scrutinized and parallels are drawn. Radical eco-feminists’ ‘main point is to resist patriarchal culture which is believed to be the factor behind the plundering of the earth.’ Ecological feminism is best described by Charkiewicz (1994:161) as:

“a significant stream within the feminist movement, containing a range of theoretical positions which rest on the assumption that there are critical connections between the domination of nature and of women. Eco-feminism points to the interconnections between feminist and ecological concerns.”

There are important connections between the domination of women and the domination of nature, an understanding of which is crucial to feminism, environmentalism, and environmental philosophy (Warren, 1987). The main idea behind eco-feminism is to reveal these connections between women and nature. Where the connections are harmful to women, eco-feminists seek to dismantle them.

Radical feminists rightfully posit that women's work in the management of environmental resources must always be valued and given enough recognition. Juliet Scorfield Russell in her paper entitled, *The Evolution of an Eco-feminist*, adopts a radical eco-feminist position by celebrating the biology and nature of women's bodies and their reproductive roles in nature and environmental management. She states:

“...start becoming aware of ourselves as an integral part of the body of humanity... a child of Mother Earth still cradled in her womb with all our brothers and sisters of the plant and animal kingdoms... Mothering Earth in our everyday life will become a personal imperative.”

I applied this theory to my study and it emerged that women, unlike men, usually play a major custodial role in protecting the environment. In Shurugwi, men who constitute the majority of miners and community leaders are actually the ones who commence gold panning on river banks and on agricultural land. Women on the other hand are pro-environmental protection hence they are not supportive of the idea of mineral excavation along rivers. Women prefer to keep the environment intact in order to ensure that their families' needs are safeguarded. They take into consideration needs like drinking water, pastures for their domestic animals, the safety of their domestic animals as well as food and medicinal needs that are provided by mother nature. A woman interviewed near Todai Mine mentioned that the community would benefit more if the environment is safeguarded as this has a long-lasting effect, unlike mining which is short-lived.

2.3 The Women's Law Approach and its various perspectives

Women's personal experiences with mining, agriculture and the loss of economic livelihoods is significant in order to ascertain how they are effected. The women's law approach specialises in the collection of data based on women's actual lived realities and experiences as a starting point. Women's responses were relevant. This was mainly due to the assumption that the mining sector is male-dominated and women find it difficult to sustain themselves.

There is a need to assess and have a better understanding of the various experiences of men and women. Women's needs are usually ignored and the systems end up becoming oppressive towards women. Issues to do with gender inequalities and how these may be addressed had to be interrogated using this approach in order to craft recommendations that rightfully address women's equality needs and dismantle gender stereotypes.

Stang Dahl (1987) calls for what she terms "critical awareness" and further asserts that it is through such awareness and understanding of these negative women's experiences that conditions are created to counteract them. As such, this approach proved to be valuable in evaluating the laws and their effectiveness in protecting the livelihoods of women in Shurugwi. It was imperative for me to check whether the law addresses women's needs even when it is crafted in a manner that appears gender neutral.

My assumptions were formulated based on literature which indicates that examples and case studies from all around the world have drawn attention to the need to make visible the roles of women in large-scale mining operations and to encourage government and industry to adopt inclusive community development processes to ensure that mining-led development can benefit women and men equally (Kuntala, 2011).¹⁰ Just like Kuntala and Macintyre (2006), I tried to adopt an approach that challenged the gender-blind, male-centered conceptualisations of development evidenced by the conduct of the extractive industries. As a result, I ended up taking up a women-centered approach that is more inclined towards the "human rights of women". All my assumptions were confirmed during the research albeit with minor alterations.

2.3.1 Equality and non-discrimination

This perspective stems from the women's law approach and adopts a human rights perspective. It incorporates a human rights based approach which is premised on the universality and fundamentality of human rights. Equality and non-discrimination are universal human rights and, as such, must be protected and promoted. Non-discrimination is linked to equality and it gives special attention to vulnerable groups and, in this study, women. Charlesworth et al. (2000) posit that the lives of women are lived out largely in the private sphere, where violations against women are more likely than not committed by non-

¹⁰ In Gendering the field: towards sustainable livelihoods for mining in mining communities.

state actors. In recent times debates have been centered on the content, interpretation and application of personal laws based on customary and religious principles.¹¹

Women's rights in customary and religious normative orders can or may be human rights compliant (Hellum, 2007). Under this conceptual framework I looked at international human rights and principles alongside how they are integrated in the legal and policy framework of the society. During the study I had the opportunity to investigate how women in Shurugwi lost land, how they were relocated, whether they were adequately compensated and how their current sources of livelihood, their Constitutional and human rights were affected. I had to assess whether they were afforded equality and non-discrimination during the transition process.

Zimbabwe is a signatory to several international statutes that promote equality and non-discrimination. During the study I discovered that the country is lagging behind because women continue to suffer discrimination. I also investigated whether the women as environmental rights holders, in terms of Article 18 of the Maputo Protocol, are living in an unhealthy and unsustainable environment considering the prevalence of artisanal mining and irresponsible large-scale miners. Article 18(1) of the Maputo Protocol grants women the right to live in a healthy and sustainable environment. In addition, Article 14(1) of Convention on the Elimination of All Forms Against Women (CEDAW) imposes an obligation on state parties to take into account the problems faced by rural women and the significant roles they play in rural economies and therefore take all appropriate measures to ensure that the provisions of the convention are applied for their benefit.

I interviewed both men and women in order to ascertain their awareness of these human rights and the extent of the concepts of equality and non-discrimination. Consultations with the relevant stakeholders also allowed me to interrogate why there are some gaps in our laws and policies when it comes to the enjoyment of human rights. The national legal framework was also scrutinized in order to check whether there is equality and non-discrimination in the application of the laws. For instance, I looked at section 4(1) of the Environmental Management Act [Chapter 20:27] which provides for environmental rights for all individuals.

¹¹ Banda, F., Women's Law and Human Rights, An African Perspective.

It came to my attention that the provisions are not gender specific hence there is no substantive equality. Women's specific needs must be considered during legal and policy formulation. Other statutes in place were also explored in order to find out whether they are complying with international provisions that provide for the non-discrimination of women. I examined whether Zimbabwe is complying with Article 18(2) and fulfilling its obligation to ensure women's participation in the planning, management and preservation of the environment among other environmental rights. Human rights must be awarded equal status as they are interdependent.

In order to make this approach holistic, I carried out interviews with women from Shurugwi, non-governmental organisations and the Gender Office at the Regional Office of the Ministry of Mines and Minerals in Gweru. It was necessary to examine whether the mechanisms employed by duty bearers discriminate against women directly and indirectly. This was done since the assumptions emphasized the importance of human rights..

2.3.2 Legal Pluralism

The concept of legal pluralism is based on the recognition that many other regulatory and normative frameworks outside the narrow confines of the formal legal system affect and control people's lives (Bentzon et al., 1998:41). People in colonial settings often had a choice to opt for one legal system over another and the state was not a passive onlooker but an active agent in the construction of multiple legal orders.¹² This term refers to the politics of law and the entanglement of laws in plural legal orders (Benda-Beckman and Turner, 2018), namely, the co-existence of statutory laws and customary laws. This is recognized in Zimbabwe through section 89 of the Zimbabwean Constitution which provides for a dualist legal system in which customary law is applied alongside general law. Customary law is known for being discriminatory against women mainly due to the fact that it is interpreted and dictated by traditional leaders who in most cases hail from patriarchal systems (Rutsate, 2010). For instance, customary law allowed chiefs with colonial authority to enhance their power and stewardship over land at the expense of women's rights to land and it is a creative, still ongoing practice that entails combining state law with custom (Stewart 2003, 48; Hellum et al., 2007).

¹² The Journal of Legal Pluralism and Unofficial Law.

As a result of legal pluralism, men have more control of land than women. This is despite the fact that the Constitution has repealed some of the historical legal barriers to women's land rights. I noted that on the ground land and other socio-economic rights remain unachievable for the majority of the women in Shurugwi. I had to investigate the co-existence of laws in as far as women's empowerment is concerned. Enactments like the Constitution, the Labour Act, the Mines and Minerals Act, the Environmental Management Act and the Rural District Councils Act contain progressive provisions which can be used as tools to empower women. However, there exist customs and beliefs that dictate women's position regarding land ownership and the control of natural and environmental resources.

During the initial stages of the research an interview with Chief Mudzengi revealed that traditional leaders are against the idea of women being employed at mines or participating in key decision-making processes. He claimed that women usually become promiscuous when they take up formal employment as a result of which they neglect their domestic duties. I noticed that the internal conflict between the laws became evident.

2.3.3 Actors and Structures

The study was mainly premised on the issue of women's livelihoods hence it became imperative for me to examine the role played by government institutions and structures in place in the development of livelihoods. Such institutions are meant to aid the successful attainment of sustainable socio-economic livelihoods through the provision of infrastructural and other needs. This was emphasized during a focus group discussion that Unki mine supported women's social livelihoods by constructing waiting shelters for pregnant women at Chironde Clinic and Ndanga Hospital at Chachacha. It has been said:

“Strategic human action may be directed at maintaining or changing structures or finding ways to exploit opportunities, social, administrative, legal structures” (Bentzon et al., 1998).

The influence of actors such as the EMA, mining companies and the mining regulatory bodies on the on the ground had to be evaluated. This was in line with part of my assumption which sought to attribute the negative impact of mining on women to ineffective mechanisms. I went on to examine how the laws in use were influenced by structures at the

time of their conception. For instance, the Environmental Management Act [Chapter 20:27] (EMA) which was enacted during the “green revolution” era.

2.3.4 Sex-gender analysis

It was necessary for me to analyse how men and women were affected during the expansion of mining activities in Shurugwi as well as how they managed to boost their economic livelihoods. A sex-gender analysis allows one to examine all issues through sex and gender lenses, and investigate and assess the social and economic dynamics that mediate the lives of women and also men (Tsanga and Stewart, 2011). The term sex can be described as referring to the physical features or attributes that distinguish men from women and vice versa. Gender usually refers to the roles or socially ascribed notions about men and women, that is, what society considers feminine or masculine. Stereotypes arise as a result of the gendering of roles. Those who divert from their socially ascribed gender roles are usually treated as social rebels. My assumptions 2 and 3 came up as a result of gender stereotypes. The study analyzed how women’s economic livelihoods were impacted by formal mining activities and encroachment by artisanal miners. I also made a comparison of the numbers of men and women who were taking part in artisanal mining as well as those employed by Unki Mine, in particular. The methodology revealed that women are the most affected as they are not employable in mines, they are at the risk of being harassed by artisanal miners and they are forced to care for those who are injured as a result of negligence by miners. They are at the negative end whereas men are at the positive end of the extractive industry.

2.4 Data Collection Methods

Numerous research methods were employed in order to ensure that data for this research was collected effectively. These methods include interviews and focus group discussions.

2.4.1 Key Informant Interviews

The writer conducted in-depth interviews with key informants based on their positions and influence in their different structures. Officials from the Environmental Management Agency, the Shurugwi Town Council, the Ministry of Lands and the Ministry of Mines and Minerals were interviewed. However, the EMA demanded a letter of authority from the relevant Minister resulting in my obtaining information from an employee on an unofficial basis. The management of Unki Mine refused to be interviewed. Questions sent by email according to

the request went unanswered showing their unwillingness to be interviewed. Zimbabwe Environmental Law Association (ZELA) provided significant data on gender and environmental issues. Data was collected by asking pertinent questions mainly linked to the research assumptions. This method also enabled the interviewees to come up with their own suggestions and recommendations. I observed that almost all key informants had knowledge about the participation of women in mining. The respondents showed a lack of awareness about women's land rights and land acquisitions. Even the Department tasked to handle gender issues at the Ministry of Mines showed little or no interest in examining the impact of mining on rural women.

2.4.2 Focus Group Discussions (FGDs)

Focus group discussions were held with combined groups of both women and men. The first FGD was conducted at Chironde Business Centre and the last one was conducted at Village 17 where 22 families were relocated when Unki mine acquired their co-operative land for mining purposes. The Headman attended and managed to participate; just like the women he led, he was also adversely affected. One woman gave an account of how they were moved from another farm in Kwekwe and allocated land in Shurugwi before they were relocated again after the acquisition of their land by Unki Mine. The main aim was to obtain the views of members of the community and secure accurate information from the women who were affected. Group discussions are an effective way of gathering evidence from people who share similar problems and backgrounds. Discussions emphasised the impact of mining on the livelihoods of women who were once earning a living from farming. At Chironde women who were once employed by Unki Mine shared their experiences and brought useful insights to the study.

2.4.3 Individual Interviews

Random and planned individual interviews were conducted at areas where artisanal mining took place, at the villages near Chachacha, and in Makusha Township where most artisanal miners reside. Planned interviews were conducted at Mahove Village where Hornet Mine is located after getting information regarding the deaths and injuries that occurred as a result of the pits that were left open by previous large-scale miners. It was necessary to obtain lived realities from the real victims and get their opinions. Individual interviews also proved useful in getting honest, unbiased data.

2.4.4 Table of Respondents

Table 1 provides details of the respondents who were involved in this research.

Table 1: Showing details of the respondents

METHOD	VENUE	FEMALE	MALE	AGE GROUP	TOTAL
FGD	Chironde Business Centre	8	1	23-40	9
FGD	Village 17	17	1	23-60	18
Key informant Interview	EMA	0	1	32	1
Key informant interview	Shurugwi Town Council	0	1	55	1
Key informant interviews	Ministry of Mines and Minerals	2	1	35-44	3
Key informant interview	Chiefs Mudzengi and Ndanga	-	2	73-78	2
Individual Interviews	Boterekwa	2	5	23-44	7
Individual interviews	Makusha Township	6	3	15-33	9
Individual interviews	Chachacha	3	1	37-63	4
Individual interviews	Mahove Village	5	2	27-63	7

2.5 Limitations

During the study a few limitations were encountered. Some of the areas visited are known for hostile artisanal miners which placed limitations on the interviews I could conduct. Bad roads resulted in some areas becoming inaccessible. This was worsened by the rainy season that had just begun when the research was conducted. Driving on slippery roads was an uphill task and delayed my progress. I was also staying with my maternal grandparents and the gravel roads there were in a poor condition causing my car battery to become disconnected from time to time. Another limitation was the refusal by large-scale miners to release information. Time was wasted by making follow-ups on appointments that never materialized. This, coupled with strict requirements for Ministerial authority to interview stalled my progress.

2.6 Conclusion

To summarise, a thorough literature review was the best starting point for me as I was choosing appropriate methods and methodology. I tried as much as I could to align my chosen methodology with my research questions and objectives. The methodology that I adopted provided systematic answers to my research questions and the methods were also crucial in determining the conclusions that I came up with. The women's law approach, on which the study was mainly premised, and its broad perspectives assisted in bringing out the links between methodologies and bringing out women's lived realities. Also, the grounded approach which I employed in some cases helped me in adjusting the research design to suit the situation I found on the ground. The tools employed also validated some arguments put forward by various feminists. For instance, using eco-feminism, I managed to gain insights into women's contribution to the sustainability of natural resources. During the preparatory stages of the study I chose research methods which were within the limits of what I could do as a researcher and this reduced the possibility of several limitations. Various methods that include focus group discussions, individual interviews and key informant interviews enabled me to explain unexpected results that I had not anticipated before I embarked on the research. The significance of the methods and methodologies adopted and participants involved in this research have been addressed in this chapter.

CHAPTER THREE

3.0 “BLESSING OR CURSE”: FINDINGS

3.1 Introduction

This chapter will present the main findings of the study as well as a brief outline of how Shurugwi developed into a mining town. It explores the socio-economic challenges that were encountered by communities as a result of the expansion of mining activities in Shurugwi as well as the environmental impacts of mining on women. The core themes include encroachment on to agricultural land by miners, the relocation of communities to pave way for mining, gender dimensions with regard to participation of women in mining as well as the control measures that are available. The main findings address the assumption as well as some of the emerging issues that were not part and parcel of the assumptions but warranted inclusion in this compilation due to their validity and perceived relevance.

3.2 A brief history of Shurugwi’s transition from an agricultural community to a mining town

Shurugwi is one of the oldest mining towns in Zimbabwe. It boasts chrome, gold and platinum deposits. It is also the country’s largest chrome producer. Gold is mainly mined by artisanal miners who extract minerals without specialized mining machinery and this is usually done in dumped mining pits and along rivers. Platinum is mined by Unki Mine one of the largest producers in the region. It also employs thousands of employees, albeit with a lower percentage of local employees.

During the study, an official from Shurugwi Town Council indicated that the big mines like ZIMASCO used to outsource employees from Malawi when they commenced operations as they provided cheap labour.¹³ Most of these people from Malawi are located in Makusha Township which is the oldest location Shurugwi, built mainly for ZIMASCO lower-level employees. This resulted in many locals resorting to agriculture in the nearby communal lands as their source of livelihood. ZIMASCO had other branches in Kwekwe and Zvishavane hence the small town developed rapidly. However, over time its operations declined and worsened. This resulted in the town becoming a haven for artisanal miners who frequented dumped mine sites like Camperdown, Wonderer Mine and river banks along

¹³ Interview at Shurugwi Town Council on 12 November 2019

Mutevekwi River in search of gold. To date, very few small-scale miners have registered claims. Most of these miners are known for being violent and engaging in deadly fights. Due to violent episodes, the town was shunned by many.

Toward the year 2000 the fortunes of the town were improved by the coming in of the Anglo-America Platinum miner, Unki. Artisanal mining continued but artisanal miners were removed from the land that was acquired by Unki Mine. I witnessed the transition of the communal area into a hive of mining activity as I was engaged in vending. Initially the community welcomed the idea of having a large-scale mining company in the community. Women sold fresh vegetables, mealie meal and other food stuffs to the employees. Their husbands were employed and they assisted in clearing land. Unbeknown to them, the growth of the company was to bring more doom. Mining came with adverse consequences especially on women who were ordinarily engaged in small-scale and co-operative farming. Besides Unki Mine, artisanal activities also expanded into communal land. This became a double blow for women who lost both agricultural land from which they were earning their economic livelihoods and communal land on which some conducting farming activities.

3.3 Land or minerals: Experiences during the transition

During the study I examined how the women from Shurugwi communal area managed to cope during this period. I interviewed women from Shurugei urban and women from the rural areas who were relocated when Unki Mine acquired the land that they occupied. They were all in agreement that having a huge mine in their community seemed to be a good idea at first as they had hopes of improved livelihoods as the original inhabitants of the area. However, the women from Shungudzvhu which now accommodates Unki were not consulted when the decision to relocate them was made. They were only advised when operations were about to commence at Unki.

Some older women emphasised the fact that during the same period several companies came to prospect for other minerals besides platinum. They were promised compensation if they allowed prospecting license holders to carry out mining activities on their pieces of land. Many complained of only realising later that they had been duped after visits from personnel from the Ministry of Lands. An official from the Ministry of Lands and Rural Resettlement also confirmed the position and added that some farmers from Chironde, Ruchanyu and Boterekwa areas even started engaging in artisanal mining on their own pieces of land without

satisfying the appropriate environmental procedures.¹⁴ Most of them were ignorant of the need for prospecting or mining licenses. They were of the view that they owned both land and surface rights resulting in their renting out pieces of land to artisanal miners. That period was characterised by confusion, illegality and disorder.

In addition, the allocation of mining claims was also carried out in a haphazard manner as there was no co-ordination between the procedures and requirements of the Ministry of Lands and the Ministry of Mines and Mineral Development. The Ministry of Lands sought to regularise the allocations since it is responsible for the allocation of communal land whilst the Ministry of Mines and Minerals insisted on the superiority of mining rights over agricultural rights. In all this, women remained defenceless whilst men enjoyed artisanal mining. Their pieces of land were turned into shallow pits and they had no control over the situation. Mining proved itself to be a preserve for men. Women's socio-economic livelihoods were drastically compromised. Farming became a futile exercise as even the soil lost its nutritional value as the ecosystem was severely disrupted. Ultimately, women were left with limited alternatives to maintain their livelihood.

3.4 Violation of women's land and environmental rights by large- and small-scale miners through encroachment on agricultural land

A visit to Chironde, Makwikwi area, revealed that small scale and large-scale miners were both encroaching on agricultural land. Through the expansion of its smelting project, Unki Mine is said to be encroaching on land that is meant for agriculture. Dialogue between the mine officials and the traditional leaders did not resolve anything as Unki went on to emphasise the fact that the company is contemplating relocating the households left in Makwikwi area. The boundaries and demarcations showing the extent of the land acquired by Unki Mine are not known hence some families have already started relocating to Ruchanyu and Dorset area. Women who were interviewed indicated that they were afraid of facing the same predicament that was faced by earlier groups that were relocated to Village 17 and Ruchanyu without compensation.

In Village 17, Headman Sekani informed me that villagers were relocated by the government from a farm in Kwekwe and allocated land at Shungudzevhu only to be relocated again from

¹⁴ An interview held on 12 November, 2019 at the Ministry of Lands and Rural Resettlement offices in Shurugwi.

Shungudzevhu owing to the acquisition of land by Unki Mine. Agricultural land was turned into mining land overnight. The women who also attended the FGD confirmed this narrative and expressed their displeasure over how they have been turned into nomads/refugees/displaced people in their own country.

Artisanal miners are encroaching on agricultural land as seen in the fields in the area below Boterekwa. Shallow pits in the fields can be seen about 100m away from the homesteads. There is a conflict between landowners and artisanal miners as the latter either dig shallow pits in the fields or deepen the pits that are not rehabilitated by license holders during prospecting.

3.5 Mining and its environmental hazards: Shurugwi women's cries

The greatest negative impact of extractive mining activities is that mining regulations are not adhered to with the result that women are exposed to grave hazards before and after the extraction of minerals according to an official from the EMA.¹⁵ It came to my attention later on at Hornet Mine that the negative impacts of mining on the environment have even resulted in deaths in Shurugwi. This was revealed during the individual interviews with artisanal miners at Boterekwa where I was then referred to a disused mine called Hornet Mine.¹⁶ Located more than 20km away from Boterekwa, the area is an eyesore. Huge pits are left unfenced and filthy brown water can be seen about 100m below surface. The depth of the pits is unknown. Chrome was mined in the area more than 20 years ago. The three major pits are around 200m wide. The mine was located in a rural area and the community members pointed out that locals encounter several environmental hazards on a daily basis resulting in their livelihoods being adversely affected. Further, at the area near Chachacha where another mine is winding up its operations, the same phenomenon haunts the community. Open pits are visible. Unfortunately this takes place close to homesteads thereby causing massive economic loss to locals.

The following immediate environmental impacts were identified by women from both Hornet Mine and the area near Chachacha¹⁷:

¹⁵ At an interview held on 22 November, 2019.

¹⁶ At an interview that was held in November, 2019.

¹⁷ During interviews held on 22 November and 3 December 2019, respectively.

- environmental degradation especially at Hornet where open cast pits are left open
- contamination and pollution of water sources
- air pollution during smelting and other mining processes
- unfilled pits and trenches left by prospecting license holders
- destruction of forests and grazing land
- reduction in the size of agricultural land in order to avoid pits in the fields
- Loss of soil fertility

Women indicated that their socio-economic livelihoods based on agriculture and livestock-rearing were negatively impacted as the result of the extraction of minerals. Environmental resources are a crucial aspect of their livelihoods as they determine and guarantee the future of their livelihoods.

According to an official from EMA, the major impact of mining is environmental degradation and the destruction of biodiversity.¹⁸ At Hornet, Camperdown and Wonderer Mines land has been degraded. Women who attended a focus group discussion at Village 17¹⁹ also added that the destruction of biodiversity has resulted in their economic livelihoods being disturbed. Surface streams are not spared. The official from EMA added that mining companies are negligent and fail to fill in the pits after completing their operations and rivers have been reduced to rivulets as a result of illegal mining as miners dig large tracts and large pits leave each side of the river blocked with soil which is usually washed away when it rains resulting in siltation. This is witnessed along Mutevekwi river. He emphasised the need for mining firms to account for their activities by reducing degradation as it disturbs farming efforts by communities, presents health hazards and dismantles the little infrastructure available to locals. He suggest fines be paid by culprits who cause land degradation and added that most mining companies are not complying with EMA regulations regarding the acquisition of licenses for waste disposal, effluent discharge and emission.

Huge pits left unrehabilitated at Hornet Mine are posing a danger to animals and humans (Figure 1). The women who were collecting chrome ore mentioned that in the year 2019 more than 5 heads of cattle drowned in the huge pits. Hornet mine is located in Mahove Village thereby risking livestock that graze on the heaps of soil. Some of the pits are located

¹⁸ At an interview held on 5 December, 2019.

¹⁹ At the FGD held on 19 December, 2019.

very close to productive agricultural fields. This is because open cast mining practised by the former mine removed huge amounts of soil and heaped them on the surface in order to extract the mineral from underground.

Figure 1: Photograph of women at Hornet Mine



Apart from causing the loss of livestock, these open pits have caused several tragic deaths in Shurugwi. Five lives were lost when a disused mine tunnel collapsed. The victims were digging on the sides of the pits when it collapsed. Three died on the spot and the two others succumbed a few days later as a result of their injuries. One woman lost her daughter and grandchild when the incident occurred. She was left with two orphaned grandchildren aged 3 and 5 years old. The children's father also disappeared after the funeral leaving her with the burden of caring for the two children. She informed me that her late daughter was providing for the family from the proceeds she received from collecting chrome ore; her death was a huge blow to the family. The desire to gather bigger pieces of ore which promised early deliver and more profits brought about her demise (Figure 2). The woman now suffers from a stroke as a result of these deaths and her life has been changed for the worst. She was left with no alternative source of livelihood and now relies on handouts from well-wishers. Her

situation confirmed one of my assumptions that mining increases the burden of care on women.

Figure 2: Photograph of a woman proud of and posing with her haul of chrome



In a very similar incident in Marishongwe near Chachacha Growth point a woman took me to her house where she lives with her son who got injured in a neglected pit when he was selling vegetables to artisanal miners. He slipped into a narrow pit and was severely injured. After the accident, the whole village searched and found him around 10pm after he had gained consciousness. The boy's mother blamed miners for their negligence and she pleaded to me for assistance so that she can claim damages on behalf of her son who now requires physiotherapy. To date, no company has been held accountable for the dangerous state in which they have left their disused mining pits.

Biodiversity and land use have also been affected in the areas that I visited. This has been through veld fires when land is cleared before prospecting by large-scale mining firms, irresponsible disposal of waste materials and artisanal mining activities. When I enquired about the appropriate steps that could be taken to ensure the safe storage and tailing of waste products, the official from EMA explained:

“...mining explorers and operators must include decommissioning plans in their EIAs and that they must fill up pits, remove any unsafe structures, disused surface pipes and any other facilities from the site. Mining companies are required to practice re-vegetation and that re-vegetation must be commenced during the period within which mining operations will be going on.”

Regarding soil fertility, the digging up of pits from the earliest stages of mining affects the fertility of the soil making farming difficult for women. The EMA official also mentioned that even when miners close up pits and grow trees the soil has already been adversely affected. This means chemicals and fertilizers will be required in order to improve yields. Women usually find it difficult to carry out such processes as such technical knowledge of soil dynamics is not readily available to them. Most of them rely on indigenous and/or conventional farming methods. This all results in negative impacts on their livelihoods.

The gender coordinator for ZELA also confirmed the above position and indicated that ZELA has been carrying out research on the effects of mining in the area. She also emphasized that the open pits are breeding ground for a very dangerous type of mosquito that is drug resistant.²⁰ However, this was not proven by medical tests.

Mining activities are also affecting women's access to clean water resources. Women who participated in a Focus Group Discussion at Chironde Business Centre²¹confirmed that water was depleted and being contaminated as a result of mining that was taking place at Unki and along rivers where artisanal miners frequently carry out their mining activities. Women need water as a socio-economic right. They cannot do without water as it is needed in their domestic roles and other livelihood activities as already mentioned. Mining results in wells drying up as water levels drop. This puts both women and animals at risk as wells and drinking spots dry up. What water is available is also said to be contaminated with chemicals from processes that are conducted at large-scale mines as well as mercury that is used by artisanal miners. Following information they received at a workshop by ZELA in the area in 2018 concerning the possibility of lead poisoning, the women reported that they now fetch clean water from up to two kilometers away.

²⁰ At an interview held in November, 2019.

²¹ On 21 November, 2019.

A visit to Boterekwa area also revealed that water was being lost through the diversion of water from its normal flow to areas where artisanal miners conduct alluvial mining. The EMA official also confirmed that water is also lost during the process of large-scale mining operations. Women end up wasting many productive hours searching for clean water as these mines are all located within their communities.

3.6 Environmental responsibilities: The closing of mine pits

When I inquired of the EMA whether mining companies and individuals are legally accountable for the closure of pits after the cessation of their mining operations, the interviewee pointed out that mining firms are breaching legislation like the EMA Act, the Public Health Act, and the Pneumoconiosis Act, among others. They are obliged to close pits upon cessation of operations or exploration. He attributed the failure by mining companies to close the pits they make to the economic challenges being faced by the country as a whole. He said that mining used to be profitable whereas nowadays the future of mining investors is uncertain. They now claim that resources for rehabilitation are limited. Be that as it may, land must be left in a state that makes it amenable for locals to continue with their agricultural activities. This is because land must remain useful. Both big mining companies and subcontracted companies are being irresponsible in this regard according to the official. The EMA insists that both have a duty to rehabilitate the environment although the subcontractors usually leave the pits open and then blame the big mining firms for doing so.

Artisanal miners are a menace as they dig pits and leave them open when they move to the next piece of land. They do not close these pits which are usually up to 20m deep and their reason for not closing them is usually the lack of effective control mechanisms. Because of the uncertainty of the continuation of mining operations by bigger companies, accidents continue to happen during that period. The pits must at least be fenced in order to minimize deaths and injuries. An official from the Ministry of Mines and Minerals Development also said that there are some mining claims that change hands resulting in disputes as to who is responsible for closing the pits. According to him, the government through his Ministry, should make sure that the pits are rehabilitated in order to safeguard the interests and safety of the community. However, the Ministry was said to be failing to fulfill its obligations due to the unavailability of resources. Community members are always at a disadvantage as they are not aware of precisely who is responsible for closing the pits on their land and in their community.

3.7 Curse: The economic effects of mining on communal and co-operative land owners

Most women who were interviewed agreed that at first the introduction of mining activities was a welcome development. However, as time went on they realised that the community's economic livelihoods were destroyed.

3.7.1 Women's loss of economic livelihoods due to relocation

When Unki Mine acquired land at what was known as Shungudzevhu the inhabitants of Shungudzevhu were relocated to what is now Village 17. During the FGD that was conducted at Village 17 the writer was informed that the villagers have been living a nomadic life since 1983. One respondent gave an account of how 32 families were relocated from a farm in Kwekwe in 1993 and settled in the Shungudzevhu area of Shurugwi. The name Shungudzevhu refers to the co-operative farming efforts of the group. They drilled a borehole, constructed a canal and had a successful irrigation scheme. Since then they had been practising horticulture, exporting caster beans, wheat, onions, tomatoes, flowers and cucumbers among other farm produce. They earned a very decent living as they made profits all year round and never starved. However, this period was short-lived as during the 1990s they were advised that they were to be moved to another area again. Some were quick to relocate to the Ruchanyu area along the Shurugwi-Zvishavane highway. Those who are now situated in Village 17 relocated at a later stage. Women were not compensated by the large-scale Unki mine that caused their relocation.

Women lost their economic livelihoods as they were relocated to a bushy area where they started clearing the land on their own. No facilities were availed to them during the relocation stages. Farming without any inputs became a nightmare and they resorted to vending. During the early stages of the mining activities at Unki mine women provided support services through selling fresh fruits and vegetables to mine employees, doing laundry for employees and assisting in clearing land. However, as the mining operations expanded, the company became too professional and engaged the services of registered service providers and suppliers. Five years after their settling the women in Village 17, the mine sought to engage in dialogue with the women. A borehole was drilled in their area. Twelve years later, three roomed houses were constructed for all households. One participant had the following to say:

“Unki yakanibvisa ku Shungu kwataidya nekuguta simba redu ndokutigarisa musango. Vekwa Ruchanyu vakavakigwa zvikoro isu hatina. Dzimba idzi taitove nehuru huye taive nechekuraramisa mhuri. Nhasi uno tisu tave mhandu dzekambani iyi.

(Meaning: ‘Unki relocated us from Shungudzevhu where we had better livelihood options and settled us in the bush; those who left for Ruchanyu area had schools built for them whereas us we do not have a school nearby. We had bigger houses and could sustain our families but now we have become the company’s enemies.’)

One participant also mentioned that the mine at one meeting indicated that it was anticipating introducing projects for women to equip them financially. A bee project was proposed but it never materialized. Most women also indicated that they were not going to engage in such a project as it was dangerous. The borehole that Unki drilled years later could not sustain irrigation projects as there was no canal at village 17.

Farming became fruitless due to the infertile soil in the area and the conflict between villagers and the artisanal miners. The annual yields the women manage rarely sustain themselves and their families. They have been severely impoverished. Women’s efforts to improve their economic livelihoods have been very arduous. Unki cannot employ them. They submitted their names to the Chief more than 3 years ago but to no avail. The Chief demanded a bribe before he submitted the names to Unki Mine. The respondents insisted that nothing the mine has offered can restore them to the former prosperity they enjoyed when they were so productive that they lacked for nothing and were even able to supply white owned companies with fresh produce.

At the Chironde FGD, women reported that no mining companies ever keep their promises of supporting women’s projects. Whenever the locals follow up with Unki about its progress in fulfilling its promises to them in accordance with CSOT, Unki’s management evades their questions. One man even said:

“... we are in a frying pan. Unki is giving us stones when we ask for bread. That is why we are now having endless droughts.”

One woman, a former employee, also mentioned that the few women who were once employed by Unki had their contracts terminated after the company told them that it was now

employing qualified personnel. Other women said that they were never allowed to work at Unki by their husbands as they feared that, as the result of such a lifestyle, they would become promiscuous.

3.7.2 The taking up of other income generating activities by women

Agriculture was women's main source of income. However, the unavailability of farming inputs and supplements as well as the lack of irrigation facilities have driven women to search for alternative forms of livelihood. All those who participated in the FGDs and who were interviewed agreed that women had lost their livelihood and who, in order to sustain their families, had to take up alternative income generating activities. Vending at the big mines was banned so they took their trade to artisanal mining sites where they sell mealie meal, vegetables, fruits and sometimes beer.

Some have even joined the men in artisanal mining despite its attendant risks (Figure 3). They said death is everywhere and inevitable. They mentioned that they have become used to the system and are no longer scared when male miners became violent towards each other.

Figure 3: Photograph of a female artisanal miner



One woman interviewed at Boterekwa²² emphasized that her only worry was the fact that some buyers offer them paltry sums of money for the small amount of gold they manage to mine by the end of each day. This raised the issue of the economic exploitation of women by men. Women seemed to have come to terms with such exploitation. Out of desperation for survival, three women from Village 17 confirmed that they are part of the machete wielding gangs known as “*maShurugwi*”. The gangs are known for bullying other miners and robbing gold buyers in extreme circumstances.

Information obtained from Boterekwa revealed that most artisanal miners are uncontrollable and that even the police cannot control them. I was referred to Makusha Township which is located in Shurugwi urban just above the Boterekwa Pass where women who fled Shurugwi communal area with some artisanal miners are now residing. Some women informed me that they decided to engage in commercial sex work as it pays more than farming on infertile land. Some girls as young as 15 years could also be seen loitering near shopping centers. They are earning a living from men. One drunk middle-aged woman had this to say,

“... hakuna chekudya moti zvisikana izvo zvingafambe 10km kuenda kuChironde kuchikoro zvoosvika zvaneta zvoburei kana makazvitarisa? Better kuvuya vuno kuzodhla mari yemabhaga bhaga iyoyo ndichichengetwa kusvika mai vapopota. So long ndichitumira mari yechikoro yevana kumusha.”

(Meaning: ‘There is no food in the rural area so you think those young girls can walk to Chironde School which is 10km away, do you think they will pass? It is better to enjoy the money worked for by the artisanal miners who take care of me as long as I am able to send money for my children’s school fees back home.’)

The situation has become so dire that women are engaging in any activity that generates an income for them without considering and/or despite the risks associated with them. As a direct result of such activities, young girls have not been spared the cruel fate of falling victim to early marriages and sexual exploitation.

3.8 Gender stereotyping and discrimination against women by mining companies

Women who took part in the FGDs were from different backgrounds and spoke about their personal experiences. Some were former employees for Unki Mine, some had husbands who

²² At an interview held on 20 November, 2019.

are employed at the mines and some of them had attempted to secure employment with the mines but with no luck. At the FGD that was held at Chironde business center women mentioned that the Human Resources Officer for Unki advised community members who had gone to the mine in search of jobs that there were no jobs for women at that moment.²³ Men usually receive fixed term contracts for manual work. They are considered capable of managing mining duties because of their stamina. Women are considered weak. One participant also emphasized the fact that when she was employed by Unki, local women were allocated duties considered suitable for their gender. They worked in the kitchens, cleaned offices and provided laundry services for employees. However, the mine is now employing on merit and local women are at a disadvantage.

Furthermore, the jobs that the women were allocated were low level jobs that resulted in low wages for women. Given the above scenario, it became clear that although the opportunities were there for women to participate in paid labour, gender stereotypes prevented them from improving their incomes and livelihoods through formal employment. Semi-autonomous social fields still play a part in the employment of women. One woman and one man who were participants at the Chironde FDG were against the idea of women being formally employed. The woman mentioned that, according to their culture, women must take care of the home while men should fend for their family. The man had this to say:

“Nhai mwanangu unoti mukadzi akaenda kuchirungu mhiri uko pane paachada kuzogarisika pamba here achiswera achingoshandawo sezvinoita varume. Ukaona uri murume ane mukadzi anoshanda mhiri ziva kuti wazvirerutsa. Vamwe vakaita dzungu vakazovirigwa vasisina madzimai atorwa nevakangwara.”

(Meaning: ‘My daughter, do you think if a woman gets employed across (referring to Unki Mine) she will remain loyal and submissive after working together with men? If you are a man who allows his wife to get formally employed just know that you are weak. Some were quick to allow their wives to work and they regretted later on when their wives were taken by other men.’)

The employment of women is still an unwelcome idea as confirmed by the points raised during the study. This has seen women who engage in artisanal mining being shunned and

²³ At a Focus Group Discussion held at Chironde Business Centre on 21 November, 2019.

called all sorts of names. Men also try by all means to frustrate women's efforts as mining is engendered.

3.9 Are women in mining areas a constant target of abuse?

During the study it emerged that women in the mining area were exposed and fall victim to various forms of abuse. When I consulted a vendor at Mashunye business center in Shurugwi town it emerged that the most affected were young women aged between 15 and 30. Women living in the country's mining areas are a constant target of sexual abuse, domestic violence in addition to having their rights to water and other basics taken away from them.²⁴ This is according research carried out in 2016-2019 by the Centre for Natural Resource Governance (CNRG) in selected mining areas in the country.

The situation witnessed in Shurugwi rural and urban areas confirmed the reports that women endure gender-based violence and have limited or no economic opportunities for them to transform their lives. Women from Makusha Township emphasised that mining-induced poverty forced them to engage in commercial sex with artisanal miners and mine workers from Unki.

An official with Shurugwi Town Council also made mention of the spike in child marriages and pregnancies in the local community and added that the expansion of mining activities has also exposed women and girls to sexually transmitted infections and social problems. Women's vulnerability is increased as a result. Men are not faced with such challenges. Men find sex work objectionable on their part because it clearly involves women's subordination (Tamale, 2011). The CNRG further stated:²⁵

“With the backing of government and involvement of politicians and security officials, extractive industries violate the rights of women with great impunity... Under no circumstances must government pursue an economic project that increases the vulnerability of women.”

This resonates with the global Sustainable Development Goals (SDGs) to which Zimbabwe is a party. The SDGs are meant to be implemented in order to ensure that all individuals live dignified lives and are able to access basic services. SDG 5, in particular, calls upon member

²⁴ www.zimlive.com Online Newspaper, 9 March, 2020. Accessed on 9 March 2020, published by New Zimbabwe Ltd.

²⁵ www.zimlive.com 9 March, 2020.

states to achieve gender equality and empower all women and girls by the year 2030. However, the CNRG's study revealed that the implementation of the SDGs in Zimbabwe leaves a lot to be desired as women affected by mining in their communities are experiencing state-backed corporate bullying and blatant violations of their rights. This is a true reflection of what I observed in Shurugwi.

3.10 Conclusion

Mining activities in Shurugwi brought about several changes in the community, most of which are negative. Women face several environmental and socio-economic challenges as a result of the mining activities in their communities. The challenges that they face include but are not limited to health hazards emanating from land degradation and polluted water sources, loss of land, loss of livelihoods, uncompensated relocations and abuse. The mining companies are not eager to employ women and their efforts to participate in artisanal mining are stifled by male artisanal miners who exploit and abuse them. Several families have been impoverished as a result. Women also find it difficult to assert their rights as individuals or as groups due to the ineffectiveness of the law in safeguarding their rights. As a result, the livelihoods of rural women remain unprotected.

CHAPTER FOUR

4.0 DISCUSSION AND ANALYSIS OF THE FINDINGS

4.1 Introduction

In this chapter the main findings and the legal framework are discussed and analysed critically. The legal framework is analysed more particularly with regard to the extent to which it protects and safeguards women's socio-economic rights. The options available for communities to achieve socio-economic justice are assessed. The law provides that women must also enjoy their socio-economic rights, hence, the discussion of the findings points to the possibility of commendable recommendations that will then be explored in the final chapter.

4.2 Mining and agriculture: Legal and policy framework

Zimbabwe is a party to several international statutes and conventions that regulate the ownership, use and enjoyment of land and mineral resources. Together with the domestic laws, provisions that seek to protect women are also specifically provided. Under international statutes, CEDAW protects women through several provisions. Under Article 2, state parties are obliged to adopt appropriate legislative and other measures, including sanctions, where appropriate, prohibiting all discrimination against women²⁶ in order to establish legal protection for the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any form of discrimination²⁷ and to eliminate discrimination against women by any person, organisation or enterprise.²⁸ Further, the state is required to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women (under Article 2(f)). Under Article 5(a), social and cultural patterns of conduct of men and women must be modified, with a view to achieve the elimination of prejudices and customary and all other practices which are based on the idea of inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.

Of particular interest is Article 14 of CEDAW which obliges state parties to pay particular attention to problems faced by rural women and the significant role that they play in the

²⁶ Article 2(b).

²⁷ Article 2(c).

²⁸ Article 2(e).

economic survival of their families including their work in the non-monetized sectors of the economy. This article takes into account the position of women whose livelihoods are not dependent on formal employment. Article 11 of CEDAW also calls for the elimination of discrimination in the workplace:- equal remuneration, training, same employment opportunities, health and safety and security among other labour rights.

The primary focus of CEDAW is the elimination of discrimination against women in all its forms. The attainment of equality through law and other means is one of the measures for the practical realization of the elimination of discrimination (Siveregi, 2006). According to Charlesworth (1994):

‘While the acquisition of rights is by no means the only solution for the worldwide domination of women by men, it is an important tactic in the international arena. Because women in most societies operate from such a disadvantaged position, rights discourse offers a recognized vocabulary to frame political and social wrongs.’

The situation in Shurugwi communal area depicted massive domination of women by men with regard to key decision-making, employment and health related issues. Women clearly operate from a disadvantaged position as they are still treated like perpetual minors. CEDAW and other international statutes call for legal change coupled with social change. Social change will assist women as substantive equality will be achieved as compared to strict legal equality which does not take into account the social realities that are prevalent in women’s lives. These social realities, if given due consideration, will yield real benefits for women.

Apart from CEDAW, the UN International Covenant on Economic, Social and Cultural Rights (ICESCR) also provides for the rights of all individuals to freely dispose of their natural wealth and resources without prejudice under its Article 2. This article is progressive in that it empowers women from rural communities to make choices and decisions regarding their wealth.

Apart from international statutes, Zimbabwe is also governed by regional statutes. The Protocol to the African Charter on Human and People’s Rights of Women in Africa (Maputo Protocol) provides the following provisions thus imposing obligations on member states to take appropriate measures to promote access to and control over productive resources such as

land and guarantee their right to property,²⁹ ensure that there is equality of access to employment,³⁰ affirms women's position as equal partners with men at all levels of development and implementation of state policies and development programs³¹ and goes on to provide for the right to a healthy and sustainable environment under its Article 18 (1).

In addition, under Article 21 the African Charter on Human and People's Rights provides that "all individuals are given the right to freely dispose of their wealth and natural resources. In no case shall a people be deprived of it" (Article 21(1)). Article 21(2) reinforces the enjoyment of the right by providing for the right of lawful recovery and adequate compensation in case of spoliation and, under Article 21(3), provision is made for the free disposal of wealth and resources-mutual respect and equitable exchange.

In addition to the above, the SADC Protocol on Gender and Development obliges member states to undertake, under Article 18(a), to end all discrimination against women and girls with regard to water rights and property such as land and tenure thereof.

Since time immemorial, women have been oppressed and prejudiced in relation to wealth creation and ownership. In Shurugwi, most women still lack the voice and ability to claim and safeguard their property rights. The introduction of mining has worsened their position as mining operations in the area has disproportionately affected women compared to men. Jenkins (2014, 333) very astutely observes:

"Mining has a gendered impact where it disproportionately affects women vis-a-vis men, particularly in four areas: water and environment; health; community displacement; and violence against women. Furthermore, the challenges faced by women miners can be seen in five aspects: (1) the socio-cultural context — cultural background, beliefs and traditions and social capital; (2) governance issue — land rights and titles, formalization, institutional values, legal/regulatory issue and (3) economic context — income distribution, capital flow (Hinter et al., 2001, 14-6); as well as (4) tension arising from the changing gender relations and identities in mining communities such as women as sex workers, women's changing social and economic status, women's organisation and women's activism against the extractive industry; and (5) "gendered inequalities and access to the benefits of mining" - lower wages and exclusion from decision-making processes (Jenkins, 2014, 335-6)."

²⁹ Article 19(c).

³⁰ Article 13(a).

³¹ Article 13(c).

The above impacts are apparent in the situation in which women in Shurugwi have found themselves despite the existence of several international statutes which seek to combat and abolish the very discrimination that they have come to face in the various areas of their lives.

Internally, the national Constitution and other mining and agricultural legislation introduce and grant several land and mining rights. Section 71(2) of the Constitution provides that:

“every person has the right, in any part of Zimbabwe, to acquire, hold occupy, use, transfer, hypothecate, leased or dispose of all forms or property, either individually or in association with others.”

Section 71(3) sets out the grounds and conditions under which a person can be compulsorily deprived of their property and they include deprivation in terms of a law of general application, for the interests of defence, public safety and public order among other factors. Further, section 71(3) provides for reasonable notice, fair and adequate compensation and that the acquisition of land must be confirmed by a competent court of law in cases where there has been resistance by land holders. Aggrieved persons are also granted leave to approach a court of law for the determination of compensation that they must receive in cases of relocation.

In addition to the above provisions safeguarding communities against human rights violations, section 13(4) of the Constitution states that “the state must ensure that local communities benefit from the resources in their areas.”

The sections mentioned above provide a comprehensive protective legal framework for women in that they are awarded unconditional land ownership rights and protection from unlawful and all wrongful deprivation of land. Fair and adequate compensation must be awarded as a Constitutional right and under no circumstances shall a party be allowed to escape the obligation to pay fair compensation.

However, in Shurugwi such protective mechanisms were not observed, as locals were relocated without adequate notice and without any form of compensation. The huge impact of the mining sector’s operations on society oblige it to face and address issues for which it becomes responsible including poor access to justice by the poor, marginalized and vulnerable communities and their lack of sufficient capacity to enforce and implement

provisions of the Constitution which are intended to protect weak citizens against rich and powerful entities (ZELA, 2015). Further, the Constitution of Zimbabwe also requires the government should compensate persons for improvements made on land subsequently taken by the government. However, there is no indication as to when this should be done and this creates a technical challenge during implementation. The government does not usually compensate victims of land grabbing.³² The legislative and policy framework in Zimbabwe has not provided adequate mechanisms/safeguards for the livelihoods of female small holder farmers and their families who are displaced.³³

Environmental rights and obligations are regulated by the Environmental Management Act,³⁴ National Environmental Policy and the Environmental Management (Environmental Impact Assessment and Eco-system Protection) Regulations, Statutory Instrument (SI) 7 of 2007, among other pieces of legislation. The Environmental Management Act contains several environmental rights found in section 73(1) of the Constitution and other international statutes. Its section 4(1)(a) and (b), in particular, provide for individual rights to a clean environment that is not harmful to health and further provide for access to environmental information, prevention of pollution and degradation as well as the securing of effective sustainable management and use of natural resources.

Section 73(1) of the Constitution also provides for individual rights to a clean environment that is not harmful to health and further provides for access to environmental information, prevention of pollution and degradation as well as the securing of the effective sustainable management and use of natural resources.

Apart from the Constitution, the Mines and Minerals Act³⁵ regulates all mining activities and procedures and provides for the rights of mining license holders as well as their obligations. Under section 26(a) and (b), state land, communal land and private land are open for prospecting. This means that land initially allocated to and owned by rural people can be allocated to someone with mining rights. Section 27 also gives power to third parties over someone else's land. That is, license holders can prospect and mine provided that they satisfy certain prescribed conditions.

³² The State of Business and Human Rights.

³³ Ibid.

³⁴ Chapter [20:27].

³⁵ [Chapter 21:05].

The above framework created by the Mines and Minerals Act takes away local people's rights to self-determination and free and informed consent. This includes the right of a group of people to freely determine their social, economic and cultural development and destiny. Shurugwi women, just like other local communities in which mining activities take place, are entitled to enjoy primary rights over their land and natural resources because they are intimately dependent on them and their continued integrity for their livelihoods and the survival and welfare of their communities. Their free and informed consent prior to the authorization or commencement of any mining project which impacts on their community must have been sought and obtained. Free prior and informed consent has to be obtained in accordance with the indigenous peoples' customary laws and practices.³⁶ This includes customary laws and practices followed in community decision-making processes.³⁷ The requirement to obtain consent from local communities before the commencement of projects is enshrined in the Universal Declaration of Human Rights.

The Act further provides for mining companies' obligation to take preventative action and rehabilitate the land where its mining operations were taking place so as to protect the people and livestock from harm under sections 269 and 360. This is to be done within 30 days of cessation of the mining operations.

In addition, state actors such as the courts, the Mining Affairs Board, the Zimbabwe Republic Police and traditional leadership are tasked with the role of interpreting and implementing environmental laws and policies. Non-governmental organisations like ZELA and CAMPFIRE also play a critical role in raising awareness about environmental issues and ensuring that there is accountability in the promotion and protection of environmental rights.

Further, to ensure that all individuals benefit from natural resources in their communities, the Indigenisation and Economic Empowerment Act³⁸ was enacted. The General Amendment Regulations SI 16/2010 were introduced in order to ensure/compel companies to cede ten percent of their shares to communities through Community Share Ownership Schemes. It is through the Act and the subsequent SI that Tongogara Share Ownership Trust was created. The share ownership trust is led by the CEO of Tongogara RDC and is mostly composed of

³⁶ ZELA, 2018.

³⁷ Ibid.

³⁸ [Chapter 14:33].

councillors and other members selected from the wards. Men dominate the composition of the Trust.

The National Gender Policy of 2013 introduces a policy framework that is designed to transform women's lives for the better. Under its clause 5.3 on Gender, Politics and Decision Making it is stated:

“Zimbabwe recognizes that sustainable development and good governance is dependent on women taking part in all decision-making processes. The absence of a legislative framework for affirmative action to ensure attainment of gender quota systems for political parties and in urban and rural councils is a key hindrance to achievement of gender parity.”

It goes on to state that “underlying factors that perpetuate gender disparities need a strong policy grounding to be effectively addressed.” It also takes cognizance of the effects of gender-based violence and acknowledges that it “constitutes one of the biggest obstacles to women’s participation in decision-making and severely limits their ability to participate in economic and social activities.” This is a progressive policy consideration which addresses the reality of women in Shurugwi.

Under Clause 5.7 of the same policy it is acknowledged that there “have been limited gender considerations in policy frameworks on the management and protection of environment and natural resources in Zimbabwe. New mechanisms for climate change mitigation and environmental management that incorporate gender-sensitive perspectives need to be sought.” The policy also calls for the spearheading of a specific gender responsive effort in the management of the environment and takes into consideration the pre-existing inequalities between men and women. Several strategies are also proposed with the main aim of identifying the current gaps and incorporating gender perspectives into developmental issues.

It gathered data during the study I discovered that mining operations have an adverse impact on women and the environment as a result of their activities. These effects include injuries as a result of safety violations, unfair labour practices and the displacement of communities without adequate compensation and causing damage to the environment that sustains communities through degradation and pollution leading to the loss of livelihoods within such

communities.³⁹ Mining activities are not gender-conscious and also affect the social environment by giving rise to prostitution which leads to increased HIV/AIDS infections and other sexual reproductive health challenges like teenage pregnancies.⁴⁰ There is a need for policies that are gender-sensitive.

4.3 Are women adequately protected by the law?

During the study I discovered that women are not adequately protected by the set of laws that are in place due to various reasons as will be discussed. The major drawback are the several gaps and contradictions in the law. Furthermore, the existence of laws that are not aligned to the Constitution makes the enjoyment of rights unachievable. Most retrogressive statutory instruments are still in use despite the fact that they contradict the Constitution. Zimbabwe is a party to several international statutes most which seek to protect the interests of women in natural resources as well as their environmental rights. However, these are also not properly enacted and aligned to existing laws. This is in contravention of section 34 of the Constitution which obliges the state “to ensure that all international conventions, treaties and agreements to which Zimbabwe is a party are incorporated into domestic law.” The domestication of international laws will guarantee the enjoyment of socio-economic rights by women.

The gaps in the legal and policy framework increase the vulnerability of women. Lack of effective implementation of laws has contributed to the increase in challenges for women. Women are discriminated against as a result of the gaps in statutes. Such gaps in the statutes are then abused during the implementation of laws in order to protect male hegemony. In some instances, laws are then applied rigidly resulting in injustices. The real people who are supposed to benefit from the law are not considered as the intention of the legislature is usually ignored and/or perverted. In *Government of the Republic of South Africa vs Grootboom, Yacoob⁴¹* J, stated:

“The state is required to take reasonable legislative and other measures. Legislative measures by themselves are not likely to constitute constitutional compliance. Mere legislation is not enough. The state is obliged to act the intended result and the legislative results will invariably have to be supported by appropriate, well directed policies and programs implemented by the

³⁹ Zimbabwe National Report on the State of Business & Human Rights in the Mining Sector.

⁴⁰ As augmented by individual interviews at Makusha in Shurugwi Town.

⁴¹ 2001 (1) SA 46 (CC).

Executive. These policies and programs must be reasonable both in their conception and their implementation.”

The Constitution ushers in several rights that must be enjoyed but these are not absolute. They can be taken away from individuals by other statutes or claw-back clauses. For instance, section 71(2) grants individuals the right “to acquire, hold, occupy, use, transfer, hypothecate, lease or dispose of all forms of property, either individually or in association with others.” However, this is subject to section 72 which allows the state to compulsorily acquire agricultural land and provide compensation for improvements effected before the compulsory acquisition.

Further, lack of security of tenure of communal land results in women’s livelihoods being eroded. The whole idea of safeguarding women’s economic livelihoods is militated against by the fact that all communal land is vested in the President and those who possess communal pieces of land have usufruct rights only in terms of the Communal Land Act.⁴² Although many communal land owners assume that they own the land by virtue of its prior ownership by their ancestor, the law provides otherwise. The Communal Lands Act is not consistent with the reality on the ground and together with the Mines and Minerals Act they compromise the security of tenure of the land on which women depend for their economic livelihoods. Communal land is considered state land and the Mines and Minerals Act also provides that communal land is open for mining activities under its section 26. This entails that mineral resources and mineral rights supersede usufruct rights that communal women enjoy over land.

The respondents at Chironde revealed that they were advised by ZELA that their land rights are inferior to mining rights hence they were not in a position to contest the acquisition and relocation without compensation. Makore (2016) argues that the fact that the Mines and Minerals Act of 1961 prioritizes mining over other land uses, further weakens communities’ land rights. There is often perceived collusion between Government and mining companies due to Government’s efforts to promote investments “at all costs.” Indeed, the state is now playing an increasingly direct role in mining through establishing mining operations or claiming stakes in mining operations. Evidently, this often results in government failing to protect the rights of local communities.

⁴² Chapter [20:04].

In addition to the above, section 8(2) of the Communal Lands Act gives the Rural District Councils the discretion to consider or have regard to customary law when they allocate land. This has to be done in consultation with Chiefs “where appropriate.” Chiefs allocate land to males who head households in land allocation in accordance with customary law.

Further, section 71 (3) of the Constitution sets out the grounds and conditions under which a person can be compulsorily deprived of their property. This means that as long as the deprivation of one’s land is in terms of the conditions listed under the section a landholder will lose title to their land. Therefore, land rights cease to be absolute. This is coupled with sections 26 of the Mines and Minerals Act which allows the allocation of mining rights to third parties and rights to acquire land previously owned and used for agricultural purposes. The impact which that process has on women’s livelihoods is not considered.

Further, the Mines and Minerals Act is too archaic and widely applied resulting in land being underutilized. It fails to clearly stipulate the effective utilization of mining rights. The Mines and Minerals Act does not have any provisions that compel mining companies to utilize the resource within a specific period of time failing which such land can be used for farming purposes that would improve women’s livelihoods. The same applies to land that has been prospected and then abandoned.

Clearly, the efficacy of the law in safeguarding rural livelihoods is compromised by mining companies who flout their legal obligations. This also goes back to the resource curse theory which emphasises the lack of awareness of communities regarding the successful utilization of natural resources. Mailey (2015) argues that “for the vast majority of resource rich African states, oil and mineral wealth has not translated into improved living conditions for citizens but contributed to growing disparity, corruption, and repression.”

The Environmental Management Act which is one of the most progressive statutes provides for environmental rights and obligations for both individuals and corporations but, in certain respects, fails to protect women. Mining companies are required to carry out EIAs before commencing their mining projects. The Act does not provide for the carrying out of gender impact assessments so that the impact of the mining activities on women is weighed. This is mainly because women are usually in direct contact with the environment and they interact

with the environment in various activities like farming, fetching water and wood trees for medical purposes. Further, the Act must specifically include women for appointments in environment committees created in terms of the same Act. Women's contributions in committees will make a huge impact. For instance, the requirements of EIAs will be strictly monitored as women know and feel the long- and short-term effects of an inappropriate assessment on their communities.

An official from EMA confirmed that women are not involved when key decisions regarding environmental sustainability are made. Eco-feminists argue that environmental laws, policies and interventions fail to factor in the gender dynamic contribute to environmental degradation while accentuating women's poverty and increasing their workload where they depend on environmental resources as food and fuels.⁴³

The Environmental Management (Environmental Impact Assessments and Ecosystems Protection) Regulations, SI 7/2007 were enacted to give guidelines on the implementation of section 97 of the Environmental Management Act. The regulations require the developer to consult widely with all stakeholders before a certificate is issued by EMA. The provisions of the statutory instrument are flouted on a daily basis and state actors are reluctant to rectify such anomalies.

Regarding indigenization laws, the CSOT is mainly composed of men. This means that women's voice is overridden. The regulations provide that ten percent donation by mining companies must be directed towards projects that are mainly designed to facilitate the development of infrastructure, to maintain and construct schools, health centers, hospitals, dip tanks, roads and water works. This was designed to improve and benefit mining communities that bear the socio-economic and ecological costs of extraction. Women who participated in the Chironde FGD indicated that they were not benefitting very much from the CSOT as their voices are never heard. Although men also complained against the mining companies' failure to honour their obligations and promises, women raised their concerns about the manner in which men chose projects that do not equally benefit women.

⁴³ Rocheleau and Edmunds (1997, 1356).

During the study I discovered that the CSOT in the community was bearing no fruit and the community's situation was worsening.⁴⁴ Modern literature also emphasises that since central government often monopolises mining rights, the rationale for community involvement tends to emanate from the fact that communities, by virtue of their proximity to mining activities, directly bear the socio-economic and environmental costs associated with resource extraction.⁴⁵ Further, in several places where mines built public infrastructure, schools and other facilities, it has been found that several years after the mine closes nothing works anymore. A community development program should be able to "survive without input from a mining and metals company, especially after the mining project is finished."⁴⁶ The community yearns for infrastructure that it can maintain. Given the above, there is growing consensus that mining should facilitate other economic activities that have potential to sustain the community beyond company closure.⁴⁷

Women at Village 17 informed me that Unki Mine constructed a three-roomed building for waiting pregnant mothers and refurbished a bridge close to the mine. However, they claimed that most of the projects are suggested by men who run the CSOT. Their livelihoods are not positively impacted at the end of the day. Respondents mentioned that the bridge connecting them to major roads that lead to nearby schools is very narrow and defective which results in their children failing to attend school at Chironde during the rainy season. The issue of the bridge has always been a topic of discussion but other projects are prioritized instead.

Moreover, the regulatory framework is currently too fragmented and this contributes to the non-protection of women by the law. The Mines and Minerals Act is complemented by a set of regulations and Statutory Instruments that make it difficult to interpret, implement and enforce the laws or comprehend the correct position of the mining laws. Under environmental laws several state actors are responsible for enforcing environmental legislation. These include the Ministry of Mines and Mining Development, the Ministry of Water, Environment and Climate Change and the Ministry of Lands and Rural Resettlements. They all have a national mandate to implement, manage and facilitate the development of agricultural and mining laws.

⁴⁴ At a focus group discussion held at Chironde in November 2019.

⁴⁵ Zimbabwe National Report on the State of Business & Human Rights in the Mining Sector.

⁴⁶ Mining Tool Kit for Community Development, International Council on Mining and Metals, July, 2012.

⁴⁷ Sirolli (2010, 26).

In addition to these ministries we also have the Environmental Management Agency which was created in 2003 which is responsible for the dissemination of environmental information, protection of the environment, enforcing environmental laws and setting up the stipulated environmental standards. Poor coordination between these ministries and agents results in conflicting interests thereby leading to the undermining of the mandate of each actor. In all this confusion, women are affected the most as the protection of their socio-economic rights is compromised.

During the study, it emerged that women's efforts to raise complaints against the violation of their environmental rights were usually fruitless due to various factors. An official from the EMA mentioned that they issue tickets to perpetrators but most offenders evade their payment. The police experience challenges forcing perpetrators to pay fines and sometimes miners who leave pits open deny their responsibility for closing them. The courts are lenient and corrupt as they order offenders to pay fines that are not large enough to serve as a deterrent. For instance, women from Boterekwa area informed the writer that artisanal miners have become so uncontrollable that when they report them for trespassing the police use the excuse that they do not have the resources to do their duty or openly connive with the offenders. As a result, women are left exposed to land deprivation and risk of violence. Some have resorted to co-existing with the artisanal miners who encroach on their pieces of land.

One of my assumptions was premised on the negative effects of mining on women as a result of ineffective controls. This was confirmed during the study. I discovered that the environmental challenges that are currently undermining the livelihoods of rural women are a result of miners deliberately flouting environmental laws. It is difficult for women to individually and collectively assert their rights. The law has proved to be inadequate in safeguarding their livelihoods.⁴⁸ In cases where the law is available its utilization has been affected by the weak implementation mechanisms. It would be a misconception to assert that gold mining or artisanal mining per se is bad since it has proved itself an alternative source of livelihood for the rural poor in most African countries and a passport out of endemic poverty associated with rural communities. Rather, it is when mining is performed under unregulated conditions leading to environmental degradation and other health risks that the liabilities arising from it have out-weighed its benefits (Mambondiyani, 2008:3).

⁴⁸ Mwase (2016).

Local women cannot force mining companies and artisanal miners to rehabilitate the land because in terms of the law the land belongs to the state. Although the community can successfully sue the state as the duty bearer under sections 71 and 73 of the Constitution for its failure to protect the rights of the community, compliance is still an issue. On the other hand, while the criminal courts impose penalties which are retributive, they are not sufficiently deterrent. The environmental degradation that is currently happening in Zvishavane that is undermining the livelihoods of rural women is a failure by the state to fulfil its human rights obligations towards them and their communities.

Last but not least, the National Gender Policy can be commended for being progressive as it seeks to eliminate gender parity and identify gaps in the law that result in the discrimination of women. However, the success of the policy goes back to the issue of implementation. It has to be implemented and made part of the existing laws.

4.4 Compensation for the loss of land

In Shurugwi, 21 families were relocated from Shungudzevhu area after Unki Mine acquired the whole area that they had been previously allocated by the government when they were relocated from Kwekwe. They were relocated to Village 17 in Shurugwi or Ruchanyu area along the Gweru-Zvishavane Highway in order to pave the way for Platinum mining activities. The relocation brought untold suffering to the locals as they had to move without adequate notice and without the aid of the company. During the FGD that was attended at Village 17 participants mentioned that they moved on their own to the once bushy area and cut trees manually before building temporary makeshift huts. They used primitive relocation models like scotch-carts and donkeys. According to the women, the mine developed a negative attitude towards them as a result of their refusal to relocate without compensation.

The right to receive adequate compensation is a constitutional right. Women in Shurugwi were deprived of that right when Unki acquired the land that they had been initially allocated by the state. Respondents mentioned that they never protested when they were relocated. The lack of the presence of civil society in rural areas makes it difficult for affected families to mobilize a critical mass of people to challenge their displacement (Madebwe et al., 2011). As a consequence, displaced people are separated from their communities, their relatives and neighbours and social support systems. This undermines their social support structures by diffusing their social networks (Lassey, 2002).

The group that settled at Ruchanyu was compensated satisfactorily as the mine built them houses proportionately. In addition to that, a new school was built for them. Unfortunately, the group that settled at Village 17 received three roomed houses for all the families after more than 10 years of relocation (Figure 4).

Figure 4: Photograph of a three-bedroomed house built in Village 17 by Unki Mine in 2012



Their children, however, still have to walk more than five kilometers to the only local school at Chironde Business Center. The compensation model was unfair. The women admitted that at Shungudzevhu they were operating as a co-operative and the land was owned as a group. After relocation, they were allocated bigger pieces of land. However, the land is infertile and unproductive such that farming has become a futile exercise (Figure 5). Sources of economic livelihoods were cut off and they were never compensated. Starting up new livelihood activities has proven to be extremely difficult for them. One participant mentioned that it would be wrong to mention the word ‘compensation’ in their case as Unki Mine worsened their situation. They lost their thriving horticultural business and the value of lost fertile agricultural soil cannot be compensated.

Figure 5: Unfertile land allocated to Village 17 inhabitants



Women are not protected by the law and the Constitutional obligation for land acquirers to compensate adequately is not fulfilled by the state and companies. The Mines and Minerals Act is also silent on the issue of compensation on improvements made on the land other than land rights. Women were not given an opportunity to negotiate adequate compensation. Mining companies usually take advantage of this situation and deliberately flout legal provisions. As a result, the efficacy of the law regarding the safeguarding of rural livelihoods is compromised.

Women from Village 17 reported that their displacement was arbitrary and done without giving adequate notice rendering them instantly homeless. According to World Bank guidelines on displacement and resettlement, project developers should incorporate in their resettlement action plans initiatives that allow displaced communities to have sustainable livelihoods at levels above pre-displacement income (World Bank 2001). This is because development induced displacement destabilizes affected communities and exposes them to impoverishment risks. The EMA reported that communities can be displaced at various stages during mining exploration, development, during the life span of a mine and at

closure.⁴⁹ According to Cernea (1997), development induced displacement can cause landlessness, joblessness, homelessness, marginalization, morbidity, food insecurity, loss of access to common property resources and social disarticulation. These risks leave displaced communities worse off than they were before relocation. The same can be said about the inhabitants of Village 17. Livelihood initiatives should have been instituted before their displacement to allow for the displaced families to rebuild their livelihoods and reclaim their dignity (Asif, 2000; Harrell-Bond, 2002).

4.5 Mining dimensions: Participation of women in mining and the role played by gender

The Special Rapporteur on extreme poverty⁵⁰ emphasised:

“Owing to gender stereotypes relating to family and work, depicting males as breadwinners and women as carers and nurturers, women tend to assume the bulk of the work at the expense of their human rights. The unequal distribution of unpaid care work is highly reflective and determinative of power relations between women and men. Discriminatory gender stereotypes, which construe women as second-class citizens whose place is in the home, cause and perpetuate this unequal distribution of work, rendering women’s equal enjoyment of rights impossible. Addressing care responsibilities is thus an essential component of the obligations of States to ensure gender equality at home, work and in society more broadly.”

This quote can be applied to the situation in Shurugwi communal area with regard to women’s participation in mining as a source of livelihood and the role that gender plays. Women are now engaging in artisanal mining along Mutevekwi Rive and below Boterekwa Hills. They use picks, shovels and wheelbarrows to extract mineral ore from the ground (Kunaka, 2012: 42). Apart from direct panning, women get ore from men or steal from the mines they work in (WLSA, 2012: 9). Some are making attempts at penetrating formal mining through registration of mining claims. However, gender plays a major role in deterring their efforts. This is mostly because the mining industry is male-dominated and complex. Male dominance manifests in various ways.

The attitude of women to mining indicated that women are participating in mining but if given an alternative they would prefer to leave it. ZELA (2015) attributed this attitude to the

⁴⁹ At an interview held in November, 2019.

⁵⁰ 37 Report of the Special Rapporteur on extreme poverty and human rights, Magdalena Sepúlveda Carmona, 23rd Session, A/HRC/23/36, 2013.

fact that these activities pose many dangers to women's well-being and health due to harsh conditions and the lack of equipment and protective clothes and women who enter mining are mainly from single-headed families living in desperate economic conditions (ZELA,2015). The lack of means or property to access capital impedes their capacity to access funds to obtain equipment or register and operate legally.⁵¹ Further, women's daily responsibility to manage their household and family duties creates an enormous burden for them (ZELA, 2015). Mining remains among the most attractive sources for marginalized women, due to the aggravating economic situation but the illegal nature of artisanal and small-scale mining leaves them with no tools for social protection from harassment and cheating by men (ZELA, 2015). As a result, women are continually subjected to these hostilities.

Although women manage to participate, gender plays a major role in mining outcomes. Gender based violence, sexual abuse, marginalization, unequal access to funds and labelling are some of the abuses that women experience. Due to their gender, women seeking to participate in mining encounter health problems, gender stereotypes and limitations due to their biological make-up. For instance, breastfeeding women in artisanal mining are cheated by men in underground shafts because they lack the physical strength to go underground. Their access to the market is also compromised. Men rarely experience such discrimination. The mining culture includes the attitudes and beliefs of the main actors who are men and the general culture of the industry. Kuntala (2011) argues that the prevailing 'macho' mining culture hampers the use of a 'gender lens' in areas such as staffing patterns and procurement, as well as community development work. An essential ingredient for effective gender mainstreaming requires staff with the knowledge, skills and commitment to address gender issues in their workplace (Kuntala, 2011).

In addition, most men who are into small scale mining consider the employment of women as taboo. At Boterekwa, one of the miners mentioned that women were causing them huge losses as they are not pure. Women are accused of bringing bad luck through lucky charms and prostitution. This confirms the theory that although women are free to participate in mining as employees or miners, massive gender stereotyping, cultural and patriarchal values and beliefs always pose as obstacles and stumbling blocks to their participation efforts. In order for women to be protected, mining organisations must be treated as workplaces. This

⁵¹ Ibid.

includes not only offices but also ‘field jobs’ in operation areas such as the pits. Workplace issues need to be seriously addressed by the mining industry, which needs to develop a culture of gender equity (Kuntala, 2011).

Mining has created formal job opportunities for very few women and most of them are not local women. Those who own mining claims and mills are not from the community. Local women in small-scale and artisanal mining face challenges with regard to financial support. Financial loans to finance their mining projects are scarce. Acquiring mining licenses becomes an uphill task for women who end up getting discouraged. There is a need for interventions by lawmakers and the capacitation of women to challenge gender norms within the society by themselves. In the absence of such capacitation women continue being sidelined. If properly regulated, the mining sector can potentially create opportunities for productive employment for both men and women (World Bank, United Nations) (ILO, 1999). Through participation, women can progress economically and socially. However, to do this they require support through technical training and education, financial support and a legal framework which supports them (ZELA, 2015). Legislation is an initial and important step in the regularization of the mining sector and is key to addressing the negative impact against women within the sector. According to the findings of the Mining, Minerals and Sustainable Development (MMSD) Project, women are often bypassed by programs of assistance with regard to mining (MMSD, 2002). This further militates against women’s efforts to participate in mining.

Women prefer owning mining claims close to their homes. It became apparent from their stories that the idea of balancing their dual roles of participating in mining and home-keeping makes them feel comfortable. Some women who are already into artisanal mining close to home mentioned that they have the flexible choice of mining in the mornings and managing their domestic roles in the afternoon. Proximity to their homes keeps them connected to their gender roles. The main idea is to mitigate the risk of being blamed for deliberately neglecting their other roles when they venture into mining. This proves the theory that women are relational. As much as they desire to be economically empowered, women still cling to their duty to maintain relations through caring and maintaining their families.

A recent research by ZELA revealed that women do not feel secure operating in the small-scale and artisanal mining business due to various fears. Some of their fears emanate from the

threats of claim grabbers, encroachment by neighboring male miners or invasions by artisanal miners on their productive claims. The registration of claims eliminate such threats and guarantees women legal protection. Some women have decided to operate in groups in order to increase their production. However, most small-scale women mine owners are said to be inclined to work with men rather than other women. This demonstrates that women owned mining claims rely on male labour. The rationale behind that is that men complement women by doing the tasks that are considered too difficult for women like working in underground shafts. This demonstrates that male dominance still plays a role in mining.

On the other hand, even though there is evidence that women prefer working with men, the women also find it difficult to return employees as most of them have negative attitudes and perceptions about working with women.⁵² Women miners end up working with men for physical security as men monitor the operations thereby minimizing losses.

The above scenario calls for nego-feminism. Naemeka (2003) states;

‘nego-feminism is the feminism of negotiation; second, nego-feminism stands for “no ego” feminism. In the foundation of shared values in many African cultures are the principles of negotiation, give and take, compromise, and balance. Here, negotiation has the double meaning of “give and take/exchange” and “cope with successfully/go around.” African feminism (or feminism as I have seen it practiced in Africa) challenges through negotiations and compromise. It knows when, where, and how to detonate patriarchal land mines; it also knows when, where, and how to go around patriarchal land mines. In other words, it knows when, where, and how to negotiate with or negotiate around patriarchy in different contexts.’⁵³

Women negotiate with men in order to participate in mining successfully. It becomes evident that men play a critical role in women’s participation as well. It has been argued that scholars and persons engaged in development research planning and implementation should pay attention to development priorities as local communities see them.⁵⁴

Given the above, in using a gender perspective to improve the field for women miners, policy should not only focus on the economic benefits that the small-scale mining can potentially bring to the communities, but should also anticipate the long-term health, cultural and social

⁵² Gender and Extractives in Zimbabwe: A collection of stories of women and their experiences.

⁵³ In Nego-Feminism: Theorizing, Practicing, and Pruning Africa’s Way.

⁵⁴ Achola A. Pala 1977, 13.

outcomes of female employment in the sector (Heemskerk, 2003). The push and pull factors for women must be considered. There is a need not only to explore factors that hamper the process of gender mainstreaming for policy development, but also to investigate the ways in which women engaged in mining could improve their livelihood (ZELA, 2015).

4.6 What are the best practices? The way forward

Several strategies can be implemented for Zimbabwe to address the challenges and barriers faced by the women as they seek to participate in mining. First, there is need to expand the mining value chain to include the roles played by women. Women's participation varies in the sector both in terms of the scale and roles of their involvement (ZELA, 2015). Women work as laborers, owners, operators, intermediaries and engage in activities not directly related to mining such as cooking, cleaning, trading, and sex services (Hinton, Veiga and Beinhoff, 2003). However, women, if not involved in digging, are often not recognized as miners (Hinton, Veiga and Beinhoff, 2003). These activities constitute significant opportunities for women, whose equitable participation in the sector is impeded by various factors, including lack of financial, technical or physical capacity to operate along with their male counterparts, as well as due to being restrained by their domestic duties.⁵⁵

Secondly, there is a need to create an artisanal or small-scale mining desk in the Ministry of Mines and Mining Development. This will increase internal government capacity to promote women's mining activities. Thirdly, there is a need to decentralize and simplify the mining licensing process. Decentralising the processing of mining licences has been recognized as a good mining practice. Decentralizing the public management of small-scale mining at all levels can simplify the licensing process and increase the number of female registered miners. Last but not least, massive gender mainstreaming to ensure women's participation is another best practice. It entails increasing equitable participation of women in mining activities in order to enhance their livelihoods. It also includes assessing the implications for both men and women in all areas and at all levels, including legislation, policies or programs. Further, women's preferred methods of participation in mining should not be limited. The United Nations stresses the need for gender mainstreaming and urges policymakers to support "increased involvement of women at all levels" of artisanal mining industry (UN, 1996: 222).

⁵⁵ ZELA, 2015.

4.7 Conclusion

To sum up, it can be concluded that although the Constitution and other laws are available to regulate mining and agricultural issues, women are not adequately protected. The issue of land ownership remains a fallacy as the right is not absolute. Land can be lost at any stage. The uncertainty of the right to own, use, lease and hypothecate land is exacerbated by the laws that are not aligned to the Constitution.

Women's socio-economic rights are flouted by both registered and unregistered miners at all stages of the mining processes. The communities are rarely involved in EIAs that are conducted before mining operations commence. Where the community is consulted, women are rarely consulted resulting in men approving such processes without considering the future impact on women's livelihoods. Women's right to participate in key decision making is usually undermined despite the fact that women will be heavily impacted by mining projects. When mining commences women are adversely affected by the relocations. Their Constitutional right to be awarded adequate compensation is openly violated. Lack of awareness of their rights results in their being deprived disproportionately to men. The state is not fulfilling its role in protecting women from all forms of exploitation.

Women are now engaging in alternative sources of livelihoods. Some have joined and made strides in artisanal mining whereas those who try to participate in small-scale mining are faced with several challenges. Gender expectations are still a hindrance. Mining is still considered a man's job and women in mining are discriminated against. Men dominate the mining ground and expose women to several abuses and threats that include encroachment and harassment.

The expansion of mining has resulted in massive land degradation and health hazards thereby adversely affecting women. The relevant state actors are disconnected resulting in women's environmental rights being violated. The implementation of the relevant environmental laws by the state actors like the ZRP, EMA and the courts of law is not effectively protecting women's socio-economic rights. Small retributive fines, lack of enforced court orders and corruption have all contributed to mining companies flouting their mining and environmental obligations.

CHAPTER FIVE

5.0 CONCLUSIONS AND RECOMMENDATIONS

5.1 Introduction

The findings discussed in the chapters above demonstrate the impact of the expansion of the mining activities on the livelihoods of women from Shurugwi communal area. It is from these findings that the conclusions and recommendations below are drawn.

The study was guided by the following research questions:

1. Are the large-scale mining activities in Shurugwi encroaching on agricultural land?
2. Is the Shurugwi women's right to access land affected by the large-scale mining activities?
3. Are men benefitting more than women from the mining activities taking place in Shurugwi?
4. Do the employment criteria at the mines in Shurugwi discriminate against women and perpetuate gender roles?
5. Are women being adversely affected by the mining activities in Shurugwi through increased health hazards and perpetuating the burden of care-giving?
6. Are the effects of the mining activities being felt by women in Shurugwi a result of ineffective control mechanisms?
7. Did women in Shurugwi lose their viable economic livelihoods as a result of the setting up of a platinum mine?
8. Were women forced to look for alternative sources of livelihoods as a result of the appropriation of land for mining purposes by Unki and other mines?

5.2 Conclusions

From the above questions the following conclusions were drawn:

- 5.2.1 Rural communities are adversely affected by mining activities. Women and children in particular are the most negatively affected. Although mining contributes immensely to the country's economy, its effects on local communities are largely negative. These include loss of land and livelihoods, environmental degradation, land degradation, water pollution and physical harm among others. Encroachment by miners has caused massive land degradation resulting in women finding it difficult to carry out their farming activities.
- 5.2.2 To some extent communities have benefitted through various interventions like the development of infrastructure by large-scale mines. This includes bridges, clinics, schools, employment opportunities for some and the introduction of projects for local people through CSOTs. However, in Shurugwi it emerged that the CSOT is benefitting only a few individuals who are paid by Unki Mine. The needs of the community are not being effectively addressed.
- 5.2.3 The expansion and introduction of mining activities has disrupted and worsened existing economic livelihoods. Women and girls have been impoverished whilst men have managed to adjust to the new regime. Men easily get recruited by mining companies and engage in artisanal mining without any challenges whereas women usually face limitations in taking part in such economic activities.
- 5.2.4 Women are now considering and participating in alternative livelihood activities like artisanal mining, vending and commercial sex work. Only a few are employed by large-scale mining companies. However, such employers emphasize gender roles which now results in their being denied equal access to employment opportunities.
- 5.2.5 Local women in mining communities are not adequately protected by relevant state actors and institutions. As a result, addressing women's human rights and ensuring their satisfaction remains a challenge.

- 5.2.6 Women who have attempted to engage in small-scale mining have faced huge challenges due to gender expectations. Mining is still considered a job for men. Women are still expected to maximize their gender roles like home-keeping. This has resulted in some women applying for mining claims that are close to their homes so that they can perform both roles.
- 5.2.7 The fact that the law allows mining rights to supersede any other land rights breeds discrimination against women. They lose the right to be treated as equally important stakeholders in mining and land issues. Denying women an opportunity to take part in key decision-making processes usually causes lack of substantive equality. The extractives industry then becomes an avenue through which the safeguarding of women's socio-economic rights becomes impossible.
- 5.2.8 The Constitution and mining and environmental laws in Zimbabwe do not adequately safeguard the livelihoods of women in mining communities. There is no proper action plan to ensure adequate notice, dialogue, proper relocation/resettlement guidelines and adequate compensation for the relocated/displaced and this has serious adverse effects on local women.
- 5.2.9 Environmental and socio-economic rights of women are usually at risk due to the ineffectiveness of the current legal mechanisms. Women are the ones who bear the grave results of such legal shortcomings through the loss of land and livelihoods, physical injuries and deaths.
- 5.2.10 The current legal framework is flawed and marred with inconsistencies thereby rendering the whole idea of land ownership a fallacy. Such contradictions in the law greatly disadvantage women.

5.3 Recommendations

From the conclusions, the following recommendations are made:

- 5.3.1 There is need to align existing laws to the Constitution in order to eliminate the current contradictions in the application of the law. This will create certainty in the

law. Currently, the Constitution promises absolute rights to land but these are then taken away by provisions of the Communal Lands Act and the Mines and Minerals Act. Once women acquire security of land tenure, they will be able to make positive decisions aimed at the sustainable utilization of land and the environment. Further, the alignment of the law will guarantee an effective regulatory framework.

- 5.3.2 The state must not be influenced by Constitutional challenges before delivering its Constitutional obligations. Individuals must be in a position to confidently claim their rights and secure legal protection.
- 5.3.3 The State should fulfil its international human rights obligations in order to protect women's rights. All international statutes must be incorporated into domestic law as envisaged by section 34 of the Constitution. This will eliminate the possibility of the discriminatory implementation of the law. The intention of the law-makers must not be ambiguous to avoid women's exposure to discrimination and deprivation of human rights.
- 5.3.4 Gender must be implemented in all developmental issues and initiatives in order to eliminate all practices that militate against the equality of men and women.
- 5.3.5 Mining companies must be compelled to carry out gender assessments before both prospecting and mining. This preventive measure will help to protect women as they are the ones who usually bear the brunt of environmental violations. This will serve the purpose of eliminating and minimizing negative impact thereby empowering women from the onset.
- 5.3.6 Awareness must be raised on land, mining and environmental rights. This will empower women to protest against violations of their social, economic and environmental rights and make legal challenges where necessary.
- 5.3.7 In addition to the above, both mining companies and communities must be educated on various conservation methods in order to ensure a healthy and sustainable

environment. To induce compliance, mining licenses must be cancelled when mining companies flout environmental rules and regulations.

- 5.3.8 The responsible state actors must devise effective mechanisms to ensure that there is compliance with the law. For instance, corruption by the police who connive with illegal miners must be investigated by relevant anti-corruption bodies. Offenders must be heavily punished in the form of compulsory and mandatory prison terms in order to deter would-be offenders.
- 5.3.9 Illegal miners must be strictly monitored and prosecuted in order to eliminate the scourge. Long prison terms must also be imposed.
- 5.3.10 The government and other non-state actors must be compelled to collectively come up with measures directed towards enhancing the livelihoods for women in mining communities. This can be achieved by providing resources for diversified projects and opportunities to sustain livelihoods. Mining companies are not eager to employ women hence the aid will go a long way in alleviating lost economic livelihoods and poverty.

5.4 Legal Control Measures

- 5.4.1 In order to come up with viable legal and policy measures that allow women to participate in mining, regulatory bodies need to fairly and effectively enforce policies and legislation with clearly stipulated and user-friendly provisions for women in terms of equal access to land and licenses and legal incentives to enhance women's access to land.⁵⁶
- 5.4.2 Alternatively, preferential treatment can be introduced in the form of quotas reserved for women on licensing and land rights in order to ease the challenges that they face in their attempts to participate. Further, capacity building across the relevant government agencies will ensure consistent enforcement of legal provisions. Capacity

⁵⁶ Inter-governmental Forum on Mining, Minerals, Metals and Sustainable Development (IGF). (2018). Women in Artisanal and Small-Scale Mining: Challenges and opportunities for greater participation. Winnipeg: IISD.

building and commitment by the state and civic organisations will assist the government in enforcing gender-related legislation.

- 5.4.3 The legislature must come up with progressive laws that allow NGOs and other non-state actors to independently monitor the violation of women's socio-economic rights with the aim of assisting women in securing appropriate remedies for violations.
- 5.4.4 In terms of section 71 of the Constitution a mere interest in the land is recognized. Women's interests, occupation or possession of communal land must be protected as well.
- 5.4.5 To achieve a comprehensive set of environmental laws it is suggested that all relevant statutes be harmonised and incorporated into one Act. The process must include consulting meaningfully and directly with affected communities and not technocrats who are not qualified to represent them. For instance, the Mines and Minerals Act, the mining regulations and the Environmental Management Act contain provisions that are vague and contradict each other which creates confusion in the application of the law. The consultative stages must be comprehensive in communities where mining activities take place.
- 5.4.6 Governments departments must be coordinated. Women and civil society organisations must be given room to participate in mineral, agricultural and environmental policy making. For instance, in mining women and NGOs must be members of the Mining Affairs Board. Currently the board is composed of government personnel, labour, business sector and academics only. Section 406 of the Mines and Minerals Act provides for the District Advisory Board. However, this board is not functioning in most districts and it needs to be resuscitated so that women can also participate positively.
- 5.4.7 Gender mainstreaming must be included in legal and policy implementation. This will serve a major role in ensuring the effectiveness of the law. Actors like the judiciary and other implementers must be trained sufficiently so that they will always include gender mainstreaming in all their issues. This will also allow them to prioritize women's needs.

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