Gender assessment of the extractive industries in Malawi

December 2014
Authored by:

Tinyade Kachika
Gender & Legal Consultant
LawPlus
P.O. Box 2989
Lilongwe
Malawi
Contents

List of Tables ................................................................................................................................. 5
List of Boxes .................................................................................................................................... 5
List of Figures .................................................................................................................................. 5
Acronyms ......................................................................................................................................... 6
Acknowledgements ......................................................................................................................... 7
Definitions of gender terms ........................................................................................................... 8
Executive Summary ....................................................................................................................... 9
Chapter 1: About the Gender Assessment ....................................................................................... 13
1.1 The Value Addition of Integrating Gender Considerations in Extractive Industries ............... 13
1.2 What Constitutes Extractive Industries in Malawi? ................................................................. 14
1.3 Objectives of the Gender Assessment ..................................................................................... 15
1.4 Methodology for the Gender Assessment ................................................................................ 16
1.4.1 Literature review .................................................................................................................. 16
1.4.2 Mapping of stakeholders .................................................................................................... 16
1.4.3 Consultative meetings ......................................................................................................... 16
1.4.4 Field visits ........................................................................................................................... 17
1.4.5 Draft report ........................................................................................................................ 17
1.5 Limitations ................................................................................................................................ 17
1.5.1 Field visits had small coverage ......................................................................................... 17
1.5.2 Findings on impacts of mining on children are scanty ...................................................... 18
1.5.3 Information on oil and gas is not adequately developed .................................................. 18
1.5.4 Inadequate quantitative data ............................................................................................ 18
1.5.5 Delayed responses to mapping questionnaires ................................................................. 18
1.5.6 Use of lead institutions to gather data for multi-institutional interventions ..................... 18
Chapter 2: Gender Issues in Large Scale Mining ......................................................................... 19
2.1 Introduction ............................................................................................................................... 19
2.2 Roles and Responsibilities of Women and Men in EI Communities ....................................... 19
2.2.1 Women’s responsibility for household food security and general care work .................... 19
2.2.2 Men’s role as decision makers at household levels ........................................................... 20
2.2.3 Men’s role as decision makers at community level ............................................................ 21
2.2.4 Women’s roles in employment opportunities .................................................................. 23
2.3 Gender Considerations in Corporate Social Responsibility .................................................. 25
2.4 Community Organisation to Respond to their Context Specific in EI Issues and the Role of Women ..................................................................................................................... 27
2.5 Women’s Involvement and Gender Considerations in EITI Processes .................................... 28
2.6 Conclusion ............................................................................................................................... 30
Chapter 3: Gender Issues in Artisanal and Small Scale Mining .................................................... 31
3.1 Introduction ............................................................................................................................... 31
3.2 Existence of an Association for Women Miners ..................................................................... 31
3.3 Roles that Women are Playing in Artisanal and Small Scale Mining ...................................... 31
3.3.1 Women as mine owners ................................................................................................. 32
3.3.2 Women as dealers .......................................................................................................... 33
3.3.3 Women in mining related value addition ........................................................................ 34
3.4 Access to Markets by the ASM Sector ................................................................................... 37
3.5 Are Women Profiting from ASM? .......................................................................................... 39
3.6 Gender Based Violence in ASM ............................................................................................ 39

2
3.7 HIV and AIDS in ASM .................................................................................................................................................. 40
3.8 Government Transparency with International Learning Opportunities for Women in Mining ............................................. 41
3.9 The ASM Sector in National and District Processes ........................................................................................................ 43
  3.9.1 Involvement of women ASM in national processes related to mining governance and administration ........................................... 43
  3.9.2. Integration of impacts of ASM in District Implementation Plans ........................................................................... 44
  3.9.3 Inclusion of ASM in decentralisation forums ................................................................................................... 45
3.10 Availability of resources to support women in artisanal and small scale mining ............................................................. 45
  3.10.1 Support for value addition ........................................................................................................................................ 45
  3.10.2 Financial support for working capital ............................................................................................................. 46
3.11 Conclusion ................................................................................................................................................................... 47
Chapter 4: Extractive Industries and Women’s Land Rights .................................................................................................... 48
4.1 Introduction ........................................................................................................................................................................ 48
4.2 Impact of extractive industries on women’s land rights ........................................................................................................ 48
  4.2.1 Loss of agricultural production .................................................................................................................................. 48
  4.2.2 Loss of land due to relocation ...................................................................................................................................... 50
  4.2.3 Loss of male agricultural labour due to migration ..................................................................................................... 51
4.3 Implication of compensation arrangements on women’s land rights ................................................................................ 51
4.4 Impact of limited land rights of women to ‘own’ and operate ASM mines ........................................................................ 51
4.5 Conclusion ........................................................................................................................................................................ 52
Chapter 5: Gender analysis of EI Related legal and policy frameworks ...................................................................................... 53
5.1. Introduction ........................................................................................................................................................................ 53
5.2. The mandate to integrate gender in EI legal and policy frameworks .................................................................................. 53
  5.2.1 Broad domestic mandate to promote gender equality in extractive industries legislation and policies .................................................................................................................................................. 53
  5.2.2. Sources of the obligation to advance women's economic empowerment .................................................................................. 54
  5.2.3 Sources of the obligation to safeguard women's health and well-being .................................................................................. 56
5.3 Mines and Minerals Frameworks ......................................................................................................................................... 57
  5.3.1 Gender Dimensions of the Mines and Minerals Policy of Malawi (2013) ........................................................................ 57
  5.3.2 Examining the Mines and Minerals Act (1981) from a Gender Perspective ........................................................................ 59
  5.3.3 National Artisanal and Small Scale Mining Policy (final draft, May 2014) .................................................................................. 63
5.4 Gender and Oil and Gas Related Laws .................................................................................................................................. 69
5.5 Gender in Environment Impact Assessment Frameworks .................................................................................................. 72
  5.5.1 State of gender mainstreaming in extractive industry ESIs in Malawi ............................................................................ 73
  5.5.2 How are gender considerations featuring in the Malawi Environment Management Bill? ............................................. 73
  5.5.3 Gender Sensitivity of Environment Impact Assessment Guidelines .................................................................................. 76
5.6 Gender Perspective to Resettlement and Compensation Related Frameworks ........................................................................ 77
5.7 How gender responsive is the Workers’ Compensation Act of 2000? .................................................................................. 80
  5.7.1 How is compensation calculated? .................................................................................................................................. 81
  5.7.2 Medical expenses and women’s unpaid care work for the ill ....................................................................................... 82
  5.7.3 Additional considerations .................................................................................................................................................. 83
5.8. Gender Aspects of Occupation Health and Safety Law .................................................................................................. 83
5.9 Conclusion ........................................................................................................................................................................ 84
Chapter 6: Mapping of Gender Interventions Being Implemented by Key Players in the Extractive Industries .............................................. 85
Introduction ........................................................................................................................................................................ 85
6.1 Non-Governmental Organisations ........................................................................................................................................ 85
6.2 Government institutions ......................................................................................................................................................... 90
6.3 Development partners .......................................................................................................................................................... 94
LIST OF TABLES
Table 1: Paladin Africa – A Sample of Social Empowerment Booklets Tailored For Kayelekera…........26
Table 2: Proposed issues for review, and how they can be engendered........................................59
Table 3: Response of Draft National ASM Policy to women’s wish list........................................63
Table 4: Level of gender sensitivity of the Environment Management Bill....................................74
Table 5: Workman compensation calculations..............................................................................81

LIST OF BOXES
Box 1: Community engagement strategies to hear and address women’s voices- Coal Exploration in Mongolia by Rio Tinto.........................................................2
Box 2: Examples of efforts to increase women’s workforce participation in extractives projects in Australia........................................................................................................25
Box 3: ‘Women in mining’ recommendations for a Model Mining Development Policy..............58

LIST OF FIGURES
Figure 1: Mzimba ASM admiring a block of aquamarine that has just been mined..................32
Figure 2: A rose quartz mine owner pointing at mine burdens that need to be cleared by machinery in order to reach a production level.................................................................36
Figure 3: A pile of rose quartz produced at the above mine......................................................36
Figure 4: Mzimba Cooperative office/showroom.................................................................38
Figure 5: Chichiri Cooperative office/showroom.................................................................38
Figure 6: ASM mine dwelling at a mine owned by one woman...............................................42
Figure 7: A supervisor and mine worker at a mine owned by a woman showing some mining tools 42
**ACRONYMS**

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Full Form</th>
</tr>
</thead>
<tbody>
<tr>
<td>AIDS</td>
<td>Acquired Immuno Deficiency Syndrome</td>
</tr>
<tr>
<td>ASM</td>
<td>Artisanal and Small-Scale Miners</td>
</tr>
<tr>
<td>CCJP</td>
<td>Catholic Commission for Justice and Peace</td>
</tr>
<tr>
<td>GDP</td>
<td>Gross Domestic Product</td>
</tr>
<tr>
<td>GMMA</td>
<td>Globe Metals &amp; Mining Africa (Pty) Ltd</td>
</tr>
<tr>
<td>EI</td>
<td>Extractive Industries</td>
</tr>
<tr>
<td>EIA</td>
<td>Environment Impact Assessment</td>
</tr>
<tr>
<td>FDIs</td>
<td>Foreign Domestic Investments</td>
</tr>
<tr>
<td>HIV</td>
<td>Human Immunodeficiency Virus</td>
</tr>
<tr>
<td>IANRA</td>
<td>International Alliance on Natural Resources in Africa</td>
</tr>
<tr>
<td>MAWIMA</td>
<td>Malawi Women Mining Association</td>
</tr>
<tr>
<td>NGOs</td>
<td>Non-Governmental Organisations</td>
</tr>
<tr>
<td>OVOP</td>
<td>One Village on Product</td>
</tr>
<tr>
<td>PEA</td>
<td>Political Economy Analysis</td>
</tr>
<tr>
<td>TIWONE</td>
<td>Transparent Initiative with our Natural Resources</td>
</tr>
<tr>
<td>TORs</td>
<td>Terms of Reference</td>
</tr>
<tr>
<td>MPRDA</td>
<td>Minerals and Petroleum Resources Development Act</td>
</tr>
<tr>
<td>UN Women</td>
<td>United Nations Entity for Gender Equality and the Empowerment of Women</td>
</tr>
<tr>
<td>WoMin</td>
<td>Women in Mining</td>
</tr>
</tbody>
</table>
ACKNOWLEDGEMENTS

To be added by UN Women
### Definitions of Gender Terms

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gender</td>
<td>The social roles that men and women play, because of the way their society is organized. Gender roles are learned and may evolve over time. Thus gender is different from sex, which is the physiological and biological characteristics that determine whether a person is female or male.</td>
</tr>
<tr>
<td>Gender blind</td>
<td>Ignoring or failing to address the gender dimension in key programming areas, and taking the incorrect view that people are generic and have equal needs (as opposed to gender sensitive).</td>
</tr>
<tr>
<td>Gender disparity</td>
<td>Sex imbalance in terms of numbers. It is the opposite of gender parity, which means sex balance.</td>
</tr>
<tr>
<td>Gender equality</td>
<td>Refers to equality of men’s and women’s access to resources, opportunities and services, ownership of assets and control over benefits from investments.</td>
</tr>
<tr>
<td>Gender equity</td>
<td>Is the process of achieving gender equality which is concerned with fairness and justice for both sexes in the distribution of benefits and responsibilities. The concept recognizes the disparity between men’s and women’s access to resources and opportunities.</td>
</tr>
<tr>
<td>Gender gap</td>
<td>The gap in any area between women and men in terms of their levels of participation, access, rights, remuneration or benefits.</td>
</tr>
<tr>
<td>Gender mainstreaming</td>
<td>Involves ensuring that gender perspectives and attention to the goal of gender equality are central to all activities - policy and law development, research, advocacy/ dialogue, resource allocation, and planning, implementation and monitoring of programmes and projects.</td>
</tr>
<tr>
<td>Gender responsive</td>
<td>This is similar to gender sensitive because in interventions, it refers to the perception and realization of the ways in which women and men participate in the development process, how they are affected by it, and how they benefit from it.</td>
</tr>
<tr>
<td>Gender sensitive</td>
<td>Recognises and responds to the different needs and constraints of individuals based on their gender differences to redress existing and immediate inequalities.</td>
</tr>
<tr>
<td>Sex-disaggregated data</td>
<td>The collection and separation of data and statistical information by sex to enable comparative analysis.</td>
</tr>
<tr>
<td>Gender disaggregated data</td>
<td>Goes beyond simply collecting data from women and men (or about numbers of men and women), but requires the meticulous collection of data that reveals hidden information with the aim of understanding differentiated impacts, vulnerabilities, opportunities of men and women.</td>
</tr>
</tbody>
</table>
EXECUTIVE SUMMARY

UN Women has diagnosed gender as the missing link in extractive industry responses because despite the increasing profile of the industry and the diversification of the economy from agro-based to extractive industries, gender considerations throughout the extractive value chain are very weak. Women face adverse consequences of resource extraction, and less of the benefits. Avoiding and mitigating negative impacts of extractive industries on women, and maximising positive impacts is the hallmark of responsible governance in the sector. Understanding the particular and different impacts of large scale mining, Artisanal and Small-scale Mining (ASM) and oil and gas sectors on women and men in Malawi will strengthen the role of extractive industries in contributing to (instead of obstructing) inclusive growth. Therefore, through this gender assessment, which was conducted between August and October 2014, UN Women Malawi intends to influence gender sensitive programming in extractive industries by providing analytical evidence and information on why such a direction is necessary.

In large scale extractive industry (EI) operations, there are several tangible opportunities for the sector to be more responsive to women. The management of resettlement and compensation can be conducted in such a way that does not perpetuate food insecurity, burdens associated with women’s unpaid care work, household poverty (especially where the in-kind compensation that can leave households better off is not legally mandated); women’s dependency (i.e. by neglecting to compensate women’s specific losses); and power imbalances between men and women at households and community levels, leading to the marginalisation of women’s voices. NGOs in project affected communities are also accountable for the failure to plausibly tackle these challenges in large scale EI operations because though Community Action Groups are fast becoming a mechanism for protecting communities’ interests, they have not particularly advocated for women specific needs. Finding and monitoring practical strategies that can guarantee women’s participation in skilled employment and in the EI supply chain is also necessary.

And since large scale EI operations typically introduce corporate social responsibility interventions, it is important that these should be relevant to the substantive empowerment of women in project affected communities, and that they should be implemented within the framework of District implementation Plans as a way of achieving broader gender programming through extractive industries. In addition, ensuring that women (including women’s rights NGOs) are adequately represented in policy and decision making structures that govern various aspects of the large scale EI sector cannot be overemphasised. These include structures that are being created by various EI related statutes, the Extractive Industries Transparency Initiative (EITI) multi-stakeholder group, and all relevant forums.

The findings in respect to the large scale extractive industries lead to three conclusions. Firstly, there is a deficiency of evidence of the full impacts of large scale extractive industries on subgroups of women, including women with disabilities, female headed households and female in male headed households. Comprehensive grounded research is needed. Secondly, taking steps to address structural barriers in order to give women a substantive voice can help to address their specific concerns and losses that result from large scale extractive ventures, particularly when it comes to involuntary resettlement and compensation. Thirdly, ensuring a breakthrough in employment and business opportunities for women in the whole value and supply chains in the sector will require action from household, industry, government and CSO levels, aimed at revolutionising socialisation patterns and/or institutional cultures that leave minimal room for women to secure and/or maintain technical jobs; to acquire the necessary capacity to run businesses that can support the industry; and to be at
decision making tables of national structures that are meant to steer the growth of the extractive sector.

With regards to artisanal and small scale mining (ASM), the gender assessment has confirmed that this sector is significant to women. However, there are no reliable baseline sex disaggregated statistics of women’s participation in ASM to understand the extent to which both men and women are involved in the different ASM subsectors related to industrial and precious/semiprecious minerals that exist in Malawi. Women in mining are relatively organised through the Malawi Association for Women in Mining (MAWIMA), and just require strengthening in order to have a powerful entity and voice that can promote their economic growth; as well as their contribution to mining governance. This empowerment can best start when MAWIMA defines the strategic vision of each ASM subsector in which its members are involved, and adopts calculated measures that can progressively enable women to reach their vision.

And though not many women are mine owners, the ASM sector represents an opportunity for women to overcome obstacles related to land rights that affect them in patrilineal and other settings. On the other hand, women who own mines are not reaching their full potential and failing to graduate from small to medium scale miners due to exploitation by middlemen; lack of loan facilities to support working capital, machinery and factories; and inadequate training to strengthen value addition, marketing, business management and production knowledge. Many of the women are not exposed to learning opportunities that are available through the government. Inadequate skills, machinery and capital implies that women dealers of gemstones usually sell raw products very cheaply, instead of making more money through value addition. Slow economic empowerment of ASM players is promoted by the absence of standard pricing for various minerals and a regulated market for ASM minerals, i.e. formal trading centres, auctions and organised trade fairs. Thus while mining has great potential, for now, most women in ASM are not profiting. The presence of institutions from the private sector and NGOs that can offer targeted skills, custom tailored loan products and infrastructure related support to various categories of ASM players in Malawi has never been great.

Social issues such as gender based violence and HIV and AIDS are barely addressed, largely due to the fact that the subsector is invisible in most district programming. It is important to broaden the innovation of strategies aimed at addressing GBV in the mining sector in order to formulate appropriate responses that also suit the ASM sector. Also, there is urgent need to get more data on how HIV impacts on men and women, boys and girls in ASM communities for purposes of expanding interventions related to ‘mobile populations’ in HIV programming. Though there are no specific CSOs that have advocacy interventions around women in mining (as well as women in mining communities in general), they are a critical entity in influencing government, development partners and other key stakeholders to support interests of women in the ASM sector. Women feel that they have little power to achieve the benefits that they desire because government’s support has mainly been rhetoric.

The Extractive industry has multiple legal and policy framework, all which need to be made gender sensitive if the industry is to realise benefits for women as well as men and align itself to international human rights standards. For example, the Mines and Minerals Policy of Malawi (2013) has to comprehensively incorporate gender sensitive indicators in its M&E Plan. In addition, the Ministry responsible for mining has to remedy noted gender related defects in the policy by fully integrating gender considerations into the review process of the Mines and Minerals Act and the Draft ASM Policy. Similar proposals that have been made by CEPA on model policy provisions related to women in mining also require consideration. The review of the Mines and Minerals Act (1981) has to incorporate a language that affirms commitment to gender equality, and addresses the needs of women in the ASM sector in provisions dealing with principles of the Act, the Mineral Resources Advisory Board, Non-exclusive prospecting licences and mining claim licences tenure extension, royalty rates revisions, local content (local procurement and employment), corporate social
responsibility, exclusive licensing to Malawians in the ASM Sector and conditions for licensing –
exclusive prospecting licence and mining licence.

The Draft National Artisanal and Small Scale Mining Policy (final draft, May 2014), which already has a
strong focus on women and has reasonably addressed most of the concerns and needs of women in
mining, has two weaknesses. Its M&E framework has substantial flaws that defeat the gender related
intents of the policy because it does not have any gender indicators. Additionally, there are a few
outstanding issues that the policy needs to address in order to satisfy the intention to achieve equal
participation by focusing on women in the ASM sector in the areas of: affirmative action for
credit/funding (or other resource needs) of women’s cooperatives or women in mining; giving special
attention to cooperatives in relation to marketing opportunities; and acknowledging the relevance of
an appropriate communication strategy to meet women’s stated needs; facilitating a serious response
to issues of HIV and gender based violence; and signalling commitment to address ASM sector social
issues like human trafficking, prostitution, early pregnancies, child marriages, sexual harassment and
other forms of sex discrimination.

Furthermore, there are gender aspects that need to be considered in oil and gas related laws. For
example, apart from the tendency of considering physical environmental impacts, oil related legal and
policy frameworks have to be sensitive to the need to address gendered economic and health
impacts, including those that may arise due to oil spills during exploration and transportation. This
means that apart from paying for pollution, the polluter should also be bound to compensate for both
economic and health costs of an affected population, taking into account gender roles. Additionally,
Oil and gas Environment and Social Impact Assessment (ESIA) have to fully consider social impacts of
industry activities on men and women within surrounding communities. It should also be
acknowledged that hydraulic fracking has special impacts on women and the environment, and should
be specifically prohibited. Issues of gender and disability should also be incorporated in any statutory
bodies and in licensees’ applications (i.e. relating to plans for recruitment and training.

In respect of general EI sector environment impact assessment frameworks, gender sensitivity has to
start with the Malawi Environment Management Bill of 2014. Gaps that have gender implications in
the current version relate to: the non- inclusion of definition of social impact assessment either as a
stand-alone definition or within the context of the definition of environment impact assessment (EIA);
the lack of guaranteed targets for women’s participation in the National Environment Protection
Authority Board and the EIA Technical Committee; the absence of gender mainstreaming as one of the
required skills for members of a proposed Technical Committee on EIA are limited; ambiguity on how
far similar EIA requirements apply to both the large scale and ASM sectors; lack of requirement to
articulate social impacts in the EIA report (this is currently only required in a project brief); and the
absence of a requirement for EIA reports to be repackaged into thematic summaries, including on
social and impacts. Positively, TORs that were developed for the review of while EIA guidelines, are
supposed to provide more substantive guidance, it is important that the law and its operational
framework should speak to each other.

Making the legal framework that govern the EI sector gender sensitive also implies attending to
resettlement and compensation related frameworks. This includes recognising that the Lands
Acquisition and Compensation Bill of 2012 has provisions related to involuntary resettlement for land
that is acquired for public utility, which can be expanded to suit communities and women in EI
resettlement contexts. In the absence of a strong statute to govern involuntary resettlement matters,
the Government may just consider crowning the Lands Acquisition and Compensation Bill of 2012 as
the national framework for all involuntary resettlement and compensation matters, and include the
proposed gender sensitive provisions in the framework. For example, it is important that
compensation packages and arrangements should reinforce the protection of the family as an
important unit, minimise household disability and impoverishment, and reinforce joint decision
making and control amongst spouses. Further, the law has to safeguard communities against negative effects of delayed resettlement on communities’ food security and livelihoods. Similarly, there is need to amend the provision of Land Bill of 2012 that states that ‘no compensation shall be payable to interests created after publication of the notice to acquire’, to address and avoid such negative impacts on communities and women as a result of delayed resettlement. And considering that Mines and Minerals Policy of Malawi (2013) cursorily mentions that one of the social issues that government will address is ‘compensation and resettlement of land owners and communities affected by mining,’ there is need to develop concrete operational provisions in the Mining and Mineral Act (under review) to protect these communities based on different needs of women and men.

Gender responsiveness has to extend to the Workers’ Compensation Act (2000) too. For example, the criteria for dependants (in the event of a worker’s death) in the Act should be aligned to the Deceased Estates (Wills, Inheritance and Protection) Act No. 14 of 2011. Medical expenses and compensation for women’s unpaid care work for the diseases that are covered under the law also have to be comprehensively guaranteed. Additionally, the composition of the Workers Compensation Trustees Board and a Workers Compensation Tribunal is gender sensitive. The other important aspect of EI related law that should not be ignored is that Occupation Health and Safety (OHS) law. In this regard, OHS Standards need to be gender sensitive beyond sanitary facilities, and ensure the suitability of personal protective equipment (PPE) to the female physique and comfort. OHS standards must have regard to the impact of shift work on women’s family lives; and they should effectively prevent reproductive hazards related to exposure to chemical, physical, or biological agents that can cause reproductive harm. More significantly, gender sensitive OHS standards have to go beyond typical safety and health hazards, and address the prevention of sexual harassment as a package of OHS standards, given its harms on the physical and psychological well-being of workers who are victims, including HIV risk for both the victims and perpetrators.

Ensuring that gender programming takes root in the EI industries is the responsibility of multiple players. These include Non-Governmental Organisations, the Ministry responsible for Mining, the Environmental Affairs Department, the Ministry of Industry and Trade, the Ministry responsible for Finance, the Ministry responsible for gender, Parliament, development partners, extractive industry companies and ASM associations (including the Malawi Women in Mining Association – MAWIMA). All these have unique and interrelated responsibilities to play and issues to deal with for an effective sector response that fully empowers women.
CHAPTER 1: ABOUT THE GENDER ASSESSMENT

1.1 THE VALUE ADDITION OF INTEGRATING GENDER CONSIDERATIONS IN EXTRACTIVE INDUSTRIES

The gender assessment of the extractive industries in Malawi was commissioned by UN Women, and was performed between August and October 2014. UN Women was established to accelerate progress on meeting the needs of women and girls worldwide, and has the mandate to support Member States as they set global standards for gender equality and women’s empowerment. It works with governments and civil society organizations to design laws, policies, programs and services needed to implement these standards as a strategy for promoting human rights, humanitarian action and peace and security.

Globally, one area of emerging interest to the entity is the incorporation of gender into extractive industries (EI) and natural resource management. The UN Women Guide titled ‘Extracting Equality’ (2014) provides direction for countries to ensure increased women’s participation at every level and in every activity along the extractive value chain, in government, civil society and the private sector. The Guide also shows how UN Women, together with Publish What You Pay, have created a new kind of value chain that provides direction on how gender can be approached at every step of the extractive process. UN Women has also developed Guidelines for Gender Responsive Policy Review and Engagement in the Extractive Industry Sector (2014) with a view to assisting in the reviewing of existing regional-level policies, regulations, concessions and revenue management for the EI sector from gender equality and human rights perspectives to ensure that they are engendered.

In Eastern and Southern Africa, UN Women (ESARO) has prepared a Policy Brief for Gender Equality in Extractive Industries (2014), which is intended to guide country-level and corporate programming in the sector. Consequently, UN Women Malawi has developed a draft Extractive Industries Strategy (2014), which has a strong focus on the mining sector in order to guide its operations and promote women’s involvement in the sector. The strategy originates from trends in the Malawi socio-economic outlook that suggest the diversification of the economy from agro-based to extractive industries. This follows the revelation that Malawi is endowed with various natural resources. The Malawi Growth and Development Strategy II (2011-2016) projects that extractive industries have the potential to contribute to up to 20 percent of Malawi’s Gross Domestic Product (GDP).

UN Women’s concern is that so far, gender considerations throughout the extractive value chain are fragile. This means that women can be excluded from the broad benefits that the country’s economy is likely to gain from the growth of the extractive sector. The potential for women’s exclusion exists despite that in different parts of the world, women often suffer most from the adverse consequences of resource extraction. They are the first to be affected when a mine opens up because apart from risking losing their livelihood due to loss or degradation of land, water bodies are also often polluted, leading to health and other social risks. The sudden arrival of transient male workers that accompany new extraction projects leave women vulnerable to sexual exploitation and sexually transmitted diseases. Economically, the high demand and an influx of cash can lead to a sharp increase in the price of basic food and household goods. To avoid and mitigate these effects responsibly, it is urgent that women should be involved in decision making related to policy making, regulation, technical aspects and revenue management in the extractive industries.

Therefore, the gender assessment of the extractive industries in Malawi has been performed out of the realisation that the particular impacts of both large scale and Artisanal and Small-scale Mining (ASM)
sectors on women and men has not been given adequate prominence in the country. While a number of studies and analyses of the sector have been conducted, there has been little consideration of how men and women are differently positioned in the industry. Yet, natural resources can only truly benefit all citizens if there is full realisation that policies, regulatory frameworks and development plans related to extractives have distinct impacts on women and men’s lives. These impacts can either perpetuate or eliminate gender inequality. The gender assessment exposes these differences so that when understood, they can guide the strengthening of extractive industries that contribute to (instead of obstructing) gender inclusive growth by promoting gender equality and women’s empowerment. Therefore, the gender assessment will help to influence an extractive sector policy and legal environment that ensures that gender related risks are mitigated, and that enjoyment of benefits accruing from the industries is equitable and inclusive.

Generally, the adoption of a gender approach to extractive industries is important for women in Malawi because it recognises them as agents of change in issues that relate to their health, livelihoods, safety, and economic empowerment in the sector. This departs from the position regarding women as ‘vulnerable,’ which is common place in many frameworks. In this regard, UN Women subscribes to what the Women in Mining (WoMin) project of the International Alliance on Natural Resources in Africa (IANRA) has proclaimed, that:

*The language of ‘vulnerability’ when applied to women does not match our analysis and political orientation. Women in poor communities, by virtue of their class, gender and ethnic status, may have limited or no control over resources, few or no educational opportunities and less decision-making power. But this does not detract from their ability to act to transform their situation. In this respect, they cannot be equated with minors or with people who have severe disabilities or with the very elderly—all of whom are extremely dependent on able-bodied adults of sound mind. One often finds these different social groups lumped together with women as ‘the vulnerable’. The language of ‘vulnerability’ infantilises women, strips them of their power, and undermines the powerful contribution that women make as caregivers, workers and managers of community resources. The notion of women as ‘vulnerable’ and in need of protection denies them their very human power to act to transform the world around them.*

This is the underpinning philosophy behind the position of UN Women Malawi that the extractive industries would lead to greater sustainable development if women’s voices are heard and implemented in critical decision making forums and initiatives surrounding the sector. Indeed, UN Women has pronounced that women are actors and not victims, and it is time they had a better way to engage with natural resources through the promotion of their participation and leadership. They have the power to change their current relatively poor standing in the EI sector as depicted under Annexure 1.

1.2 WHAT CONSTITUTES EXTRACTIVE INDUSTRIES IN MALAWI?

This gender assessment follows the standard definition of extractive industries as being ‘any processes that involve the extraction of raw materials from the earth to be used by consumers. The extractive industries consist of any operations that remove metals, mineral and aggregates from the earth. Examples of extractive processes include oil and gas extraction, mining, dredging and quarrying.’ Therefore, the gender assessment looks at both extractive processes and the environment in which they occur (in this case legal, policy, programmatic and institutional arrangements). A brief
The list of various natural resources that Malawi possesses has been widely documented. Among these is uranium, which is being extracted at Kayelekera Uranium Mine in Karonga district by Paladin Africa (an Australian company). This is the biggest FDI in Malawi so far. A Mining Licence covering 5,520 hectares was granted in April 2007, and work commenced around 2009. The mine is currently on 'care and maintenance.' According to a representative from Paladin who was interviewed in this assessment, this means that the company has suspended production because it was losing significant amounts of money due to a depreciation of uranium prices on the world market. The projected outstanding lifespan of the mine is estimated to now stand at five years, and the company will be expanding its area of operation, which will also potentially extend the life span. Niobium and tantalum will be mined in Kanyika, Mzimba district by Globe Metals and Mining Africa (GMMA), who will be a second largest FDI in the sector. However, a Development Agreement between the company and the Malawi government is yet to be concluded. In addition, Mkango Resources Ltd (a Canadian company) believes that Malawi could become Africa's largest rare earth producer. The country has at least five potential rare earth mines in Malawi, of which Mkango's Songwe Hill project in Phalombe district is the most advanced.

In respect of oil, Malawi has awarded six petroleum exploration licenses to Surestream, Sankara, Ophir, SacOil, Tillow and Lonrho. According to the Environmental Affairs Department, by October 2014, Surestream was the only company that had produced an Environmental and Social Impact Assessment Report of its exploration activities. Coal is also mined, mainly in Northern Malawi by companies like Mchenga and Eland. Further, in 2013, it was reported that Intra Energy (an Australian based Company) had made a number of new coal discoveries as well as extended some of known deposits. In March 2013, the Malawian Government signed a Memorandum of Understanding with Intra Energy to allow the company to construct and operate a 120 megawatt coal-fired powered station in Chipoka, Salima. Coal will be supplied from a coal mine owed by the company through its subsidiary, Malcoal Mining.

On the other hand, artisanal and small scale miners across Malawi are engaged in a range of precious and non-precious stones, and Mzimba is the hub of gemstone small scale ASM. Many ASM in various parts of the country are also engaged in quarry and limestone mining. The sector has the potential to grow by increasing output and producing higher value products, especially cut and polished gemstones. Since May 2013, Malawi has been conducting a geological mapping of the country under the Mining Governance and Growth Support Project funded by the World Bank. This is expected to unveil the full scope of minerals in the country. In March 2013, the Catholic Commission for Justice and Peace (CCJP) produced a mapping report of extractive companies in Malawi, which is also informative. CCJP is currently conducting a mapping of areas that have minerals in the 10 districts that are a focus of one of its mining projects, discussed in Chapter 6.

1.3 Objectives of the Gender Assessment

The gender assessment of the extractive industries in Malawi was implemented by UN Women for purposes of:

---

3. From around USD70 to around USD32 in September 2014.
4. platinum, quartz, galena, emerald, nickel, copper, ruby, sapphire, graphite, iron ore, pyrite, garnet, gold, diamond, aquamarine, amethyst, agate, corundum, tanzanite, citrine, malachite, iolite, tsavorite, madarite, columbite, hematite, topaz, tourmaline, spiercrite, lazurite, turquoise, epidote, peridot and rhodolite. tantalum oxide aquamarine, amethyst tourmaline, fluorite, and tantalite.
(a) Conducting a gender analysis of policies and laws governing the extractive industries, including from an HIV perspective where applicable;

(b) Ascertaining a baseline of gender responsive projects and initiatives related to the extractive industries, whether by foreign domestic investments (FDIs), artisanal and small scale miners, government, development partners and Non- Governmental Organisations (NGOs).

(c) Compiling a list of key issue and/or checklists to guide the designing gender inclusive programmes within the extractive industries.

Three important issues are of interest to UN Women. First is the need to raise awareness of the gender dimensions of the extractive industries, including within the context of policies, legal frameworks and programmes. Second, is the quest to critically assess: how women can effectively participate in the extractive industries across the mining value chain; how women can benefit — either as business owners, employees and benefactors of extractive industries revenue; and how the extractive industries impact on women’s safety, security, livelihoods and health. More particular attention is paid to the quandary of women and girls involved in ASM, including the disadvantages that they face in issues related to production, markets and value addition. Third is the desire to understand the scope of gender responsive programming in the EI sector.

1.4 METHODOLOGY FOR THE GENDER ASSESSMENT

The findings of this qualitative gender assessment of the extractive industries in Malawi were obtained through a combination of a desk review and consultations with key Ministries, NGOs and selected individual and companies/associations working in the sector.

1.4.1 Literature review

This involved a review of available literature, reports and any existing data on the extractive industries in Malawi in order to produce information and identify barriers and opportunities for women’s participation in decision making, benefit sharing and governance within the sector. The review was guided by several UN Women strategic documents developed in 2014 (i.e. Malawi Draft Extractives Industries Strategy; Extracting Equality—A Guide; and other related documents from the region provided the basis of the review. As the bibliography exhibits, it also involved an extensive review of materials on gender and extractive industry from other countries, particularly in Africa, with a view to sharing best practices. All this informed the gender analysis of specific extractives related policies and laws that appears under Chapter 5.

1.4.2 Mapping of stakeholders

The gender assessment scoped the different stakeholders that are implementing interventions in the extractives industries in Malawi, including the areas of influence. Different tools were developed for women, CSOs, the ASM sector, mining companies, government institutions and development partners. The tools were vetted by UN Women before application. Chapter 6 contains the mapping results, which show different areas of interventions and the extent to which they incorporate issues of gender, gender based violence and HIV. This provides a baseline that indicates where different stakeholders are working, on what, and the gender gaps and opportunities in their responses.

1.4.3. Consultative meetings

These were held with key stakeholders, including the Ministry of Natural Resources, Energy and Mines; Ministry of Finance and Economic Planning, Ministry of Trade and Industry/OVOP, Environmental Affairs Department of Mines, Malawi Women in Mining Association (MAWIMA
representatives from gemstone, lime, ceramics and chalk/vim subsectors), Chichiri and Mzimba Gemstone Cooperatives, Paladin Malawi, Malawi Natural Resource Justice Network (MNRJN), selected Civil Society Organisations and development partners, and Parliamentary chairpersons for committees on social and community affairs, health and women’s caucus. The purpose was to gather information in the various areas of interest in the tools mentioned above, as well as to follow up on any information/gaps arising from the literature review.

1.4.4 Field visits

Two field visits were conducted to gather data. The first was a visit to consult MAWIMA members, who are also members of Chichiri Gemstone Cooperative in Blantyre. The second visit, which was to Mzimba, extended to the Mzimba Gemstone Cooperative and two women owned ASM mines. Instead of site visits to other operations that are owned by MAWIMA members in the central region, a joint meeting was held at the Department of Mines with women that are involved in gemstone, lime, ceramics chalk and vim. Thus the visits strategically focused on women that are directly involved in small and artisanal mining since these have been left out in many mining advocacy processes and hence their voice has not effectively been documented.

1.4.5 Draft report

Firstly, this draft report enunciates issues that affect women differently from men in large scale mining, oil and gas, and ASM. Secondly, it applies these findings to a gender analysis of policies and laws (including those in the making) governing the extractive industries. Thirdly, it offers a baseline of the extent to which gender equality and HIV and AIDS issues are manifested in projects and initiatives related to the extractive industries, whether by foreign direct investments (FDIs), artisanal miners, government, development partners and NGOs. Fourthly, a separate issues paper has been developed to highlight key issues in large scale and ASM extractive sectors with the aim of guiding the design of inclusive programmes within the extractives industry. The report contains the following Parts:

- Chapter 2: Gender Issues in Large Scale Mining
- Chapter 3: Gender issues in Artisanal and Small Scale Mining
- Chapter 4: Extractive Industries and Women’s Land Rights
- Chapter 5: Gender Analysis of EI Related Legal and Policy Frameworks
- Chapter 6: Mapping of Gender Interventions Being Implemented by Key Players in the Extractive Industries
- Chapter 7: Recommendations

1.5 LIMITATIONS

1.5.1 Field visits had small coverage

The fact that field visits only focused on a few operations of women in mining has the challenge that holistic issues that affect women (and children) in other sites that mine gold, terrazzo and quarry could not be uncovered. In it also meant that communities were not covered, thus there was no opportunity to document the comprehensive dimensions of gender roles, activities, and access to and control over resources in different mining communities. This gap would be addressed by future research.
1.5.2 Findings on impacts of mining on children are scanty
Ideally, the gender assessment was meant to focus on women and children. However, the desk review exercise revealed that when it comes to mining, local literature does not capture data on children. On the other hand, the primary data collection exercise, which focused on a few operations run by women in mining, found that though the women may own mining operations, they currently do not employ other women at mining/production sites since they find men’s physical strength to be preferable. Therefore, the concern that children’s wellbeing is at stake when they accompany their mothers to mining sites did not arise. In addition, consultations did not expose any incidences of child labour due to the intensively physically demanding methods that are currently used in the areas visited. As such, beyond child labour, inferences to the impacts of the EI sector on children that are noted in the report are minimal and not as forceful. However, it is possible that the lack of child related data could be reflective of the small coverage of field visits that were undertaken and that it is not the standard in all ASM operations, which necessitates comprehensive nationwide research.

1.5.3 Information on oil and gas is not adequately developed
Apart from Citizens for Justice, who have conducted an audit of laws in the oil sector, not much information is available on the topic in Malawi. Gas related information is completely absent. Due to resource limitations, the field missions for this gender assessment did not cover areas where oil or gas is being explored. This means that the short gender analysis of impacts of oil and gas that is provided in the report is based on gender related impacts that have been noted in international literature. But fortunately, several of the gendered impacts of large scale mining in Malawi would equally apply to oil and gas, which still provides a basis for credible gender analysis of the subsector. Still, at a later stage, it will be necessary to do a more in-depth analysis of the oil and gas sector.

1.5.4 Inadequate quantitative data
The gender assessment does not fill the gap of lack of quantitative information to reflect the different positions of men and women in mining related impacts and opportunities, mainly because there are no systematic studies or reports from which such comparative statistics could be drawn. However, where possible, the assessment still collected a few gender related statistics.

1.5.5 Delayed responses to mapping questionnaires
Mapping tools were disseminated electronically, and many targeted institutions did not return filled questionnaires on time or at all. Follow ups were done by phone, and where practical, last minute face to face or telephone interviews with institutions were arranged in order to get feedback. This means that where it was not possible to reach this arrangement, data for some institutions was not obtained.

1.5.6 Use of lead institutions to gather data for multi-institutional interventions
There are several cases where several NGOs/CBOs are working on different arms of one project. Where it was possible, mapping data was collected from all concerned CSOs. However in some cases, it was not logistically possible and the lead CSO was the sole provider of the project information. This means that the lead CSO was speaking about other partners’ interventions on their behalf. While this has the risk of getting partial information, the fact that the lead CSO was behind the conceptualisation of the project and therefore was sharing the knowledge from an informed point of view minimises the risk.
CHAPTER 2: GENDER ISSUES IN LARGE SCALE MINING

2.1 INTRODUCTION
This Chapter mostly makes reference to large scale mining because of the absence of specific interventions related to the oil and gas industry in Malawi. However, Part 5.4, which highlights important gender considerations that should be made in the development of relevant policy and legal frameworks in the oil sector, demonstrates that many of the issues related to large scale mining would similarly apply to the oil and gas industry. UN Women Guidelines for Gender Responsive Policy Review and engagement in the Extractive Industry Sector (2014) encourage the generation of background information that can help in understanding and identifying gender issues, concerns and needs that require legal and policy responses. Therefore, this Chapter examines different situations of men and women in large scale mining by reflecting on how existing gender roles have a direct bearing on the different impacts that accrue to them in existing large scale mining contexts.

Drawing on local and international experiences in large scale mining, the Chapter demonstrates how the different gender roles for men and women impact on decision making abilities at household and community levels in matters related to resettlement and compensation; men’s and women’s levels of power in possessing the voice that is heard in decisions that are made over mining issues in their communities; the different impacts of decisions that have so far been made over resettlement and compensation on women; how gender roles create or hinder employment opportunities for men and women in large scale mining; the incorporation of gender considerations in corporate social responsibility commitments and in community organisation; and how women are playing a role in Extractive Industries Transparency Initiative (EITI) processes as the one forum that is contributing to accountability and transparency related decisions affecting large scale extractive industries.

2.2 ROLES AND RESPONSIBILITIES OF WOMEN AND MEN IN EI COMMUNITIES
Large scale mining has so far been prominent in the Northern Region of Malawi in respect to the Kayelekera Uranium Mine (Malawi’s first largest FDI) and the anticipated Kanyika Niobium Project in Mzimba. The latter project has ended up being more insightful to the gender dynamics of resettlement and compensation because many more households are being resettled than in Kayelekera (where only five households were resettled). Therefore, these findings are based on experiences of the two mining projects.

2.2.1 Women’s responsibility for household food security and general care work
Part 4.2.1 elaborates in detail how households’ food security is compromised due to delayed resettlement in Kanyika, and how this has affected women most due to their role of providing nutrition for their families. What this evidence suggests is that responsible resettlement arrangements and supporting frameworks have to aim at averting any potential social impacts, including those that women and men have due to their gender specific roles at household level. Where social impacts have somehow occurred (including due to resettlement delays that are not of the community’s making as in the case of Kanyika), they have to be compensated. Often times, women’s roles encompass fetching water and firewood for household use, and regularly accessing health facilities with the sick—which

---

5 The company reports the figure of 150 households in its ESIA, while CCJP Mzuzu, working in the community, reports the figure of 248 households
may be made difficult due to resettlement. A peculiar water related hardship has been cited by women around the Kayelekera Uranium Mine. The challenge is not necessarily the distance, but the impact of the water quality on women’s role of cooking for their households. There are reported complaints from women that: “the water is so hard that it takes unusually long to get beans cooked, which has implications on costs related to energy (firewood, charcoal or even electricity) as well as time.” As Part 5.6 observes, not only do these challenges have implications on policy and legal resettlement frameworks, but also on compensation arrangements.

For the Kanyika community, the impact of delayed resettlement is bringing in another twist, because according to CCJP Mzuzu Diocese, there is talk that the Ministry of Lands will make compensation re-assessments. The community is distressed with the prospects of this re-assessment for the fear that it will most likely depress compensation values. From the perspective of women’s gender roles, this panic may be justifiable for several reasons. First, if trees for firewood and other natural products were already cut, it means that for 2 to 3 years, they would have had to endure domestic hardships associated with this loss. Yet, while such hardships will not be counted, the absence of the tree will count, and will reduce compensation. Second, due to the assertion that the Ministry for Lands placed a moratorium against new developments activities after compensation assessments were made 2 to 3 years ago, household structures have most likely depreciated due to lack of maintenance or refurbishments. Again, re-assessment may lower the original value. The subsequent findings show that some men have already squandered part of the compensation money through loans etc. Women will likely hold the sharp end of any more valuation losses when household livelihoods standards drastically diminish upon resettlement. Due to the current compensation regime that is discussed in Part 5.6, it is unlikely that women and men will get compensation for any lost revenue that is a direct result of the development moratorium. It is recognised that with strategic responses, women’s gender roles can be eased by mining benefits, including through corporate social responsibility responses as explained in Part 2.4.

2.2.2 Men’s role as decision makers at household levels

In Malawian households that are male headed, men commonly play the role of decision makers. In the large scale extractive industries, this has its own challenges, particularly where issues of resettlement/compensation are concerned. For example, the records of CCJP Mzuzu Diocese in Kanyika indicate that out of the 248 households that are earmarked for resettlement, only 25 have preferred that the government should identify land where GMMA can build them houses, as well as give them alternative land for farming. Notably, these households are predominantly female headed—widows, elderly headed and child-headed. The rest of the households, principally male headed households, have opted to take cash and identify their own place to live and farm. The 2013 Political Economy Analysis (PEA) of the mining sector by Tilitonse observed that though Mzuzu Diocese CCJP had initially lobbied the investor to build houses for everyone, there was a turn-around resulting in the investor offering cash for compensation. This reversal was in part attributed to benefits that different players would derive by handling direct cash. However, these beneficiaries exclude women, because due to the patrilineal nature of Kanyika (where wives are seen as outsiders because they come and live in their husbands’ village), decision making on where to stay and how to use money for compensation is totally in the hands of husbands. Thus women are aggrieved that:

This lack of control over compensation money leaves us worse off, because instead of investing all the money in new households and livelihoods men are very excited and will likely misspend part of it on other women and other luxury items. If we had a choice, we would have preferred that the mining company should just build us new houses in the resettlement area. Some of our husbands have already spent a good portion of the compensation before it has been received by going into debts. This makes it certain that we will have a lower
standard of living once we leave this place since the balance will not be able to build us the same type of house, more especially so with the high cost of building materials.

Where compensation money is misspent, the pressure of looking after households/children with no or limited resources reverts to women, thus locking them in a state of impoverishment. The issue becomes even more complex in polygamous unions, which are common in some parts where resettlement is happening. In such cases, it is still the man that collects and has full control of compensation packages for a set of households. Where this sudden cash windfall is abused by a man, it simply exposes many more households to avoidable potential hardships. Therefore, safeguarding women’s joint control over compensation money is not only important for women and children, but it is also necessary for purposes of strengthening household livelihoods and assets, as these help to ease the impact of HIV and AIDS on those infected and on women as their care givers.

The developments in resettlement related compensation present the reality that the centre of resettlement planning is the household. Failure to understand and address intra-household dynamics in resettlement and compensation is more likely to undesirably affect women than men. Additionally, a resettlement regime has to be approached with an interest of safeguarding rights that women have constitutionally been guaranteed. This means being wary of (a) traditions that are discriminatory and therefore contrary to constitutional principles, (b) practices that are perpetuating gender inequalities and defying human dignity, and (c) systems that deny women the full exercise of their citizenship.

2.2.3 Men’s role as decision makers at community level

Men predominantly make decisions in community public forums in many parts of Malawi, and the resettlement situation in Kanyika is a typical case of ‘women seen but not heard.’ Though there is evidence that the investor (GMMA) took some steps to involve women in consultations relating to resettlement, in practice they were excluded because of the prevailing culture that expects women to be on the receiving end of decisions. This social set-up was expressed by women in two ways:

*We may be allowed to give our opinion, but we are culturally not allowed to argue our case and stand by our own position if men have a different view—since it is unacceptable for a woman to be seen as publicly challenging a man. This means that even if we are consulted separately, our opinions can still be overridden in an instant if there is a contrary opinion from the men or the Chief.*

*You can imagine that according to traditional protocol, a Chief of lower hierarchy cannot speak when a Paramount Chief is present, meaning that it is a remote possibility for women to claim an entitlement to express their interests in a forum being presided by a Chief.*

These findings only confirm what was previously reported in the Tilitonse Political Economy Analysis of the mining sector that:

*A community in Mzimba was invited to discuss two options for compensation upon relocation—either to be given money for building their own houses, or to have houses built by them . . . During a meeting, one woman stood up and confirmed that the female position was that the company should just build them new houses at the area of resettlement. However, the Traditional Authority immediately commanded her to sit down and declared that “no woman would speak in front of men as women had no cultural standing to give an opinion on the matter.”*

Listening to the women, the incentive for their preference for non-cash compensation is that this will guarantee livelihoods security for their general household. On the other hand, for men, the incentive for household livelihood competes with personal benefits that will come with their control compensation cash. As it turns out, such personal benefits, which come in the form of buying luxury
items, having more women, alcohol consumption etc—most of which are synonymous with gender based violence. The UN Guiding Principles on Business and Human Rights (2011) encourage business enterprises to assess potential human rights impacts of their operations by ensuring that direct consultations are undertaken with individuals from groups or populations that may be at heightened risk of vulnerability or marginalisation. However, the challenge is that consultations are usually inspired by the concept of free, informed and prior consent (FPIC), which in its strictest sense means that indigenous communities have the right to be consulted prior to the approval of a project, and to accept or reject a project.

However, this gender assessment joins the loose application of FPIC so that focus is not only limited to ‘indigenous peoples’ in the sense of the United Nations Declaration on the Rights of Indigenous Peoples (2007), but extends to rural communities in which large scale extractive operations are being contemplated. It has been argued that the application of FPIC requires that FCIP processes should be defined by the community, and should adhere to customary laws and traditional modes of decision making. In Malawi, there are several problems with the application FPIC. First, it is the fact that extractive licences are issued at central government level, thus giving no room for communities to accept or deny a project. Second, traditional leadership are the centre of initial ‘consultations’ when an extractive company is being introduced into a community, and they ‘give consent’ on behalf of the people. Third, when it comes down to consultations regarding the impact of the operation i.e. resettlement and compensation, the total difference of FPIC to traditional arrangements of decision making does not work in highly patriarchal communities as has been witnessed in the case of Kanyika where women have marginal power and authority. This is despite the fact that in some countries, women’s voices are considered as essential to FPIC processes, considering that they possess valuable traditional knowledge in relation to land, resources, spirituality, local history and the specific effects that an extractive industry venture could have on their traditional roles in providing for their families.

**Box 1: Community engagement strategies to hear and address women’s voices - Coal Exploration in Mongolia by Rio Tinto**

In late 2005, Rio Tinto Mongolia LLC, a subsidiary of Rio Tinto Exploration Asia Region, began an early-stage exploration program for low-volatile coking coal in the South West of Mongolia. After two consultations with the concerned community, the company suggested that the community establish a Community Advisory Group (CAG) to open communication channels between the company and the community. The community nominated eight men, two of whom were young men. A Community Relations Officer (CRO) assumed permanent residence at the exploration camp, and begun the role of liaising with relevant structures, including the CAG and building relationships with local community members, including women and youth. Therefore, though women had not been appointed in the CAG:

- The CRO spoke to individual family members wherever possible, not just the head of the household, who was usually a man. The CRO found that while the men agreed that the CAG and the information provided by the company about the exploration program was adequate, many of the women had additional questions and concerns. These questions had not been raised with the company previously because women tended not to speak openly in the public meetings and were not represented on the CAG.

- Many of the women complained that they were not being adequately consulted and wanted a separate committee to voice their concerns. While a women’s group was never formally established, the CRO began a formal programme of consultation to gather perspectives from the women. The CRO organised a women’s meeting where all the women from the five family groups were invited. A total of 20 women attended the meeting. The CRO reported that the women appreciated the chance to meet collectively and voice their issues and concerns.

- During the exploration activities, Rio Tinto Exploration hired men to help them with groundwork but there were no opportunities for women, who wanted to know what employment opportunities there
would be for them if a mine were to proceed. Other concerns raised related to their children’s education, employment opportunities for their children and husbands, livelihood and income generation, and pasture and vegetation.

- Women suggested creating a communication box at the village centre so that they could write down any concerns or requests.

- After many discussions with women, it became apparent to the CRO that pasture was extremely important to them. Women are responsible for processing milk and dairy products and pasture affects the quality of all these dairy products. The women were concerned about the impacts that the mine would have on pasture and feared that the mine would destroy pasture. The women were asking specific questions about how Rio Tinto Exploration planned to rehabilitate the pasture that they would disturb through exploration and operations. They had seen drill holes rehabilitated by Rio Tinto with topsoil. They were happy when the pastures returned, but they did not all return, so they wondered how it would work with such a big mine. The women also asked about the risks of exotic plants being introduced, and how that could affect pasture. Although men raised some of the same concerns, both individually and on the CAG, women were more detailed in their line of questioning about the pasture.

As a result of this work, Rio Tinto Exploration has tried to be more responsive to the issues and concerns raised by women.

Source: Australian Government, Social Responsibility in the Mining and Metals Sector in Developing Countries

Thus in circumstances like Malawi, the UN Guiding Principles on Business and Human Rights (2011) recommend that business enterprises should circumvent consultation barriers by utilising reasonable alternatives for consultations, such as CSOs. In addition, though not strictly in the context of compensation and resettlement, Box 1 contains an example of how, despite structural barriers, deliberate gender sensitive consultations were still conducted by Rio Tinto, which is a mining company registered on the Australian Stock Exchange.

2.2.4 Women’s roles in employment opportunities

One of the benefits that extractive industries bring is local job creation, but it is widely accepted that this benefit mostly favours men. Mining employment data at the Department of Mines is not usually sex disaggregated, which is a challenge to efforts that seek to understand the state of employment in the sector with the aim of devising strategies for expanding opportunities for excluded groups. Nevertheless, this gender assessment had access to data on employment at Kayelekera Uranium Mine, and as of September 2014, Kayelekera had significantly reduced its workforce because of suspended production as it was in a Care and Maintenance (C&M) phase. The female local participation stood at 22 out of 251 men. Kayelekera was expecting its permanent C&M workforce be reduced to about 210, in which women will represent about 11 percent of total direct employment. Out of the female workforce, 27 percent belong to a higher grade (i.e. social and corporate responsibility, environment, processing and employee relations) while the rest are distributed across roles such as exploration, security, cleaners, catering and other site services. The low participation of women in employment opportunities in large scale mining operations like Kayelekera has mainly been attributed to the sparse availability of qualified women with requisite technical skills. In Malawi, this is a problem that runs across many male dominated sectors involving scientific, engineering and technology skills, which suggests the need to change socialisation patterns right from household level so that diverse opportunities should similarly be opened up to girls/women.

The openness of the industrial mining sector in Malawi to recruit women in ‘hard’ and technical mining jobs can only truly be tested with the purposeful implementation of mining skills building for women. It is within the power of government to commit to legal and policy measures towards creating
opportunities for intensive women’s skill building and employment, including through the application of quotas that can gradually be implemented in the medium to long term. As mining ventures expand, global experiences, including from Australia, reveal that women’s skills that have benefited mining companies include dump truck driving and road train driving (driving a truck with several trailers in tow). This is because women tend to have a better record of staying awake at the wheel and causing less wear and tear on expensive trucks as they keep a steadier pace unlike men.

The history of women’s involvement in industrial mining is different in each country. For example, South Africa has noted that the historical cycle of exclusion, which initially banned women from mining on the basis of their alleged physical incapability, led to the concentration of women in the position of secretary, miner’s wife, shebeen woman and commercial sex provider. This reinforced women’s poverty. Of course, modern technology means that many of the mining jobs that were traditionally reserved for men, because considerable physical strength was required to perform them, are now easily undertaken by women. Over the years, the South African government has made a deliberate effort to recruit women miners by passing legislation that encourages (and sometimes enforces) mining corporations’ employment of women miners. The 2002 Minerals and Petroleum Resources Development Act, some of whose provisions related to historically disadvantaged persons were later expounded by the Mining Charter (2004), put in place a 10 percent quota for women’s participation in mining employment to be achieved by 2014. This has led to more women miners being recruited, though poor working conditions have led to problems with retention.

In Australia, where 2014 statistics show that women make up just 15 percent of the mining industries workforce, there have been different efforts to change the situation (Box 2). With varied degrees of success, the lesson that these efforts bring to Malawi is that any measures for improving women’s employment participation have to be systematically implemented and enforced across the industries as a standard, including by: ensuring incentives for compliance; ensuring the existence of a vibrant oversight body for monitoring; and guaranteeing adequate resources for a variety of strategies for women’s empowerment in the sector.

Box 2: Examples of efforts to increase women’s workforce participation in extractives projects in Australia

- In 2004, the Minerals Council of Australia (MCA) established a Women in Mining Dialogue to ‘engage industries and external stakeholders on issues related to the effective participation of women in mining, and the extension of the socio-economic benefits of mining operations to women in neighbouring communities.’ This was followed by a research programme which focused on the impact of existing workplace policies, structures and cultures on the recruitment and employment of women in the mining industries.

- As part of the industry’s responses to well-publicised skill and labour shortages, in 2007 the MCA and the Australian government’s Office for Women commissioned and released a report titled Unearthing New Resources: Attracting and Retaining Women in the Australian Minerals Industries. The report presented research findings that had been undertaken to examine the attitudes towards and experiences of women working in the minerals industries. It included a range of recommendations which were seen as providing practical information about steps that could be taken by companies and the industries to improve the level of women’s employment in the minerals sector. As a follow up, the Equal Opportunity for Women in the Workplace Agency (EOWA), which receives reports from companies, compared mining company reports of 2006 and 2009/10 in order

---

6 i.e. through targeted scholarships in mining related technical courses and mobilising qualified girls and women to take utilise the same.

7 Later revised in 2010
to assess progress by the mining industries to enhance the recruitment and retention of women employees through the implementation of recommended strategies from the Unearthing New Resources report. However the main conclusion was that proactive programs by many mining companies to address women’s employment preferences remained very limited, and progress was likely to be the outcome of initiatives within particular companies, rather than of an industry-wide effort.

- In June 2014, it was reported that Australia had set aside $440,000 towards encouraging more women into the mining and resources industries. The programme, created by the Australian Women in Resources Alliance and the Australian Mines and Metal’s Association, seeks to encourage more women to pursue careers in mining, oil and gas. The money would be used to extend an e-mentoring programme that is designed to partner up women (often working on remote locations like oil rigs) with corporate mentors working in other States and on other projects.


Besides barriers related to recruitment issues, it has been found that in line with the practice in other male-dominated industries, women who are employed in the extractive industry’s technical jobs are sometimes subjected to hostile conditions that make the industry attractive to them. For example, WoMin reports that in respect of women miners in South Africa, men have been known to employ various devices to maintain the subordination of women. This has involved crude sexist jokes and stories; failing to warn women workers of potential dangers; and the designation of some tasks that women excelled in as ‘women’s jobs,’ ending up in devaluing such jobs. Furthermore, the Australian government recognises that women and girls tend to receive less benefit from minerals projects because the few women who do obtain jobs are frequently paid less than their male counterparts. And if mining operations are not well run, there may be sexual harassment and discrimination in the workplace. These experiences do expose that women’s legal inclusion in the mining sector is not an automatically liberating experience for them. Therefore, it reminds Malawi of the urgency for mining related regulations, laws, policies and guidelines to live up to standards of laws promoting gender equality. For example, the mining sector has to conform with provisions against sex discrimination and sexual harassment under the Gender Equality Act of 2013 in order to combat unreceptive cultures and environments. Part 5.8 argues this this is not only in pursuit of gender inclusiveness, but women’s occupational safety too.

2.3 GENDER CONSIDERATIONS IN CORPORATE SOCIAL RESPONSIBILITY

Since local communities may not see direct benefits from the extractive industries, Corporate Social Responsibility (CSR) programmes are one way for extractive industries to actively give back to the community. Moreover, because extractive companies are increasingly using high technology and consequently employing fewer people than in the past, CSR has become a way of providing alternative community benefits. Also, for the companies, building better relationships with local communities reduces the economic risks they can encounter in a hostile environment. CSR programmes can invest in infrastructure (potable water, electricity, schools, roads, hospitals, hospital equipment, drainage repairs, etc.). They can even build human capital (training local people to be employed by the mining enterprise or to provide outsourced services, promote and provide skills on microbusiness, aquaculture, crop cultivation, animal rearing, textile production, etc.). Extractive companies can also contribute to building social capital (providing high-school and university education, information on HIV prevention, workshops on gender issues, information on family planning, improving hygiene, etc.).

In Malawi, Paladin is a good example of implementing CSR through educational information generation and dissemination. It has produced booklets on wide social empowerment topics, selected samples of which are listed in Table 1. Several of these booklets hold significance for women in terms
of health, education and the management of mining earnings. Paladin distributes the booklets, in local language, to local schools and communities in Karonga District, and it reported that it has distributed about 170,000 copies. Some of the stories are also transmitted to workers and communities through a theatre group. Notably, this type of information can also be useful for the ASM sector.

**Table 2: Paladin Africa – A Sample of Social Empowerment Booklets Tailored For Kayelekera**

<table>
<thead>
<tr>
<th>Title of the Book</th>
<th>Summary of the Story</th>
</tr>
</thead>
<tbody>
<tr>
<td>What Will Happen?</td>
<td>Information for women about child birth. It is designed to help women understand the beautiful things that will happen at birth, so they will not be afraid but instead be full of wonder and joy</td>
</tr>
<tr>
<td>Something Truly Amazing</td>
<td>A health lesson in story form about the development of a baby and its care after it is born</td>
</tr>
<tr>
<td>Safe</td>
<td>A story about HIV and AIDS, and how to keep safe from it</td>
</tr>
<tr>
<td>Alex’s Scary Experience</td>
<td>A health lesson about the treatment of fever and prevention of Malaria</td>
</tr>
<tr>
<td>Mirriam</td>
<td>A story of a school girl who must make decisions about sex and avoid HIV</td>
</tr>
<tr>
<td>Ella Helps Her Little Brother</td>
<td>A lesson on how to help someone who has diarrhea or who is dehydrated</td>
</tr>
<tr>
<td>The Sneeze</td>
<td>A story with lessons about the causes, treatment and prevention of respiratory infections</td>
</tr>
<tr>
<td>Henry Does Some Thinking</td>
<td>A story about the problem of trash in the village</td>
</tr>
<tr>
<td>The Trap</td>
<td>A story about traps in life and how to avoid falling into them</td>
</tr>
<tr>
<td>Martin’s Land</td>
<td>A lesson about consequences of deforestation and what can be done about it</td>
</tr>
<tr>
<td>Alfred’s Money</td>
<td>A story about two men who managed their wages differently and about wise use of money</td>
</tr>
</tbody>
</table>

Source: Paladin Africa

FOCUS, which has interventions at Kayelekera in Karonga, acknowledged that some of the benefits of the mine to women have included the business opportunity to supplying foodstuffs to the mine, and a small bursary for girls that Paladin has made available through the Department of Social Welfare. Furthermore, Paladin gave Microloan USD25,000.00 for the development of a loan product for women in Kayelekera. However, there are claims by CSOs that the loan has not had real impact because Microloan has been charging a very high interest rate, resulting in many women failing to develop their microbusinesses. And though there are some expressions on dissatisfaction (from CSOs) that are outside the realm of this paper, the company also built a US10 million water facility in Karonga district in accordance with its commitments under the Development Agreement that it signed with the Malawi Government.

The 2012 Environment Impact Assessment Report of Globe Metals & Mining Africa (Pty) Ltd, who hope to implement the Kanyika Niobium Project in Malawi, confirms that ‘GMMA is committed to social responsibility.’ Consequently, the report proposed conditional projects that would be concretised during the finalisation of a Development Agreement with the Government of Malawi. A specific CSR for women is to establish a potential partnership with Kasungu based Microloan to sponsor a loans officer who will empower/train up to 300 local women to start or grown income producing businesses. It is hoped that the experiences of the Kayelekera loan scheme can offer useful lessons for strengthening implementation of this commitment, should it materialise.

To note generally is that strategic CSR can bring targeted benefits for women and girls. For example, the provision of services such as water and electricity in mining communities can reduce women’s responsibilities towards collecting potable water or firewood for fuel, which usually takes too much time due to distance. This can enable them to have the time to engage in income generation.
exercises. Access to medical services and schools can also improve when these are introduced in mining communities. Such boosts in living standards can have a spill-over effect on gender equity, i.e. where mineworkers are enabled to send both boys and girls to school, thus creating conditions to have educated girls that can contribute to the sector in future. Part 3.9.2.1 demonstrates that it is even better when CSR obligations are developed within the framework of District Implementation Plans. This is not currently the case in Malawi, and there have been concerns that usually, women and vulnerable groups are side-lined from mainstream CSR consultations. UN Women stresses that it is important that women should be consulted and involved in the design of CSR and community programmes hosted by extractive companies. In addition, CSR programmes should be seen to be addressing the needs and opportunities for women in EI communities, and be monitored by communities to ensure that agreements and commitments are being upheld. Part 2.4 below indicates that the concept of Community Action Groups is being pursued in some mining communities, though these are currently not strong enough to independently monitor CSR agreements.

2.4 Community Organisation to Respond to their Context Specific in EI Issues and the Role of Women

In Malawi, Community Action Groups (CAGs) are a modality through which some NGOs that are working in the extractive industries are organising communities to have a voice in matters related to EI in their localities. Ideally, CAGs are expected to be a formidable force that can negotiate with and monitor activities of EI companies. So far, most CAGs do not have full capacity to level with EI companies. In addition, CSOs lack training on contract monitoring for them to impart adequate knowledge to CAGs, including women.

The general challenge with CAGs is that they have generally taken up generic issues affecting communities, and not specifically focused on women’s issues. For instance, with funding from Catholic Relief Services, CCJP Mzuzu and CCJP Karonga have been working on the TIWONE Project since 2012, and their focus is to ensure that households that are earmarked for resettlement will be adequately compensated. CCJP Mzuzu is working in Kanyika, where GMMA plans to establish a niobium mine. CCJP Karonga is working in Kayerekera (where there is a Paladin Uranium Mine) and Mwaulabo (where there is the Eland Coal Mine). In a Tilitonse funded project (2013-2015), CAGs are being established and strengthened in the 10 districts of Balaka, Mangochi, Phalombe, Mwanza, Mulanje, Dowa, Ntcheu, Mzimba, Karonga and Chitipa. This project is a joint faith response that is being implemented by CCJP, Quadrim Muslim Association of Malawi, Malawi Council of Churches, Church and Society Programme of the Livingstonia Synod and the Evangelical Association of Malawi.

In the interventions, CAGs are mobilised for purposes of empowering communities to directly engage with mining companies, and the ideal target for the CAGs is 50:50 representation of men and women. However, in Mzimba where the CAGs have taken root, the target has not been achieved and the committees are dominated by men. This has been attributed to the patriarchal culture where men make decisions, and women have to be ‘permitted’ by their spouses to join different forums. The focus though seems to end at gender parity in committee representation. However, substantive challenges related to resettlement or mining generally as they affect women are mostly not being directly addressed. There is hope that better gender sensitive planning of CAGs and their functions can be effected in future, since Part 2.2 has demonstrated that women specific issues/impacts are becoming apparent to CSOs and communities themselves.

The hallmark of gender sensitive project monitoring is that women should work alongside men to ensure that indicators are in place to examine how women are being affected by extraction, to follow up on these indicators, and to ensure that EI companies have formal grievance handling mechanisms that are designed through the participation of both men and women. In addition, women and men should have equal access to information and justice channels.
2.5 WOMEN’S INVOLVEMENT AND GENDER CONSIDERATIONS IN EITI PROCESSES

This part focuses on the Extractive Industries Transparency Initiative (EITI) simply as an illustration of how key national structures are/should be integrating gender considerations. Complementary analysis of the broader representation of women and the consideration of gender issues in sector specific structures is found in Chapter 5. For example, Chapter 5, which is a legal and policy analysis of different domestic frameworks relevant to the extractive industries in Malawi, repeatedly makes the basic observation that there is no consciousness to purposefully include a target for women’s representation despite the country’s history of having male dominated decision making structures in various sectors. Also, the Ministry responsible for gender is not co-opted in some key multidisciplinary structures.

This gender assessment would like to stress that the EITI,8 whose Secretariat is based in Oslo, Norway, has an important part to play in empowering women. Malawi has the opportunity to solidify this role, because on 13 June 2014, the State President announced in his State of the Nation address that the country would be signing up for EITI. This was one of the necessary steps that had to be taken at Executive level following recommendations that were made in 2013 by the Malawi EITI Taskforce for the country to join the initiative. The EITI is a global standard that promotes the transparency of government revenue from the extractive industries (oil, gas, and mining) that are active in a country. It has a robust, yet flexible methodology for monitoring and reconciling company payments and government revenues through a process that is created by a country to suit its context. Such a process is managed by a multi-stakeholder group/steering committee constituted by the government, companies and national civil society.

In May 2013, the EITI board adopted a new global standard at an EITI global conference that was convened in Sydney. This new standard is informed by best practices from EITI implementing countries that have gone beyond the initiative’s original reporting standards. It requires companies to follow practices in countries such as Zambia, Mali and Indonesia by reporting revenues that are disaggregated on a project-by-project basis. It further demands that all EITI members should follow Norway’s example of reporting on payments to government by state-owned enterprises. Moreover, it is obligatory for EITI member countries to (a) provide a clearer context for the data so that reports are easier to understand, (b) outline the process for granting mining and oil/gas licenses and (c) specify current license holders and report on payments to sub-national governments, where applicable. According to EITI membership information that was available in October 2014, 29 countries were EITI Compliant (meeting all requirements in the EITI standard). Seventeen of these were African countries. About 17 countries had the status of EITI Candidate (implementing EITI but not yet meeting all requirements), and 5 of these were in African countries. Thus Malawi is joining the EITI at a time when African countries are the most fully compliant.

A World Bank Mining Adviser has recommended five steps that should be considered by EITI countries in order to make EITI work for women. First, women and women’s groups have to be well represented in the multi-stakeholder group that is steering the EITI country process. Thus countries can set an initial minimum target of female representation drawn from across CSOs, government and the industries. In this exercise, instead of exclusively focusing on elite women, women leaders of local community groups should also be invited to participate. Second, where it is necessary (as a result of different education/training opportunities for men and women), women in the EITI multi-stakeholder group may need their own training so that they can be empowered to perfectly understand: how the

---

8 Was launched at the 2002 World Summit for Sustainable Development by the then Prime Minister of United Kingdom, Tony Blair.
extractive industries work, the important features and implications of the payments and receipts data that is published, and reconciliation reports. Third, women should be given leadership positions in the EITI multi-stakeholder group so that a clear message should be sent that they have equal standing as men. Fourth, countries can collect and disseminate gendered disaggregated data in terms of women’s participation in EITI multi-stakeholder group and related training activities, and accompany this data with any insights or examples where women have brought a different perspective that has added value to EITI processes. Fifth is to accept that both women and men (especially CSO representatives) will likely bring other EI-related concerns beyond those of just financial payments and receipts. Therefore, the EITI can encourage government and industries to set up parallel discussion spaces where environmental and social and other issues of concern can be addressed in an orderly and structured manner though a good representation of both women and men.

The findings of this gender assessment show that the application of these recommendations to Malawi is possible. The Ministry of Finance stated that the local EITI multi-stakeholder group will comprise 12 members, and the government, CSOs and the private sector will each contribute 4 representatives. However, the Ministry is of the view that it cannot direct how the other sectors should make appointments, so the best mechanism to ensure women’s representation, particularly from CSOs, is to lobby CONGOMA to pay attention to gender balance in its appointment of CSO representative. While this may be the position, in its invitations for sectors to make nominations, it is possible for the Ministry to recommend that due attention should be paid to including female representatives. It is recognised that the Malawi EITI Taskforce that had originally been set up to examine whether or not Malawi should sign up for EITI had MAWIMA was a member. While this is encouraging, because MAWIMA is a direct player in the ASM sector, there is also need for CSO representation for ordinary (grassroots) women. This participation is important both because these women deserve to be a voice in key national structures, and because according to the fifth recommendation above, EITI can facilitate formalised dialogue about other issues of concern that need to be resolved in the extractives industries.

Apart from CSOs, it is also possible for government to purposefully target a gender balance in its representation in the EITI multi-stakeholder group. The Ministry of Finance has shared that apart from itself, other members will be drawn from the Department of Mines, the Ministry responsible for Mining and Economic Planning and Development. This is another opportunity for tapping senior/technical female representation from these institutions, where available. The Ministry felt that due to the focus of the EITI (i.e. revenue transparency in terms of extractive industries companies publishing what they get and the government also publishing what it receives), the Ministry responsible for gender may not be a directly relevant player. However, the Ministry of Finance is open to observe whether when formulated, the adapted local version of the EITI process can create the need for the Ministry responsible for gender to be involved. Indeed, the best practices that have led to the development of the new EITI standard articulated above came from country adaptation processes, and being a new member, Malawi has enough room to be creative in order to highlight the prominence of gender considerations in EITI. For example, UN Women and Publish What You Pay suggest that there should be mechanisms to ensure that information and data on extractive payments are accessible to both women and men, and that campaigns to disseminate payment information deliberately include women in their outreach. Women’s organisations can also be trained on how and where to access data on what EI companies are paying and to whom. This can enable women to add their voice in following up on and holding the government accountable for EI money.

---

9 A global network of more than 800 CSOs united in their call for an open and accountable EI to ensure that all citizens can benefit from their natural resources.
In addition, Malawi can formalise its subscription to EITI through an EITI law, which can even set targets for female representation that the multi stakeholder group should work towards achieving by a specified period. The formulation of this law would have to fully consult women as a particular constituency in order to incorporate their expectations and needs. Such a law can also strengthen the oversight role of the legislature over EITI to ensure that local implementation is suitable to the needs of Malawians, including women.

2.6 CONCLUSION

While this Chapter contains some good information, there is clearly a deficiency of evidence of the full impacts of large scale extractive industries on subgroups of women, including women with disabilities, females headed households and females in male headed households. Comprehensive grounded research is therefore needed. From the information that is currently available, the Chapter has demonstrated that for Malawian women to fully benefit from large scale extractive industries and avert negative consequences of the sector, the starting point is to promote their control of resources as well as their contributions to decision making both at household and community levels. This intersects with the quest to ensure that women have general property rights. Improving the balance of power between men and women within households and communities has the added advantage of addressing/mitigating negative impacts that are associated with one sided power (in favour of men) such as food insecurity, HIV and AIDS, gender based violence and general household impoverishment. All these consequences are particularly harshly felt by women.

Taking steps to address structural barriers in order to give women a substantive voice can help to address their specific concerns and losses that result from large scale extractive ventures, particularly when it comes to involuntary resettlement and compensation. This would contribute to the reduction of women’s human and income poverty that may otherwise be aggravated by large scale extractive operations. Ensuring a breakthrough in employment benefits for women in the sector will require action from household, industry, government and CSO levels, aimed at revolutionaryising socialisation patterns and/or institutional cultures that leave minimal room for women to secure and/or maintain technical jobs in the sector. Ensuring that women are at decision making tables of national structures that are meant to steer the growth of the sector is not only a question of good governance, but also one of ensuring that the growth and development of the country through this priority sector is inclusive.
CHAPTER 3: GENDER ISSUES IN ARTISANAL AND SMALL SCALE MINING

3.1 INTRODUCTION
According to the Draft National Artisanal and Small-Scale Mining Policy (May 2014), a considerable percentage of those employed in the sector are women and children. However, Malawi has no concrete baseline statistics on this. There is need to compile accurate data to understand the extent to which both men and women are involved in the different ASM subsectors that exist in Malawi. However, a quick analysis of a sample of Non Exclusive Prospecting Licences that were issued to individual applicants in September 2013 bared that women are marginally represented in the mining of precious and semiprecious stones, as they constituted only 13 out of 48 approved licenses (27 percent). Therefore, the assumption is that if the observation by the draft policy is accurate, then women are mostly likely to be involved in the informal mining of industrial minerals (lime, terrazzo, quarry), and usually as a poverty driven activity.

The World Bank has noted that the ASM Sector in Malawi has the potential to grow by increasing output and producing higher value products, especially cut and polished gemstones, but is yet to be fully understood by establishing an inventory of resources capable of exploitation. The gender assessment of the Extractive Industries therefore sought to capture voices of women that are involved in mining in order to understand the various roles that they play; and the opportunities and challenges that the sector brings. In so doing, perspectives of male members of cooperatives that women miners have joined were also obtained. A gender analysis of the legal and policy frameworks that apply to the ASM sector is under Chapter 5.

3.2 EXISTENCE OF AN ASSOCIATION FOR WOMEN MINERS
Mining is an opportunity for developing women entrepreneurs. As in many neighbouring countries in, Malawi has an association of women miners—Malawi Women Mining Association (MAWIMA)—founded in 1999. MAWIMA has structures in all the three regions of Malawi. Its members explained that they joined the mining sector in consideration that agriculture is faced by land shortages, and is usually affected by droughts. Other microbusinesses as a source of income are already flooded by women, and they cannot all be doing the same things. They recognise the strong potential of mining as a gainful business venture, though as Part 3.5 demonstrates, they have differing experiences regarding the productivity of their mining related activities. The existence of MAWIMA is an important opportunity for women’s involvement in mining, as it presents a structure for systematically strengthening women in mining across Malawi. And in the words of women, ‘belonging to an association has value because it consolidates the bargaining power of women in terms of better deals and legal or policy protection.’ What is outstanding is to make MAWIMA more organised and capable of fully responding to the diverse interests of its members within a context of an enabling environment that has sound laws, policies and programmes appropriate to the ASM sector.

3.3 ROLES THAT WOMEN ARE PLAYING IN ARTISANAL AND SMALL SCALE MINING
The gender assessment revealed that women are involved in mining at three levels: (a) mine owners; (b) mineral buying and selling (dealers); and (c) value addition. They deal with precious and semiprecious stones, industrial minerals and ceramics. On occasions, the term ‘women miners’ is loosely used to refer to women who are involved in the various mining activities, and not necessarily that they are doing the actual physical work of mining.
3.3.1 Women as mine owners

Unlike some of their counterparts in the Northern and Central Regions, MAWIMA members in the Southern region do not own mines in their own right. In the Central Region, some women are reported to own mines for gemstone, lime and gypsum (for chalk manufacturing). A visit to Mzimba, in the Northern Region, extended to two mines that are owned by women. One mine is for rose quartz mining and the other is for aquamarine mining. One of the women actually lives at the mine site in the bush. Digging into the history of their involvement in mining, one of the women shared that:

In the 1980s, my husband had a friend who was working in the mines in Zimbabwe. They would go into the bush, and the friend would point out surface signs that indicated the presence of minerals. They would trench and indeed discover precious and semiprecious stones. White people who heard rumours about us started to approach us for the stones and we would sell them. I learnt a lot about stones through this process and being near Zambia, the Zambians taught us a lot about how to trench skilfully. In 2000, I became active in mining after MAWIMA was launched. The association encouraged us to participate in mining, so I secured my own mine in 2004.

Generally, there are three important questions to consider in efforts to promote or strengthen women’s ‘ownership’ of mines. The first one is: who has the power to influence a woman’s decision on whether or not to engage in mining at household and national levels? From the findings of this gender assessment, it appears that women’s decision on whether or not to ‘own’ a mine can be influenced by male partners; other women miners through their own success (or indeed lack of successes), usually emanating from the extent to which the policy environment is addressing existing challenges; and the existence of a strong association of women in mining that is able to facilitate the empowerment of women that have mines.
The second significant question is: who controls the resources and gains related to the mining venture, as well as the flow of gains? This is a relevant question because unless women are able to control their own resources, their growth and that of the ASM sector cannot be assured. Though the two women that ‘own’ mines that were interviewed in this assessment are able to fully control their mine related resources, it is recognised that for some women, such control can lie in the hands of spouses as heads of households. Another side of control in ASM is the monopoly that middlemen have in setting low prices, thus controlling the type of returns that women make from their mines. It was quickly noted by one of the women who sells containers of rose quartz from her mine to China that it is Chinese middlemen that come to buy at her mine, and that she would have been making much more money had she been selling directly to the Chinese market.

The third necessary question is: how compatible are the interests of financial players to the interest of women miners? MAWIMA members in the Southern Region mentioned that ‘the lack of capital means we are not opening our own mines. Yet, minerals are known to be present in Mangochi, Ntcheu, Nsanje, Chikwawa, Mwanza, Blantyre, Balaka, Phalombe and Mulanje.” It is clear that financial institutions are highly risk averse, and their interest is to have security that will guarantee recovery of their money. As for OVOP, discussed in Part 3.10, its interest is not to provide loans or production machinery, but value addition machinery. However, the need for capital is very urgent for two reasons. For those that produce precious stones like aquamarine which still require manual labour in order not to bury the stones with the use of machinery like excavators, they need to have the financial muscle to hire machinery that can clear any mine burdens that are getting into the way of production; and a continuous capital flow to pay enough miners even in the absence of production/sales. Otherwise, they are pressed to sell whatever little production they get to anyone who can give them some cash to enable them to pay for labour, which increases their exploitation and unproductivity. For those that mine stones such as quartz, the use of primitive methods is currently expensive and leads to very low production because as one the woman mine owner shared:

*For work that would have taken minutes with big machinery, you end up doing it in weeks because you are using basic tools like shovels, hoes and hammers, etc. The nature of mining is that you are totally responsible for feeding the miners, providing them with lodging, including even beddings and soap. This requires a constant flow of cash, because you do this every day even if it takes the miners three or more months of work to get to the stones that you are looking for. It has been very difficult to attain consistent cash flow when you cannot produce enough, and lose buyers in the process because you have failed to sustain supply.*

Therefore, women find that instead of graduating from small to medium scale miners, they are stuck at small scale. And as the failure to use machinery also leads to low productivity, it is affecting the capacity of gemstone miners to create employment for women, i.e. in sorting. Right now, men are the ones that are employed to do the mining because the work is brutally backbreaking, and requires extensive physical energy. Even for the other ASM subsectors like lime, chalk and ceramics, the lack of capital is frustrating growth because of lack of infrastructure (factories) for production, use of very old technology, and inability to hire consultants that can offer timely training when the Ministry of Industry and Trade is unable to.

### 3.3.2 Women as Dealers

MAWIMA women in the Southern Region mostly buy and sell raw gemstones that they have purchased from other ASM. Therefore, these women provide markets even to women who own mines. The focus on raw stones is a manifestation of lack of capital for value addition, which further diminishes the returns that women obtain from dealing in gemstones. Currently micro finance only looks at the capacity to make repayments in the short term and is not able to fund inventory. This
situation only serves to benefit buyers, who can be very exploitative. One buyer put this in context by explaining that:

> When coming to a dealer, most exploitative buyers will have studied her or his financial situation. They know that if they hold out a bit more, a dealer's price will drop even by more than half since she or he needs quick cash. So they will listen to the price and make a counter offer which is much less. If the dealer does not accept, they go away and wait knowing that she or he will soon be financially squeezed and take the price that is offered by the buyer.

Several female ASM objected that “middlemen/buyers pay K100.00 for low grade gemstones, which they sell it at USD30 on the international market.” They confirmed that they can even sell ruby or emerald at USD50 per gram, when at international market, the highest quality of this gemstone can fetch up to USD20,000.00 per gram. However, in the Southern Region, it was clear that men and women dealers have different approaches to pricing and markets. With regards to pricing, male members of the Chichiri Gemstone Cooperative (of which MAWIMA is member) claimed that an exploitative price that can be paid for a precious stone of the highest quality is between USD1,000-USD8,000 per gram. However, women protested that this was not a reality. Regardless of whatever returns are actually obtained, what this finding says is that women’s expectation of the purchase price from the most exploitative buyer of precious stones is far considerably lower than men’s expectation.

It is also obvious that weak understanding of gemstones is a major factor that contributes to pricing challenges that are being faced by women. This problem has three sides. Women can either buy low value or ‘worthless’ stones at an expensive rate; they can sell high quality stones cheaply; and it also affects their capacity to grade their gemstones, thereby fetching a low value for high quality stones that are mixed with low grade stones. One international buyer noted the following about several tones of rose quartz stones at Chichiri Gemstone Cooperative that are waiting to be sold:

> If those stones were expertly graded, maybe only 10 percent of them would be worthy to be bought for export. The rest would only make good material for construction. This is because an international buyer first considers whether the costs of shipping a heavy raw stone (i.e. through DHL) will be outweighed by the value that he will fetch at an international market. If the answer is no, as is the case with most of the stones that I saw, then you cannot buy.

While this assessment is subject to debate, the main finding is that with comprehensive gemmology knowledge, ASM dealers can be in a position to better argue on the quality of their precious or semi-precious stones, as opposed to when they have minimal knowledge.

### 3.3.3 Women in mining related value addition

Malawi does not have a value addition strategy, unlike South Africa, which has the ‘Beneficiation Strategy for the Minerals Industry of South Africa’ (2011). Beneficiation entails the transformation of a mineral (or a combination of minerals) to a higher value product, which can either be consumed locally or exported. The term is used interchangeably with ‘value-addition.’ Value addition in mining can facilitate job creation, increase government revenue, and can enhance the capacity of MAWIMA members to have more lucrative businesses by producing polished and cut stones, jewellery, chalk, vim and ceramic products etc. The gender assessment found that Mzimba Gemstone Cooperative cuts and polishes stones at a commission of 5 percent for members and 10 percent for non-members. However, one woman mine owner shared that the machine is not put to maximum use because not enough gemstones that require cutting and polishing that are being mined. She explained that:

> Having a cutting and polishing machine is a good step, but it is not of much use if you cannot fully utilise it. First, there have to be gemstones that can be taken for cutting and polishing. The problem is that people are not adequately mining gemstones due to obstacles related to cash flow. Put it another way, if I have no money in my bank account but have workers to feed
and pay and I get a production say of 10 grammes of aquamarine, my priority will be to sell that immediately so that I can have some cash. I will not have the luxury of sourcing money and 'losing' time on value addition. This means that I cannot equally afford to stockpile my gemstones and wait to cut and polish them in order to get a good value some day in future. As a result, we immediately sell small quantities to middlemen, leaving the cooperative machine very much underutilised. The first urgent step should be to empower us mine owners to have enough cash flow so that we get enough production and are able to patiently utilise the cooperative value addition machine so that we can supply enough processed quantities to fair buyers.

This challenge may as well apply to other regions, though it was not specifically mentioned by regional MAWIMA members in their interviews. In Blantyre, while Chichiri Gemstone Cooperative has a machine supplied by One Village One Product (OVOP) on loan, members stated that their problem was that they are not really doing value addition because ‘the machine is not appropriate for producing highly polished gemstones.’ In addition, they do not have skills to operate it. In the Central region, though the Department of Mines has a cutting and polishing machine, MAWIMA members reported that they do not use it since they have no skills. Overall, women’s value addition needs are different depending on their ASM sub-sector. Some need machinery, some need training and others need factories. However, in adopting value addition strategies like machinery, there has to be a balance between promoting efficient production and job creation, since automated machinery also have the disadvantage of decreasing the demand for labour.

MAWIMA gemstone members have shared with the Ministry of Mines and this gender assessment that they require machinery like tumblers, drillers and bead making machines, among others. Throughout the assessment, they recurrently stressed that “the best way for us to maximise our profits is through value addition, instead of selling raw products that are usually bulky and only fetch a fraction of the price.” These needs are understandable, because the women have first-hand experience of the pricing discrepancy between raw and processed stones. In their experience “a buyer will buy raw quartz at USD 200 per tonne. However, beads made out of the same stone are sold at ZAR 175 (about USD 17).” However, since value addition is linked to markets, an experienced international buyer mentioned that MAWIMA has three important questions to ponder and address: do they have full comprehension of products that are in demand (i.e. is it tumbled products, cut and polished products, jewellery etc)? Are they aware of the quality that is in demand? Do they have the knowledge to make the products that are in demand to the quality that meets export standards? The basic message is that MAWIMA cannot be efficient and profitable by rushing to develop a ‘shopping’ list of value addition equipment before it defines the area that it wants to exploit in the global market. In other words, despite the clear need for value addition, it is important that gemstone equipment that is acquired has to follow a clear goal that MAWIMA wants to achieve with its various gemstone members.

The value addition challenge for women in ceramics in the Central Region is slightly different. Though they have a machine, it is manual, very heavy and labour intensive, and slows down production. Because of the massive weight and the fact that it is pushed/rolled during processing, the interviewed MAWIMA members in this subsector only employ men. Therefore this disadvantages women in employment opportunities. As for chalk makers in the Central Region, their capacity to do value addition is stalled by lack of training in chalk production. They explained that:

We have a site in Dowa district and we have on several occasions informed the Ministry responsible for mining that we are ready to start production, and that they should arrange for our training. We are yet to hear from them on when we will be trained. We are concerned
because once the rains start coming in November, our site will be covered in water and there will be no prospects of production. This will mean a loss both in terms of time and resources.

Central Region MAWIMA members that are focusing on lime in Phalula, Ntcheu District, were also affected by institutional bottlenecks within government. The government promised them support to build a factory. Though they have communicated to government that they now have a site and bricks, construction is yet to start. What these findings display is that government can inadvertently hinder the development and economic empowerment of women in the ASM sector if it is not organised enough to swiftly respond to capacity their needs. But then, it is unrealistic to expect government to be the sole player in developing the ASM sector. The presence of institutions from the private sector and NGOs that can offer targeted skills and infrastructure related support to the various categories of ASM players in Malawi has never been great.

**Figure 2: A rose quartz mine owner pointing at mine burdens that need to be cleared by machinery in order to reach a production level**

**Figure 3: A pile of rose quartz produced at the above mine**
3.4 ACCESS TO MARKETS BY THE ASM SECTOR

One of the main interests of women ASM dealers is to get good markets. However, this is hampered by lack of organised markets, i.e. a specialised auction market, minerals market centre and specialised trade fairs for ASM. All these point to the government and private sector as enablers. Some women in mining feel that they are being callously exploited by middlemen/buyers because ‘the government is issuing export licences to the foreigners that are buying from us, which is unfair competition, as it is raising foreigners to compete with Malawians.’ However, the problem may not be simply that others are buying for export purposes, because this occurs even in sectors like tobacco, coffee, tea etc. Rather, three more factors come into play: (a) there is no regulated marketing/pricing regime for ASM minerals in the country; (b) the ASM sector has not generated wealth for dealers (or even mine owners), who when faced with urgent cash demands, have the pressure to sell their commodities at any price because they do not have consistent cash flow; and (c) members are in competition with their own cooperatives, because they continue to deposit merchandise at a cooperative and yet cheaply sell commodities individually on the side-lines, instead of using the cooperative as a central marketplace.

Efforts to formalise and strengthen cooperatives have to find solutions to all three challenges. Serious considerations have to be made on how to bring cooperatives to a standard where they have comparable values for commodities of equal value. Understanding and addressing deep seated issues that drive ASM not to totally vest marketing powers in cooperatives is also important. Women miners have cited poverty as one of the causes, which is linked to the need to ensure on-going ASM micro financing that funds risks and inventory. In strategies to strengthen markets for ASM, there has to be realisation that there are players who would stand to lose and gain from any changes. Some of those who would stand lose by changing the current marketing regime are buyers and some of the dealers who act as middlemen. On the other hand, a large section of dealers have an incentive to support any change that seeks to improve their earnings. Similarly, improvements in the collection of revenue are an incentive for government to support change. It was observed that the two gemstone cooperatives that were visited for this gender assessment have a lot of work to do to qualify as appropriate showrooms and/or market centres, and their refurbishment has to be part of the broader agenda (see Figures 4 and 5).

Mining News Zambia confirmed in 2014 that the auction route of marketing has been tried successfully in Zambia, where the Sata administration promoted value addition to Zambia’s gemstones and other minerals, including by auctioning them locally unlike previous practices of holding international auctions only. The first auction was held in April 2013 and 6.3 million carats of low grade emeralds were sold at USD15.2 million. The second auction was held in July 2013 and 583,448 carats of high grade emeralds were sold at USD31.5 million. The third low grade auction was held in November 2013 and USD16.4 million was gained. Zambia anticipates that selling and auctioning of gemstones locally will create employment, enhance value addition through cutting, polishing and jewellery making activities, and enhance revenue collection as a result of proper monitoring mechanisms. The Association of Zambian Women in Mining has also made good strides in direct marketing, instead of using middlemen. For example, in 2012, they signed a K2 billion export deal of low to middle-grade semi-precious stones with two companies in Hong Kong. These experiences demonstrate to MAWIMA that there are big and diverse markets even for low grade gemstones, so long as there is value addition and unity of purpose amongst its members. At the same time, the government has to permit an environment for women to thrive, including by providing information and opportunities for international markets.
Figure 4: Mzimba Cooperative office/‘showroom’

Figure 5: Chichiri Cooperative office/‘showroom’
The concern of several members of MAWIMA was that:

We sometimes feel we are not given the platform to showcase our gemstones and other mineral products in order to grow. For example, when there are international meetings, i.e. organised by SADC, COMESA and AU, we are not usually invited to display and sell our merchandise. For example, at a COMESA meeting in 2010, we were shocked to see that those who were invited were from neighbouring countries, and no deliberate efforts was made to organise us so that we are also represented. We were only notified after the fair had started because someone had observed that Malawi was not represented.

Not only are organised markets necessary for precious and semi-precious stones, but also for the whole range of minerals that are mined in Malawi as is clear from the woman who stated that: ‘we manufacture ceramic related products such as flower pots, which are very expensive to export. But if we had local trade fairs, this would be a ready market because all ASM would offer their merchandise to buyers a central point and make business deals.’ Resolving market related challenges require multi sectoral collaboration, particularly involving ministries responsible for trade, mining and gender. At the same time, it is recognised that value addition, which is discussed above, is considered as an important component of successful marketing by women in mining.

3.5 ARE WOMEN PROFITING FROM ASM?

There were different responses which suggested that while few women have reaped profits from ASM, many have not yet reached that point. What women were able to agree on is that on when they access fair buyers, mining has good returns. However, these become short-lived because supply is not consistent due to the long time it takes to get sufficient production due lack of appropriate machinery; or when fair buyers are erratic. Thus good income is usually by chance, and not normative. One woman who has been able to export containers of rose quartz to China admits that though there are some profits, it could be better if she was not supplying through middlemen who in turn sell to Chinese buyers at a profit. And though some women have not yet profited, they are inspired by the successes of women in countries like Zambia, South Africa and Tanzania—who provide them the hope that the ASM sector in Malawi will one day make a breakthrough and enjoy similar accomplishments.

Women feel they have little power to bring the benefits they desire because government’s support has mainly been rhetoric. These findings resurrect the argument that economic growth of the country through the economic empowerment of women in ASM sector is reliant on government’s creation of practical and gender responsive conditions for the ASM sector to flourish.

3.6 GENDER BASED VIOLENCE IN ASM

The forms of gender based violence (GBV) that were cited by women in the ASM sector in Malawi are unique to everyday forms. For instance, GBV is when women are duped of contributions meant for the purchase of gemstones within a cooperative. According to women, “we may agree to make joint contributions for the purchase of raw gemstones for resale. It is men that go on the purchase trips, and we have lost our money when we are simply told that the trip was not successful.” One woman attested that she had now lost more than K100,000 in these arrangements. Women also gave the example of another cooperative, where both men and women contributed to supply an order for corundum in 2013. However, men distributed the profits amongst themselves and up to date, women have not received anything. Another facet of GBV in one gemstone cooperative was that:

10 The price for rose quartz is between USD100-200 per tonne. This means for a 28 tonne container, middle buyers can pay USD 2800-5600.
Men usually secretly exchange information on buyers amongst themselves to the exclusion of women dealers in the cooperative. You just see them whispering, i.e. after one gets a call. And then they disappear to see the buyer privately, instead of letting him or her just come to the co-operative.

To the women, this is gender based violence because while the men are keeping up appearances that they are in a joint cause, they are taking deliberate action to prevent women from accessing economic opportunities. Women at Chichiri Cooperative also complained that when they joined the cooperative, all their merchandize was stolen overnight, which to them qualifies as gender based violence. And MAWIMA women from the Central Region who are involved in different minerals added that “to us it is gender based violence when government fails to support us despite knowing our economic empowerment needs and their challenges.” In this context, the assessment found a woman who lives in the remote bush, away from her family, in order to run a mine in Mzimba district. This woman is of the view that if she had modern mining machinery that facilitates the quick extraction of gemstones, she would not have to live in precarious conditions in order to supervise mining. Besides, she has to live there since she cannot afford daily transportation to the mine.

Unlike with men, the scenario interferes with a woman’s demands to balance family responsibilities with income generation aspirations. It is also not remote to wonder whether women in this situation, who completely have no security and are surrounded by men, cannot be harmed by the men who have been employed as miners either to rob her of precious stones or otherwise. On the part of the men, who currently do labour intensive mining under extremely harsh conditions, the lack of appropriate machinery and protective clothing is also tantamount to gender based violence since brings health risks. Furthermore, there is an increased risk of accidents that is faced by the male miners since the mine can cave in due to dangerous pit mining that is pursued due to lack of machinery both for mining, and for clearing any mine burdens (stones and soil that have been dug out from the mine pit). Exposing men to conditions that have the potential to harm their health and lives is not only a risk to men, but also to women and children in their households. Injury or death of men dispossesses their households of their income, just as it increases the responsibilities of women, usually in situations of poverty. It is therefore important to broaden the innovation of strategies aimed at addressing GBV in the mining sector in order to formulate appropriate responses that also suit the ASM sector.

In respect of GBV features that spill over to surrounding communities, in some ASM areas such as Dedza, discussed in Part 3.7 below, girls have been known to drop out of school to cohabit with miners. Thus defilement and child marriages are aspects of GBV that are being perpetuated in these communities. Polygamy, as well as multiple relationships were also noted as more GBV practices that are associated with both GBV and HIV. In respect of polygamy, many men are known to maintain families both at home, and in the respective mining communities where they go to mine. Apart from affecting women, the practice affects children too, because they are usually left without adequate care when fathers leave mining communities or due to inadequate cash remittances back home. Therefore, the cycle of poverty entraps both the women and children.

3.7 HIV AND AIDS IN ASM

HIV in the ASM sector was pointed out as being a problem from the perspective that there are no HIV related interventions at the mines. Yet, male miners and their male employees usually live away from their spouses, and attract women from local communities who do not typically have a source of income in the sector. At one ASM mine in Mzimba, a female cook had to leave work due to pregnancy, but she could not identify a single father—meaning that she was having unprotected sex with several workers at the mine.
Many mines also attract all sorts of trades, meaning that there is constant interaction between men and women. This exposes both women and men to high HIV risk. In some areas, women, including from Tanzania, offer sexual services at mining areas because they know that both miners and buyers at these localities have regular cash. An example was provided of an ASM gold mine in Dedza, at a place that is commonly known as kansosole or kasokoneza. Here, there is a big village of temporary paper houses where there is a big population and life is very fast. Sex workers even leave town to offer their services there because they get higher pay.

Girls that drop out of school in order to cohabit with miners at the ‘village’ usually enter into intergenerational relationships. This also applies to girls that have casual sex with miners in exchange for money. It is commonly men who yield power in intergenerational and transactional sex, thus heightening the risk of HIV transmission for girls. Even boys are flocking to the area to work and seek fortune, and likely to become susceptible to high risk behaviours at a young age. Men recklessly spend money on sex and beer, commonly boasting that ‘we will make more tomorrow’ (by digging and selling more gold). For now, mining areas are not specifically isolated as a ‘vulnerable’ group in the national HIV response. There is urgent need to get more data on how HIV impacts on men and women, boys and girls in these areas for purposes of expanding interventions related to ‘mobile populations’ in HIV programming. In addition, interventions to expand continuous access to ART for workers in remote ASM mines are necessary.

3.8 GOVERNMENT TRANSPARENCY WITH INTERNATIONAL LEARNING OPPORTUNITIES FOR WOMEN IN MINING

There is general discontent and a lot of rumour mongering regarding the availability of international learning tours that women in mining should otherwise be benefiting from, only that government (Department of Mines) allegedly is not transparent about these opportunities. For instance, in the understanding of some women, every year, there is sponsorship for women in mining to visit Australia. However, but it is officials from the Department of Mines who routinely take these trips. Another rumour is that every year, Malawi gets 30 funded tickets for international learning tours, and these are either sold at the ‘black market’ by officials, or given to others who are not even women in mining. For example, one woman claimed to have had a chat (in early October 2014) with a male Tanzanian who has been buying stones from Malawi for years, and he spilled that he had been a beneficiary of such a ticket. In his words ‘women in mining in Malawi are still being “hoodwinked,” but one cannot do that with women in mining in Tanzania and Zambia.’

While the accuracy of these rumours can be contested, they raise key questions: what do women in mining know about opportunities that are available to them? If they do not have full knowledge, why not? And what exact opportunities are available or not available anyway? If such opportunities exist on an annual basis indeed, how many women in mining have utilised them? Are there any systems to ensure the spill-over of these opportunities to different members? If government officials indeed prefer to go on the tours themselves, what are the gains or losses that women in mining are encountering because of that decision? Women agreed that domestic exchange of information hardly occurs between those who go on the tours and the women in mining. Fostering transparency by the Department of Mines/Ministry responsible for Mines will have to begin with practical and not rhetorical commitments to improve the growth of women in mining; and the sacrifice of personal gains that provide incentives for officials not to fully disclose available opportunities to women.
Figure 6: ASM mine dwelling at a mine owned by one woman

Figure 7: A supervisor and mine worker at a mine owned by a woman showing some mining tools
3.9 THE ASM SECTOR IN NATIONAL AND DISTRICT PROCESSES

The vibrant participation of women in mining in decision making structures and critical processes at national and district levels is one sure way of feeding their perspectives, concerns and needs into mining related governance. This Part discusses the extent to which MAWIMA and the ASM sector in general is represented in three areas, namely national processes related to mining governance and administration; District Implementation Plans; and decentralisation forums.

3.9.1 Involvement of women ASM in national processes related to mining governance and administration

MAWIMA is part of several national level processes led by CSOs and government. As an example of a CSO initiative, MAWIMA is a member of the Natural Resource Justice Network, which was founded in 2013 in order to improve collective action amongst CSOs to pursue advocacy on mining issues and increase the technical capacity of CSOs and communities on mining issues. Part 2.5 has also mentioned that MAWIMA was a member of the Extractive Industries Transparency Initiative (EITI) Taskforce, which was being chaired by the Ministry of Finance and was charged with making recommendations on whether or not Malawi should sign up for EITI as an important mechanism for institutionalising revenue related transparency in the mining sector. The Taskforce became defunct when it made its recommendations to government in 2013.

In addition, the Ministry responsible for mining involves MAWIMA in key processes such as mining events (symposiums, conferences, workshops etc). Despite the recognition, many MAWIMA members were of the view that their influence in these processes is relatively weak. Some even had a feeling that MAWIMA is sometimes co-opted just to satisfy the requirement that women have been included. According to members, the voice of MAWIMA is not as loud and influential because it is not working with any advocacy CSO that particularly promotes its cause. According to MAWIMA members, the existence of such CSOs would be a game changer 'because though CSOs are not currently agitating for women’s rights in the mining sector, they are powerful and influential enough to push for the fulfilment of our aspirations by different stakeholders.

Incorporating MAWIMA as the sole voice to represent interests of women in the mining discourse also has limitations in that the institution is only focused on the needs of its members, and does not address broader issues affecting women in mining areas. Such issues can include promoting support for the employment of women in mining value chains (including those with disabilities), addressing their specific HIV and GBV challenges, livelihood concerns and needs etc. Therefore, the various national processes still miss out on CSOs that can comprehensively defend women’s rights in mining. Further, it is usually the Chairperson of MAWIMA that is invited to the different national processes. This can be a constraint to the diversity of MAWIMA’s contributions, as well as the building of capacity of the broad membership to assert themselves in key processes.

Positively, MAWIMA members widely confirmed that they were consulted in the formulation of the Draft ASM Policy (May 2014), and were only awaiting a forum where they could confirm the extent to which their contributions had been adopted in the final draft document. The gender analysis of the draft policy under Part 5.3.3 provides more information on how the document has considered issues that matter to MAWIMA members, but it is indeed important that the members should have a forum to fully understand the draft policy contents and lobby for further protective provisions if necessary. It is also at this point that CSO advocacy from a broader women’s rights viewpoint will become vital.

3.9.2 Presence of ASM in Local Government Planning and Structures

Malawi’s position is not different from what has been noted about other Southern African countries, that ‘local governments are yet to
acquire the capacity for effective management of the collection and distribution of revenue and to generally deliver mine-derived benefits over the long term.’ Nevertheless, this gender assessment posits that it is in the interest of local government to seriously incorporate mining in its programming from the point of view of: providing a platform for expressing ASM voice, concerns, interests; addressing the gendered impacts of mining within the context of existing sectoral responses; contributing to the local growth of mining by expanding sectoral strategic actions that can benefit those engaged in ASM; and diversifying economic empowerment products by treating local mining opportunities as one of the products around which women can be organised for their economic advancement. The co-option of the ASM sector in decentralised forums is discussed separately in the following section.

3.9.2. Integration of impacts of ASM in District Implementation Plans

Devolution is aimed at ensuring that resources and services are directed and delivered effectively and efficiently at the local level where they are needed most. The Local Government Act mandates local authorities to directly facilitate social economic development of all the areas under their jurisdiction. Some of the tools that Local Authorities use to manage and coordinate social economic development are the Social Economic Profiles (SEPs) and District (Local) Development Plans. In particular, Local Authorities in Malawi that contain mineral deposit (Mwanza, Neno, Balaka, Chikwawa, Nsanje, Mulanje, Mangochi, Nchewu, Dedza, Mzimba, Lilongwe, Kasungu, Rumphi, Karonga, Chitipa and Likoma) are expected to include EI in their SEPs, development plans and budgets. However, Local Authorities implementation plans do not usually articulate how they can mitigate negative impacts of mining and promote positive impacts. In general, Local Authorities hardly address aspects of the mining value chain (exploration, contracting and licensing, operations/extraction, value addition, tax and royalty collection and revenue distribution/management) that are applicable to their local context.

Furthermore, there is inadequate synchronisation of mining/extractive industry CSR commitments and district plans, and low understanding of how diverse issues unfolding in mining affect other sectors. For example, in Mzimba District, HIV and AIDS was constantly mentioned as a risk both for male employees in mines and women in surrounding communities. Yet, HIV and AIDS interventions at district level do not deliberately take this sector into account because it is invisible in district programming. A visit that was undertaken to two mines owned by women in Mzimba district discovered that lack of heavy duty machinery for hire or for communal use (by cooperatives or MAWIMA) is a big issue that can easily be integrated into Local Authorities’ programming, but this is not done because the ASM sector is so far side-lined from core district plans. As one of the women observed: “there are a lot of diverse NGO interventions to support agriculture, but because mining is invisible, Local Authorities do not take deliberate action to direct similar support to struggling mines in the ASM sector despite their potential.”

It should be reiterated that one of the gender implications of the use of primitive methods in ASM mines is that women are excluded from employment. It is men that are routinely employed to do the mining work because lack of machinery (a) makes the work exceedingly physically demanding, thus more suitable to men’s considerable physical strength; and (b) leads to very low productivity, as work that can be done with a heavy machine in minutes takes many days to be manually achieved by men through the use of shovels and picks. This means that there is no opportunity for women to be recruited, even as graders, as is the case in situations of high productivity.

There is a conviction amongst both women and men that are engaged in mining that Local Authorities have the potential to address these issues if mining was an integral part of their programming. Local Authorities are in a position to direct development interventions to sectors where interventions are most needed to. Whereas districts have different projects related to sectors like
agriculture, forestry, education, water etc, there has been little or no focus on the ASM sector. Women in mining are optimistic that with proper planning, Local Authorities can even generate revenue by investing in mining equipment that can be hired within their localities.

Further, with proper mechanisms, mining/extractive companies can contribute directly to (gender sensitive) District Implementation Plans through their CSR efforts. Part 5.3.2 observes that this approach has been adopted under the Revised South Africa Mining Charter (2010). Unfortunately, MNREM is not devolved and as a result there is no Mining Officer at District Council level to act as a focal point. Being a new phenomenon, the marginalisation of the EI sector at district level can also be attributed to the general lack of knowledge on how to handle EI issues across board.

### 3.9.3 Inclusion of ASM in decentralisation forums

The gender assessment found that there is no district level forum for addressing issues that can promote safe small scale and artisanal mining and mitigate negative impacts. The general picture created by MAWIMA and other male members of cooperatives that were interviewed is that there are no interventions targeting neither women nor men in the extractive sector in local government programming. Little about mining is understood within Local Authorities, and district level mining cooperatives and/or MAWIMA office bearers are not represented in District Executive Committees or any local governance structure. The exclusion of ASM, including women miners, in such a critical forum has the implication that Local Authorities are not utilising the knowledge that the sector has on minerals that are available at district level. Small scale miners in the Northern Region noted that:

> If we were included in DECs or other local structures, we can be a source of information about minerals that exist in certain communities. This can help other sectors, chiefs and communities to become better knowledgeable about minerals that exist at local level, and develop interventions that can empower the communities themselves to manage and use the minerals for their benefit. For example, women economic empowerment interventions like village saving and loan groups are a strong opportunity for systematically mobilising women and empowering them to make productive use of local minerals, instead of just focusing on other small businesses.

However, currently it is outsiders that are coming into communities to exploit minerals because in districts where minerals like gemstones exist, most Local Authorities have unconsciously marginalised the ASM sector. Additionally, the lack of voices of women ASM in decision making forums at district level has perpetuated a disorganised mineral marketing regime, whereby they are exploited by buyers (middlemen) without the local government standing up for them. For women in mining, the decentralisation of mining licencing processes is another important area, as it can help them to acquire licences within their district, rather than through regional offices, as is the case now. Thus the lack of women’s participation in decentralisation processes denies women an avenue for expressing their needs and interests at district level so that these can inform any institutional reforms.

### 3.10 AVAILABILITY OF RESOURCES TO SUPPORT WOMEN IN ARTISANAL AND SMALL SCALE MINING

The fact that there is a general outcry from women in mining that they have no suitable support for their mining does not mean that no initiatives exist in Malawi. The sections below discuss potential support that is available for value addition and cash financing.

#### 3.10.1 Support for value addition

In respect of value addition, the One Village One Product (OVOP) Secretariat, a Ministry of Industries and Trade unit, works with local communities to develop local goods and services. In the mining sector, it works with two limestone cooperatives (in Blantyre and Balaka) and two gemstone cooperatives (in Blantyre and Mzimba). The focus on value addition means that OVOP does not
provide machinery for production, rather, for processing raw production. The machinery is provided to cooperatives as a loan.

A visit to the two gemstone cooperatives in Blantyre and Mzimba confirmed the presence of the machines, with the exception that the Blantyre cooperative is not satisfied with the capacity of its machine and therefore claims not to utilise it. But according to OVOP, “the Chichiri machine is a good machine for cutting and polishing, but the members say what they need is a tumbling machine. Now, if you were selling rough stones, the current machine is still an improvement.” This could be a valid point, but it boils down to how far machinery that is provided by OVOP is able to meet a well-considered vision of women that deal in gemstones. It is also clear that women need to have full skills to use the available machines. For instance, MAWIMA women in Lilongwe stated that the last training was conducted in 2006, and many of the current members do not know how to use a cutting and polishing machine that is at the Department of Mines.

The assessment noted that presently, OVOP does not employ gender considerations to its programmes, believing that “it funds demand driven interventions that are based on the needs of any cooperative that has identified the need for value addition. Therefore, OVOP considers proposals that are submitted to the Secretariat by any cooperative” With this approach, out of over 60 cooperatives that have benefited from OVOP, only two are women cooperatives. In some of the cooperatives, women benefit by default if they are members. The difficulty with OVOP’s approach is that it assumes that women cooperatives have information about OVOP, have the capacity to write proposals for their value addition needs, and/or that they do not have much interest in cooperatives. When asked about why women cooperatives do not generally utilise the opportunities offered by OVOP, the interviewed officer frankly confessed that “we have never thought about digging into this as a challenge.”

OVOP’s Strategic Plan (2014-2018) acknowledges the relevance of upholding gender equality considerations at institutional and programme levels. However, its strategic plans and activities do not have specific considerations of how OVOP opportunities will accrue to both men and women. It is apparent that: OVOP planners require skills on how to strongly integrate gender in the programme; the Ministry responsible for gender, which often works with women economic empowerment groups, need to play a more visible role in linking women cooperatives to OVOP; and the diverse cooperatives within MAWIMA need to be empowered to fully utilise value addition opportunities that are available through OVOP. Such support can include facilitating their legal registration, proposal writing development and their institutionalisation of efficient systems for them to run the cooperatives as profitable businesses.

The department of ASM within the Ministry responsible for mining also needs strengthening to enable them to better facilitate access to OVOP support by MAWIMA members that have ventured in value addition. This is particularly important because the members noted that “some of the OVOP machines can only be provided if we have a factory. The ASM Department should be able to successfully broker for us deals with partners and/or Banks that can support the building of infrastructure.” This desire is linked to the following issue of financial support that is available for the ASM sector.

3.10.2 Financial support for working capital

Though this is a problem area for women in ASM, there are efforts to link ASM to FDHBank resulting from a Memorandum of Understanding that was signed between the bank and the Ministry responsible for Mining on 28 March 2014. Though this is good news for women in mining, several of whom have so far attempted to get the loan, it appears that ground work is still being done before implementation begins. The Ministry responsible for Mining has clarified that “FDH Bank are still conducting a survey that will help them understand the ASM sector, and thereafter they will fund selected cooperatives that have been trained.” This, coupled with the disclosure by the Ministry that
FDH is initially interested in financing miners in lime and terrazzo cooperatives, suggests that MAWIMA members do not have full information about the product.

Standard Bank and National Bank are also on record as expressing interest to finance the mining sector. Notably, this is not an exclusive product for the ASM sector. Unless FDH Bank and the other banks do things differently, women are sceptical that Banks will offer the solutions they desire, i.e. to get inventory/risk financing that accepts their products or mines as collateral. For now, many banks still want collateral and immediate loan repayment terms. Improving access to mining production machinery can in turn help banks to receive repayments much faster. The current major bottleneck for women who own mines is that if it takes them 3-6 months to get a good production for sale, it becomes impossible for them to start making repayments immediately after taking a loan, as is commonly demanded by banks.

3.11 Conclusion

There is need for statistical data and more research to understand the full involvement of women in different ASM subsectors in Malawi. However, it is apparent that in the gemstone subsector, the participation of women is much lower than that of men. Nevertheless, women in mining are relatively organised through MAWIMA, and just require strengthening in order to have a powerful entity and voice that can promote their economic growth; as well as their contribution to mining governance. This empowerment can best start when MAWIMA defines the strategic vision of each ASM subsector in which its members are involved, and adopts calculated measures that can progressively enable women to reach their vision.

Such measures should consider the comprehensive building of skills; enhance utilisation of modern technology and machinery; promote access to information and organised markets; reclaim access to available learning opportunities; and ensure the availability of finance related products that are suitable to what women in mining need, and not just the needs of service providers. Though there are no specific CSOs that have advocacy interventions around women in mining (as well as women in mining communities in general), they are a critical entity in influencing the support of government, development partners and other key stakeholders to support interests of women in the ASM sector. The next Chapter itemises what women in mining want from laws and policy frameworks that apply to the ASM sector.
CHAPTER 4: EXTRACTIVE INDUSTRIES AND WOMEN’S LAND RIGHTS

4.1 INTRODUCTION
This Chapter analyses the impact that extractive industries have on women’s land rights, and reveals the need to address such rights as a key component of EI projects and interventions in order to prevent negative outcomes for Malawian women. In Malawi, customary land\(^1\) is under the custody of local chiefs, who bestow user rights (almost in perpetuity) to their ‘subjects.’ While generally in a weakened state, women’s land rights vary depending on whether the society practices matrilineality or patrilineality. In matrilineal societies, there is also a difference between women’s land rights in matrilocal\(^2\) and virilocality\(^3\) contexts. In matrilocal marriages, land passes to women through the mother’s line, and women have direct access to land. However, decision making over the land (control) is another issue, as it may sometimes lie in a woman’s uncle, brothers or even husband.

In matrilineal societies that are virilocal, a wife has indirect access to land through her husband. Many women in this position lose their land rights upon marriage because even when they return to their natal village upon divorce or widowhood, they usually face resistance from their ‘clansmen’ for their entitlements to land to be fully accepted or restored. In patrilineal areas, typically virilocal, as a matter of tradition, women have indirect access to land and no entitlement to be given direct user rights. As such, women’s access to land is mediated through a man— their father, brother, husband and even son. However, there are reports that due to interventions by NGOs like ActionAid, a few patrilineal communities in the Northern Region are relaxing tradition and starting to accept that women can use customary land in their own right too.

4.2 IMPACT OF EXTRACTIVE INDUSTRIES ON WOMEN’S LAND RIGHTS
In many parts of Malawi, women remain the major agriculturalists and are responsible for their household’s food security. This means that they are the ones that are mostly impacted by negative consequences of extractive industries on land. African literature as compiled by IANRA/WoMin in 2013 suggests that extractive industries have brought their own land related challenges to women, including loss of agricultural production, women’s losses of land for farming and the harvesting of natural resources, land degradation, and loss of land related compensation. Malawi does not have a prolonged history of extractives, so it can mostly learn from experiences of other countries in order to avert and mitigate many of the impacts of large scale extractive industries on women’s rights. However, even within the short span that the country has witnessed the emergence of the industry, the impact of the industry on food production has already been felt. The discussion below also alludes to areas where the ASM sector has been known to impact on women’s land rights.

4.2.1 Loss of agricultural production
In Malawi, reports from Kanyika in Mzimba district, which is earmarked for the extraction of niobium by GMMA, presents a good case study of how loss of agricultural production has impacted on women due to delayed resettlement. There is a claim that households that are scheduled for resettlement in Kanyika have missed about two harvests of cassava, and this has destabilised the food insecurity of households. This is because after the Ministry of Lands conducted compensation assessments about 2-3 years ago, households stopped growing cassava as they were instructed not to do any more development given that they would be moved in six months’ time. Otherwise, any loss resulting from

\(^1\) Which has so far been primarily affected by extractive industries
\(^2\) Where a husband resides in a wife’s village—‘chikamwini’ system
\(^3\) where a wife resides in a husband’s village—‘chitengwa’ system
such development would not be compensated. An interview with an Officer who is coordinating CCJP Mzuzu Diocese’s mining related project called TIWONE 2 in the area shared that:

People in Kanyika grow maize and cassava. They fall back on cassava when there is low maize production. For someone to harvest cassava, it takes two years. The Kanyika project is supposed to relocate 248 households. The assets of these people were valued 2-3 years ago for purposes of compensation, and they were told not to conduct any activities that would lead to further development at household level, as they would not be compensated for assets that would be acquired post evaluation. People were told that they would be relocated within 6 months, and they therefore stopped growing cassava (because it cannot be harvestable in 6 months). This has resulted in severe hunger, especially that maize has not been doing well (and then, with the resettlement hovering over them, they have not been as spirited about farming seriously in the area). The situation is desperate. If you come to Kanyika, people will tell you that their first problem is hunger that has been induced by uncertainty related to resettlement. Women are harshly affected because they are responsible for household food security.

The mockery is that the absence of subsistence food at household level means that households have to buy food for consumption. This assures food insecurity for poor households, and female headed households (FHHs) are likely to be affected most. According to the third Integrated Household Survey, rural FHHs have grown poorer (60 percent were poor in 2004/5 and in 2010/11, the number jumped to 63 percent). In Karonga, AFRODAD has recorded that another cause of food insecurity is the inflation of commodity prices due to the Kayelekera Uranium Mine, again ordinarily impacting more on those that are not employed or have low paying jobs. Commonly women and female headed households would be in this group.

Food insecurity in itself is a risk factor for HIV transmission, as it is associated with increased HIV risk-taking behaviour and transactional sex. Prior studies related to hunger in Malawi have already confirmed this situation, showing how women tend prioritise unprotected transactional sex, and not their health, in order to meet their household’s day-to-day staple food needs. While these studies have mostly focused on effects of drought induced food shortages, it is not far-fetched to conclude that this impact of hunger on risk taking behaviours applies to other conditions that trigger hunger, besides drought. A different angle of HIV transmission is that there is evidence that malnutrition has been shown to increase transmission of HIV from a pregnant woman to her foetus. It is also a known fact that when the immune system is further weakened due to malnutrition, people living with HIV became ever more vulnerable to illnesses. Due to their household roles, women find themselves in a situation where they have to care for the sick and dying, in addition to maintaining heavy workloads related to gathering food and feeding the household. Studies in other countries have also revealed different scopes of interference with agricultural productivity that Malawi should be mindful of. For example, agricultural productivity can be disturbed by environmental degradation resulting from the contamination of soil by leakages or spillages and improper disposal of mine wastes. This was captured well by a female subsistence farmer in Andhra Pradesh in India, who is affected by the mining of iron ore:

\[\text{We used to grow sunflower seeds, sugar cane, rice and groundnuts, and be self-sufficient. But now we have a problem because the crop yields are less, the leaves of the plants are wilted, and our vegetables have gone bad. The factories and mines use so much water, that our fields are now}\]

\[14\] The company reports the figure of 150 households in its ESIA, while CCJP Mzuzu, working in the community, reports the figure of 248 households
cracked and dry. This never happened before the factory and mining came here. The water we used to irrigate our fields is mixed now with chemicals from the factory and our vegetables have turned a reddish colour. The factory water also flows into the drinking water.\textsuperscript{15}

Environmental degradation has also been known to result in loss of livestock (that may wander and fall into mine pits), especially after mine closure. Women as subsistence farmers rely on livestock for manure as an important production input in the place of high cost fertilisers; just as the milk and meat of livestock is an important source of nutrition to their households. In Mozambique, a 2010 study by FIAN established that agricultural productivity was lost because subsistence farmers were being relocated to sites where agricultural conditions, particularly access to water, were not as favourable as on their current lands. This meant that farmers would lose the second harvest that they were getting every year.

In Tanzania, a 2013 study found that the relocation of subsistence farmers due to mining resulted in reduced productivity because tenure security and independence of the farmers was deeply compromised, leaving them uncertain about what they could do on their land. To worsen the situation, the mining company dictated that farmers would only be allowed to grow annual and not perennial crops, because it wanted to avoid higher compensation costs for perennial crops if the community was to be moved again. These experiences demonstrate that factors that can weaken agricultural productivity and food insecurity are multi-dimensional, and applying a women’s rights perspective to the impacts of extractive industries can help to generate comprehensive mitigation measures.

4.2.2 Loss of land due to relocation

Large scale extractive industries that results in relocation typically means loss of land. In Kanyika, the impact of loss of land on livelihoods is an eminent danger because Part 2.2.2 has revealed that the majority of households, particularly those that are male headed, have opted to take cash and look for their own land to resettle and farm. These households have no one whom they can hold accountable to ensure the replacement of quality farming land. Problems may arise if they have to rent land for farming in the resettlement areas, since this needs cash. They can therefore be forced to rent poorer or inadequate land in situations where cash compensation has not been managed properly.

In Karonga, there is anecdotal evidence that some people that are affected by the Eland Coal Mine are losing their productive land as they are being relocated to mountainous areas that are hard for agriculture. This is similar to Mozambique, where a FIAN study (2010) found that affected families and communities were not compensated with land of the same quality as the land that they would lose. Even in Ghana, one impact of gold mining has been that 95 percent of subsistence farmers that were relocated between 1990 and 1998, saw their agricultural lands being converted into dumps for mine waste. Where settlements were offered by mining companies, they were insufficient to maintain a similar quality of life as farmers were given inferior quality land. In Sierra Leone, a 2003 investigation into the impacts of the operations of Sierra Rutile Limited revealed that 11 villages that had been displaced by the company were resettled on land where farmland was reported to be grossly inadequate. Again, since women are in charge of subsistence farming, they are harshly affected by all these developments.

\textsuperscript{15} International Women and Mining Network/Red Internacional Mujeres y Mineria (RIMM). Women from mining affected communities speak out - Defending Land, Life & Dignity (Samata, India: RIMM International Secretariat, 2010)
4.2.3 Loss of male agricultural labour due to migration

Other countries have noted that mining has promoted male migration as men go to search for work at the mines, with specific gender impacts on subsistence agriculture in labour sending areas. Many migrants leave wives and family members behind. In the absence of adult males, all agricultural responsibilities fall to adult women, and even minor children. In Kenya, an observation has been made that women may not always be successful at discharging common male farming tasks like ploughing, looking after the irrigation system, and land preparation due to labour shortage or lack of skill.

In some cases, remittances that are sent by the migrants are not adequate to cover expenses of hiring labour, as they are dedicated to basic needs, like education, family health, housing, debt repayment, and less to improving agriculture. On the other hand, in Mzimba, it was reported that the tendency for workers at ASM mines is to go on alcohol binging sprees in surrounding communities once they receive payment, thus decreasing the amount of remittances that are sent back to their households, if at all. Part 3.7 has also mentioned how many workers spend their earnings on transactional sex/prostitution.

4.3 IMPLICATION OF COMPENSATION ARRANGEMENTS ON WOMEN’S LAND RIGHTS

Since customary land is allocated for use for free and is owned by the State under the custodianship of chiefs, compensation is not given to individuals for loss of their customary land upon involuntary resettlement. Rather, what is compensated is the loss of crops, buildings and livelihoods related to the land. This mechanism of awarding compensation would ordinarily eliminate concerns about how women lose out on compensation when they are not recognised as the ‘owners’ of land. However, in Malawi, this concern remains very much alive because of three scenarios. First, though households do not currently receive cash for loss of customary land, it is usually male heads of households that are receiving/in control of cash that is paid to compensate for loss of crops and other livelihoods. This is a direct result of the inadequate control that women have over land related assets, as discussed in Part 4.1. Therefore, strengthening women’s land rights by recognising their equal stake to control land and its proceeds can be a gateway to addressing male dominance of compensation money in situations of involuntary relocations.

Second, the legal status of customary land may soon change because the Customary Land Bill (2012) is seeking to formalise ownership of customary land, whereby unlike the present situation, customary land will be registered and owned in individual capacities. This implies that if women’s land rights are not properly protected in this proposed law (i.e. in order to ensure joint titling, where necessary), women will find themselves in conditions where they are indeed being excluded from compensation money because their name is absent on the title deed. The Malawi Gender Index (MGDI, 2011) found that in the rural areas, only 34.3 percent of people who operate plots are women. Third, compensation for loss of land is currently payable to those who own freehold and leasehold land. Therefore, where involuntary resettlement affects private land, most women cannot benefit from compensation since the MGD shows that only 20 percent of women own land or houses in urban areas.

For all the three reasons, Part 5.6 has suggested ways of reinforcing women’s land rights within compensation considerations and payment modalities, so that women specific losses should be counted as part of compensation packages. In addition, legal mechanisms should be in place to avert avoidable hardships that result when gender inequalities and power imbalances are ignored in compensation considerations.

4.4 IMPACT OF LIMITED LAND RIGHTS OF WOMEN TO ‘OWN’ AND OPERATE ASM MINES

The gender assessment explored the question—do limited land rights of women affect their capacity to own ASM mines in any way? This question became pertinent in Mzimba, where because of its patrilineal culture, women have been known to have few or no land rights when it comes to
agriculture. The gender assessment therefore sought to understand whether or not patrilineality inhibits women’s capacity to exclusively own their own mines. The response from the women miners was that:

No, living in a patrilineal locality does not prevent a woman from holding land for mining, because just like any other citizen, women can obtain mining related licences from the government, allowing them to explore and mine anywhere in Malawi. If the land already belongs to someone, the only issue becomes whether a woman can afford to negotiate and buy that land. But where the land is in the forest, one has no such hurdles. The only issue becomes if she has adequate resources to start the mining.

Therefore, Part 3.3.1 illustrates that just as in any locality, the inability of a woman to run a mine in a patrilineal area may be more of a function of lack of financial resources and intra-household power relations, than a challenge resulting from laid down cultural rules or norms. Arguably, given the bottlenecks surrounding women’s land rights in patrilineal or patrilocal areas, mining presents a direct opportunity for strengthening women’s economic empowerment through natural resources.

4.5 CONCLUSION

Large scale extractive industries have been known to adversely impact on women’s land rights, especially in contexts where these rights are already insecure as in Malawi. The impacts are usually direct, particularly when they affect agriculture productivity due to utility restrictions and land/water degradation; loss of arable land and loss of male labour. There can also be other indirect impacts through loss of compensation by women. The ASM sector can also have its own negative impact in relation to environmental degradation and loss of male labour. It is imperative that interventions to strengthen extractive industries in Malawi should seek to fully avoid and mitigate these impacts, so that the sector does not become another vehicle for entrenching women’s land rights violations in the country. It is already positive that the unlike in the area of agriculture, the ASM sector is not discriminatory against women when it comes to ‘ownership’ of mines in patrilineal areas. What remains is to strengthen existing challenges to ensure that women have control of such mines through gainful ventures.
CHAPTER 5: GENDER ANALYSIS OF EI RELATED LEGAL AND POLICY FRAMEWORKS

5.1. INTRODUCTION
UN Women is fully aware that the development of the extractive sector around resources such as oil, gas and minerals is an increasingly important agenda for many Africa countries. The resultant effect is the development of relevant policy and regulatory frameworks to guide the structuring of this sector. However, to fully realize the full potential and equal benefits of resource extraction there is need to ensure that gender perspectives inform the EI policies that underpin both the large and small scale EI sector, the regulatory frameworks, and EI value chains.

In order to bring attention to the significance of gender considerations in the extractive industries in Malawi, the assessment draws on the findings in Chapters 2 and 3 and analyses the extent to which relevant legal and policy frameworks address women’s issues, including those related to ASM. Just as IANRA has argued, the analysis leaves no doubt that if interests of women in the extractives industries are to be sufficiently protected, policy and legal frameworks have to move away from ignoring or regarding gender as an “add-on,” and start concretely confronting and addressing issues that affect women that are employed in mining, or that are engaged ASM, and those women whose livelihoods are impacted by virtue of being part of an affected mining community.

The Chapter starts with a discussion of how domestic and international frameworks provide the impetus for extractive industry laws and policies to have strong gender equality considerations. It then applies a gender analysis to seven areas of law and policy, namely mines and minerals frameworks; oil and gas related laws; environment impact assessment frameworks; resettlement and compensation frameworks; workers’ compensation; and occupation health and safety. These areas are chosen for their direct applicability to issues that have arisen in Chapters 2, 3 and 4.

5.2. THE MANDATE TO INTEGRATE GENDER IN EI LEGAL AND POLICY FRAMEWORKS
Malawi shoulders the obligation of to protect, promote and respect gender equality and women’s human rights within extractive industries. This obligation is derived from (a) the Constitution of the Republic of Malawi (1994) and the Malawi Growth and Development Strategy (MGDS) II; (b) international human rights instruments that safeguard the civil, political, social and economic rights of women; and c) regional mining specific frameworks and documents. Several treaties that have been ratified by Malawi at United Nations, African Union and SADC levels locate the economic empowerment of women and women’s entitlement to security of the person within the broader human rights agenda. Challenges affecting Malawian women in the extractive industries today are a reminder of the need to embrace gender equality as an important vehicle for adhering to basic human rights standards.

5.2.1 Broad domestic mandate to promote gender equality in extractive industries legislation and policies
The Constitution of the Republic of Malawi (1994) requires the State to adopt and implement policies and legislation aimed at: (a) achieving gender equality through the full participation of women in all spheres of Malawian society on the basis of equality with men;\textsuperscript{16} and (b) addressing economic exploitation and rights to property.\textsuperscript{17} It also allows the State to pass legislation as a tool of addressing...
inequalities in society. Women, children and people with disabilities are to be given particular
attention in the implementation of the right to development. The implementation of these
constitutional commitments through extractive industry legislative and policy frameworks holds
particular significance because the MGDS II (2011-2016) has marked mining as one of the country’s
priority sectors for growth. The MGDS II seeks to reduce gender inequalities and enhance participation
of all gender groups in socio-economic development through the increased meaningful participation
of all gender groups in decision making, wealth creation and poverty reduction. Additionally, it aspires
to achieve enhanced gender mainstreaming across all sectors. This undoubtedly attracts attention to
how far priority sectors, including mining, are playing a concrete part in addressing gender equality so
that growth is inclusive. Besides, the cementing of gender perspectives in extractive legislative and
policy frameworks will start to directly address the concern under the MGDS II that ‘lack of gender
disaggregated data, poor commitment to resource allocation towards gender mainstreaming and
institutional capacity to analyse and systematically mainstream gender in all sectors remain the major
challenges.’ The subsequent analysis demonstrates that additionally, international frameworks related
to human rights and mining expect the State to use legal and policy measures to achieve this end.

5.2.2. Sources of the obligation to advance women’s economic empowerment

With respect to women’s economic empowerment, in the African Union, Malawi has ratified the
Protocol to the African Charter on Human and Peoples’ Rights (AU Protocol on the Rights of Women
in Africa, 2003); and the SADC Protocol on Gender and Development (SADC Gender Protocol,
2008). These frameworks commit Members States to strengthen women’s economic empowerment
through entrepreneurship. The AU Protocol on the Rights of Women in Africa requires States Parties
to create conditions to promote and support the occupation and economic activities of women, in
particular within the informal sector. The SADC Gender Protocol obliges Member States to take
specific action, by 2015, towards the economic empowerment of women by adopting policies and
enacting laws that ensure equal access, benefit and opportunities for women and men in trade and
entrepreneurship; reviewing corresponding policies in order to make them gender sensitive; and
introducing affirmative action measures that ensure that women benefit equally from economic
opportunities, including those created through public procurement processes.

In 2011, UN Women and the UN Global Compact developed Women’s Empowerment Principles.
Among other things, they recommend that businesses should expand business relationships with
women-owned enterprises, including small businesses, and women entrepreneurs. These provisions
are of direct application to the ASM sector, since they encompass the obligation of the Government of
Malawi to support the sector and ensure that women are successful ASM entrepreneurs. Part 3.5 has
demonstrated that women in the ASM sector in Malawi are yet to reach this level. Therefore, the
Protocol provisions demand that government should institute laws, policies, financing and institutional
mechanisms that address gender specific barriers and threats which women artisanal and small scale
miners face. In addition, the capacity of women to benefit from mining related procurement should be
assured. One way of achieving this is to have local content provisions that purposefully promote local
female entrepreneurs to benefit in procurement processes in the mining value chain.

---

18 Section 20(2)
19 Section 30
20 Theme 6, sub-theme 1
21 Ratified by the Malawi Government on 25 November 2005
22 Ratified by the Malawi Government in April 2013
23 Article 13 (e)
24 Article 17
The two regional Protocols, together with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979), further guarantee women's rights to equal access to employment, to equal opportunities and entitlements as those granted to men, and to occupational safety. These obligations provide the mandate to develop holistic frameworks that guard against all forms of sex-based discrimination, particularly in the formal mining industries.

Apart from the broad human rights frameworks, there is a range of mining specific frameworks that have been developed at UN level to motivate countries to incorporate women's economic empowerment in mining. For instance, the Berlin II Guidelines for Mining and Sustainable Development (Berlin II Guidelines, 2002) recognise that small-scale mining, which often provides economic improvement for people who usually live in a subsistence economy, necessitates specific regulatory attention under which the special needs of should be taken into consideration. In other words, factors that derail women’s economic empowerment in ASM as addressed in Chapter 3 should be fully addressed. Furthermore, the Berlin II Guidelines specifically note that “in mining areas, women may not necessarily share equally in economic benefits like direct employment, compensation and in the provision of secondary services.” As a recommendation, mine operators are urged to address gender inequalities in the economic benefits arising of their activities.

Part 5.7 observes that gender inequalities can ensue due to gender insensitive compensation arrangements; inadequate attention to co-opt women into the workforce or to build their skills so that they can equally participate in the medium to long term; or neglect to create enabling environments for the growth and retention of both men and women employees in the extractive sector. Therefore the government bears the responsibility of introducing and enforcing mining legal and policy frameworks that appropriately address the needs and challenges of different classes of women in the mining sector and mining areas.

On the continent, the African Mining Vision (AMV, 2009) guides AU Member States to initiate the empowerment of women through integrating gender equity in mining policies, laws, regulations, standards and codes. The African Mining Vision is operationalised by the Action Plan for Implementing the AMV (2011). The action plan intends to improve the viability and sustainability of the ASM sector to contribute to growth and development. It proposes that this be achieved through “improved health, safety, environment and gender in ASM.” While the reference to gender is not accompanied with specific indicators, it can still be argued that the AMV Action Plan is aware that addressing gender issues that hound the sector is a necessary step towards its growth and development. One of the general principles of the SADC Protocol on Mining (1997), is the protection of the economic empowerment of those historically disadvantaged in the mining sector. Given the examples that have been advanced in the Malawi context, the disadvantaged clearly include women. In trying to import this principle into local legislation, inspiration can be drawn from the ECOWAS Directives on the Harmonisation of Guiding Principles and Policies in the Mining Sector (2009), which instruct its West African Member States to ‘make adequate provision for the realisation of economic, social and cultural rights as they relate to mining activities and women’s empowerment.’

---

25 ratificated by the Malawi Government on 12 March 1987
26 CEDAW Article 11(1) (b) & (d); AU Protocol Article 13 (a)(b) and (d); SADC Gender Protocol Article 19
27 Adopted by the First AU Conference of African Ministers responsible for mineral resources development, held in Addis Ababa in October 2008. Its ultimate goal is to use Africa’s mineral resources to meet the Millennium Development Goals (MDGs), eradicate poverty, and achieve rapid and broad-based socio-economic development.
28 Article 2(8)
29 Article 15(3)
5.2.3 Sources of the obligation to safeguard women’s health and well-being

Chapters 2 and 3 have illustrated how women’s health and general well-being can be undermined as a result of mining projects. This has to do with the exclusion of the mining sector, particularly ASM and associated communities from HIV programming; sex work and violence; and gender insensitive resettlement arrangements that can either increase the burden of women to provide care for those that have fallen ill due to mining related impacts, or that can predispose women to ill health, including HIV. The quality of environmental standards also plays a big role in impacting on the health of both women and men in mining settings. Analysis of various international and regional frameworks reveals that there is adequate guidance for Malawi to address all these issues through mining related frameworks.

General Comment No. 14 of the Committee on Economic Social and Cultural Rights (CESCR)\(^\text{30}\) have stressed that to eliminate discrimination against women, there is a need for States to develop and implement comprehensive national strategies for promoting women’s right to health, whose major goal should be reducing women’s health risks. The General Comment further illuminates that development-related activities that lead to the displacement of indigenous peoples against their will from their traditional territories and environment, denying them their sources of nutrition and breaking their symbiotic relationship with their lands, has a deleterious effect on their health. This would resonate with the consequences of delays to implement resettlement at Kanyika, in Mzimba district, which is reported to have had a severe impact on food security because the community was instructed not to grow cassava anymore. Part 4.2.1 has highlighted that women are mostly affected by food insecurity because they have the front line role of cooking for their families.

Under General Recommendation No. 24 of the CEDAW Committee,\(^\text{31}\) countries that have ratified CEDAW are encouraged to include in their CEDAW implementation reports information on diseases, health conditions and conditions hazardous to health that affect women or certain groups of women differently from men, as well as information on possible interventions in this regard. So far, reports that have been submitted by Malawi have not incorporated this information from a mining perspective, thus further obscuring specific health impacts of large scale mining and ASM on women’s health. Even the Parliamentary Committee on Health confirmed that it had never thought of this aspect of health in the implementation of its mandate.

The AU Protocol on the Rights of Women in Africa imposes a duty on States Parties to ensure that the right to women’s health is promoted and respected.\(^\text{32}\) It also enshrines women’s right to live in a healthy and sustainable environment, which includes the responsibility of State Parties to ensure that proper standards are followed for storage, transportation and disposal of toxic waste.\(^\text{33}\) This means that there have to be enforceable legal measures to prevent all forms of mining related environmental pollution that are injurious to women because of their social and economic roles. In gold mining ASM areas, the hazardous use of mercury and the higher involvement of women in processing jobs that expose them to the substance is one concern of the 2012 report of the UN Special Rapporteur on the human rights obligations related to environmentally sound management and disposal of hazardous substances.\(^\text{34}\) Evidence of the scope of this risk in Malawi is yet to be generated. However, anecdotal evidence suggests that in ASM gold mining areas, women are

\(^{30}\) International Covenant of Economic and Social Cultural Rights (ICESCR), ratified by the Malawi Government on 21 December 1993

\(^{31}\) Paragraph 10

\(^{32}\) Article 14(1)

\(^{33}\) Article 18 (2)(e)

\(^{34}\) Paragraph 35
preferred for employment due to the assumption that they do not steal as much as men. The special 
rapporteur has stressed that international human rights law like CEDAW requires States parties to put 
in place preventive measures and programmes to protect women of childbearing age from mercury 
exposure.35

Principles and Guidelines on the Interpretation of Economic, Social and Cultural (ECOSOC) Rights in the African Charter on Human and Peoples’ Rights (2010) clarify that the right to health under Article 16(1) of the African Charter imposes an obligation on African States ensure that water resources are protected from pollution, including through extractive industries in rural areas.36 This should be 
achieved by paying particular attention to members of vulnerable and disadvantaged groups in order 
to ensure effective equality in the enjoyment of economic, social and cultural rights.37 In Malawi, 
there have been unverified CSO reports about exposure of some water sources to uranium in Karonga 
District. However, the point is not whether or not this is accurate, but whether Malawi’s legal 
framework is strong enough to curtail incidences of such exposure (including hardened water as 
reported in Kayelekera), thereby protecting women who play a leading role in food production and 
providing water for general household use.

And since many large scale mining projects are funded by International Finance Corporation (IFC), 
they are required to observe IFC Performance Standards on Environmental and Social Sustainability 
(2012). These oblige projects that are financed by the IFC to identify individuals and groups that may 
be directly and differentially or disproportionately affected by the project because of their 
disadvantaged or vulnerable status—and this includes sex.38 Projects have a further obligation to 
avoid or minimize the potential for community exposure to diseases that could result from project 
activities, taking into consideration differentiated exposure to and higher sensitivity of vulnerable 
groups.39

5.3 MINES AND MINERALS FRAMEWORKS
This Part discusses three frameworks—the Mining and Minerals Policy (2013); The Mines and Minerals 
Act (1981) and the National Artisanal and Small Scale Mining Policy (final draft, May 2014).

5.3.1 Gender Dimensions of the Mines and Minerals Policy of Malawi (2013)
The Mines and Minerals Policy (MMP) is meant to enhance the contribution of mineral resources to 
Malawi’s economy so as to move from being agro-based to mineral based economy.40 One of its 
specific objectives is to promote women in mining.41 While it should ordinarily be gratifying that 
Malawi is moving towards palpably mainstreaming gender in key sectoral policies, a scoping of the 
policy contents leads to scepticism as to whether this is not a mere ‘political objective’ or an ‘add-
on.’ The commitment to promote women in mining is untraceable in the policy guidance towards the 
following issues that are directly relevant to women: promotion and marketing of minerals; local 
participation; artisanal and small scale mining; mineral value addition; mineral royalty; institutional

---

35 Paragraph 35
36 Paragraph 92 (xiv)
37 Paragraph 32
38 Performance Standard 1: Assessment and Management of Environmental and Social Risks and Impacts, paragraph 12
40 Part 1.5
41 The rest of the policy objectives under Part 1.6 are: to promote the development of the mining sector; to contribute to socio-
economic development of the country including poverty reduction and sustainable development; to contribute to the country’s 
foreign exchange base; to optimise mining activities within Malawi so as to enhance “value added” elements of the sector and 
promote linkages with other sectors of the economy; to expand employment opportunities in Malawi; to foster the needed 
economic diversification.
structures to manage and coordinate the minerals sector promotion and marketing of minerals; and legislative and regulatory frameworks; and environmental management arrangements. The only time that a women/ gender related provision resurfaces is in the Part addressing social issues, where ‘gender inequality in the work place’ is one of the issues noted. In response, ‘government will ensure that mining related social issues are adequately addressed.’ Applied to the gender sub-provision, the MMP is committing to ensure that gender inequality in mining work places is addressed.

However, this gender assessment has exposed that issues related to women in mining are way bigger than employment. Since only few women are employed in formal mining currently, it means more gender concerns are rearing their face in all the issues related to the mining value chain articulated in the preceding paragraph. Missing the opportunity to integrate needs of women in these issues, and indeed other social issues that are identified by the policy means that effectively, the policy objective to promote women in mining is superficial. One only has to further examine the policy’s Monitoring and Evaluation (M&E) Plan, which is the marker of programming issues that matter, to corroborate this indictment. The framework completely lacks any sex disaggregated indicators to monitor how women, compared to men in mining, are benefiting under various responses that policy implementation will pursue. Even indicators related to promoting the one social issue directly addressing gender (gender equality in the work place) are absent. This is despite that the policy’s Implementation Plan has an activity to ‘ensure that mining companies employ more female workers.’

Annexure 2 exemplifies how most of the indicators could have been made gender sensitive. Box 3 also contains recommendations that Centre for Environmental Policy and Advocacy (CEPA) has made regarding how a robust policy framework should respond to women in mining issues.

**Box 3: ‘Women in mining’ recommendations for a Model Mining Development Policy**

- Implement and enforce specific provisions for gender equality and equity and develop targeted policies to empower women in mining and/or support gender equality in mining policies with appropriate legislation;
- Develop and implement education programmes to increase women’s access, adaptability in the minerals industry and ensure retention of skilled women in the minerals sector. Training programmes should be extended to include officers in the mining ministry.
- Introduce communication and sensitization programmes to remove resistance against women empowerment and to remove cultural barriers preventing women’s participation and contribution to the sector and develop and apply punitive policy measures aimed at discouraging discrimination against women in the minerals sector;
- Adopt an “affirmative action” approach to foster the enrolment of women in technical and other key disciplines for minerals development.
- Facilitate the creation of strong women miner’s network and link these with rural women groups and deploy resources to these associations and networks;
- Address social issues associated with women in mining effectively and involve women in the adoption of minerals policies that tackle Human Rights issues;

---

42 Part 6
43 Part 6
44 Part 6.1.1, other social issues that will be addressed by the policy: inadequate empowerment of local people; lack of articulated social responsibilities for mining companies; disruption of families and social structures due to HIV and AIDS and other diseases; child labour; and compensation and resettlement of land owners and communities affected by mining.
- Strengthen and/or create national Gender and Women in Development Policies in order to guide empowerment of women in the mining sector. In the medium term, initiatives similar to the empowerment charters in South Africa should guide the women empowerment process in the region; and
- Develop educational programmes aimed at both increasing men’s sensitivity to women issues and women’s empowerment in all sectors of minerals development.

Source: Centre for Environmental Policy and Advocacy, 2014

Malawi is in the process of using the policy as a guiding framework for reviewing the Mines and Minerals Act, hence there should be unease that the law review process does not have robust guidance when it comes to promoting women in mining. On the other hand, this gender assessment regards the law review as an opportunity to redress the policy shortfalls, and make good of the policy objective ‘to promote women in mining.’ Another opportunity is presented by the ASM Policy, which is still in draft form. Considering that this policy will later inform the formulation of an ASM law, ensuring that interests of women in mining are engrained in the document will bring optimism about the gender sensitivity of the impending ASM law. The two subsequent Parts provide a gender analysis of the Mines and Minerals Act and the ASM Policy and illustrate how the interests of women in mining can be practically factored into the frameworks.

5.3.2 Examining the Mines and Minerals Act (1981) from a Gender Perspective

The review process of the Mines and Minerals Act of 1981 is on-going, thus cementing the weight of understanding gender gaps and opportunities that exist in the law. The Act governs all matters related to licencing, acquisition of mineral rights, including the exploration and extraction of minerals. It does not apply to oil and gas. CSOs in Malawi such as CCJP, CEPA and Citizens for Justice have conducted several analyses of the outmoded Act, uncovering areas that should be given attention in the review process. It is not the intention of this gender assessment to regurgitate the gaps and recommendations that have already been documented, mostly from a generic viewpoint. Rather, sticking to its scope, the assessment complements the other reports by concentrating on gender aspects that ought to be made more conspicuous in the reviewed Act in order to ensure a sustainable mining sector that benefits both men and women. As it can be imagined, many of the suggested provisions will be new introductions. It divides the discussion into three (a) gender related recommendations that are based on the issues that are being considered in the mining policy review process, as drawn from a presentation that officers made at the Mines and Minerals Act Symposium of 16-17 July 2014; (b) gender sensitive CSR considerations in legal obligations; and (c) extra gender considerations that are inspired by findings of this assessment based on the needs of women that are engaged in mining.

Applying a gender lens to proposed areas for review under the MMA

Table 2 contains a list of areas that are being considered in the MMA review process with corresponding suggestions on how they can be strengthened through a gender perspective.

<table>
<thead>
<tr>
<th>Proposed direction under the revised Act</th>
<th>Gender related recommendations</th>
</tr>
</thead>
</table>
| Mineral Resources Advisory Board This will be responsible for:  
  - Scrutinising applications for mineral licences;  
  - Recommending to the Minister | Engender the Mineral Resources Advisory Board  
  - Apart from the proposed government institutions to constitute the Board, include Ministry responsible for gender in order assure the presence of consistent strategic guidance on issues related to gender mainstreaming in mining. |
licences for granting;
- Advising the Minister on licenses for suspension or cancellation;
- Dealing with complaints concerning licence holders; and
- Recommending to the Government measures for the harmonization of activities, plans and policies concerned with sustainable development and utilization of mineral resources.

- Include a quota for female representation. The purpose for should be for the law to take concrete correctional measures because current experience still shows that women continue to lag behind in decision making spaces, including in the Ministry responsible for mining.

Example of how gender quota can be framed drawing from the Uganda Petroleum (Exploration, Development and Production) Act of 2013

At least three members of the Board shall be women

Non-exclusive prospecting licences and mining claim licences
- This is available to artisanal and small scale miners. Currently a licence is issued annually.45
- There is recognition for the license tenure and area to be extended.

Tenure license extension is a valid consideration
For women in mining, extending the NEPLs and MCLs to a tenure to 3 – 5 years would demonstrate government’s commitment to facilitate their economic empowerment without structural bottlenecks.

Royalty payments
Issues for consideration are:
- Royalty rates: should be comparable to other neighboring countries
- Point of collection
- Sharing (Central government and communities affected by mining operations)
- Apportioning part of royalty to regulatory/inspectorate institutions.

a) Remove requirement to make immediate royalty/tax payment on samples
Currently, a royalty/tax payment is even imposed on samples. Women mining noted that many international buyers first want to test a sample of a gemstone before they make commitment to buy. Currently, the requirement is that the sample is taken to the Department of Mines, who give it a market valuation, and attach a 1% charge on it (for example, the Department can estimate that 1 g of ruby is worth USD250,000, and expect the dealer to pay the 1% charge). This makes the gemstone black market to flourish because a dealer will just withdraw it and sell it at a giveaway price to a buyer that is available locally. Women recommend that this immediate charge should be pended, and that instead, mechanisms should be instituted to track any money once an international buyer is satisfied and willing to buy the sample immediately. Any charge should be paid after receiving such purchase price.

b) Lower royalty (which is currently between 5 and 10 %), and distinguish between taxes payable by ASM and those payable by large scale operators
Women in mining decried that despite the fact that their ventures encounter various problems, government still expects ASM to pay high royalties and tax, and there is no distinction with highly productive large scale operators.

Local content

a) Local procurement

---

45 For a licence to come out, it may take up to 4 months. This means that by the time a licence is being collected, ASM also have to immediately start thinking of renewing it. Apart from high transaction costs, they have problems with the Police when they are asked to produce licences for their merchandise. When they produce a receipt instead, they may be told that ‘a receipt is not a licence, you are mining illegally.’
It has been proposed that regulations for supporting local procurement should possibly consider the following:
- Should targets be set for local procurement?
- If so, what is reasonable to require mining companies to do?
- What incentives should be in place to encourage increased local support for local procurement/content?
- Should there be an allocation of revenues from mining to support local supplier development fund?

Local participation in mining employment also requires consideration. It is proposed that some of these issues can be dealt with through regulations.

Currently, the law requires that an application for a mining license shall be accompanied by a report on the goods and services required for the mining operations which can be obtained within Malawi and the applicant’s proposals with respect to the procurement of those goods and services.

The requirement should be of the operator’s procurement proposal to outline how the procurement of goods and services has to deliberately target women’s businesses, including from local communities.

An example of how broader facets of affirmative action in procurement can be embedded in the law is South Africa; where procurement and enterprise development for Black Economic Empowerment has been co-opted into the revised Mining Charter (2010). It targets procurement of 40% of capital goods from BEE entities by 2014; procure 70% of services and 50% of consumer goods from BEE entities by 2014.

While Malawi’s targets for women’s economic empowerment in mining can be lower than the BEE targets, the allocation of revenues from mining to support (gender sensitive) local supplier development fund should be considered seriously. This is because this support, and relevant training can make women entrepreneurs a force that can be meaningfully involved in the mining supply chain.

**b) Local employment**

In the current law, conditions to granting mining and exclusive prospecting licences include that the licence holder should employ and train citizens of Malawi; and that the licence application should be accompanied by a statement giving particulars of the applicant’s proposals with respect to the employment and training of citizens of Malawi.

The requirement should be for the applicant to give clear information on the number of men and women that are planned to be employed and trained. Giving a generic employment and training plan does not hold the applicant accountable to achieving any gender targets.

In the Mining Charter of 2002, South Africa set a target of 10% women employment that mining companies had to fulfil in five years. This was up from a baseline figure of 2%. Malawi can set periodic targets (i.e. starting off with a modest target and targeting a reasonable increase for every three years) and mandate mining companies to have a plan to ensure that women are trained to meet those targets. For example, human resource development targets in the revised Mining Charter (2010) in South Africa are based on yearly increments of 0.5%, starting

---

46 The Charter, which was initially developed in 2002, is formulated under the Mineral and Petroleum Resources Development Act of 2002 (MPRDA). Failure to comply with its provisions renders a mining company in breach of the MPRDA.
from the base line of 3% in 2010 to 5% in 2014.

The MMA and corporate social responsibility

According to data from the Mines and Minerals Act Symposium, Corporate Social Responsibility (CSR) is one possible issue for legal consideration. However, the gender assessment encountered sentiments from government officers, who questioned whether the government is not abrogating its responsibilities in mining communities by expecting extractive companies to implement CSR initiatives. Malawi has to refer to global practice in order to take an informed position on CSR. There is wide acceptance amongst extractive companies and their countries of origin that CSR programmes should be implemented for various reasons. For example, the Australian Government’s Social Responsibility in the Mining and Metals Sector in Developing Countries (2011) guide endorses that ‘in order to gain and maintain a social licence to operate, projects will need to do more than just talk to community members. They will also need to invest money into community projects.’ This is because for the community, CSR becomes a mechanism for compensating a community’s extractive related costs (environmental impact, higher food and housing costs, and social impacts from an increase in the number workers living in the area).

In South Africa, CSR has being engrained in the mining regulatory framework through the Revised Mining Charter (2010). The revised Charter has provisions on ‘mine community development,’ which oblige mining companies to conduct an assessment to determine developmental needs in collaboration with mining communities, and identify projects that are in line with Integrated Development Plans, the cost of which should be proportionate to the size of the investment. One reasoning that justifies this approach is that since the State is responsible for administering the minerals for the benefit of all South Africans, ‘it is not too much of a leap to regard this interplay as a social contract between the mining company and its community.’ The alignment of CSR obligations to district plans is a best practice that Malawi can borrow in its mining legal framework because it means that CSR will be implemented within a broader strategic district development agenda. For women, what matters is that CSR legal obligations that are being aligned to district plans should prioritise activities that are addressing the needs of females and males with a view to eliminating gender inequality in different areas of development.

More gender sensitive proposals for the MMA

The following are more areas that need consideration in the MMA review, and gender aspects of EIAs are tackled under Part 5.5:

(i) Principles

The MMA should have a Section on principles governing the Act, and these should include gender equality, stating that ‘all aspects of the mining value chain shall take into account the need to encourage and accelerate women’s participation, including through affirmative action targets where necessary; promote positive impacts of mining for both men and women, and alleviate any negative impacts of mining on men and women.’

(ii) Exclusive licensing to Malawians in the ASM Sector

Under Section 73, issuance of a Non Exclusive Prospecting Licence is limited to Malawian citizens. However, the same Section gives the Minister the power to issue the license to a non-Malawian

47 Part 2.6
who has been resident in Malawi for four years preceding his or her application of a licence if it is in the interest of the public.

Women in mining recommend that like in Zambia, ASM should be an exclusive preserve for Malawians. Under the Zambia Mines and Minerals Development Act of 2008, government has restricted the issuance of small scale mining licenses to Zambian citizens only or citizen owned companies. In addition, government has also restricted the issuance of artisans mining rights to Zambians. This means a non-Malawian should not be considered for the NEPL under any circumstances.

(iii) Conditions for licensing –Exclusive Prospecting Licence and Mining Licence
This should specify that all applications for licenses shall be accompanied by a statement giving particulars of the applicant’s proposals with respect to addressing issues of sex discrimination, sexual harassment, human trafficking and child labour.

5.3.3 National Artisanal and Small Scale Mining Policy (final draft, May 2014)
The goal of the Policy is to contribute to economic growth and poverty reduction in Malawi through sustainable ASM activities. It is formulated out of the realization that an organized and modernized ASM will promote modalities of mineral development and marketing, which further encourages transparent business transactions and discourage smuggling. Additionally, while it is currently a poverty driven, an organised and productive ASM sector can actually propel economic growth and poverty reduction. Yet, the Mines and Minerals Act of 1981 does not adequately regulate the ASM sector.

The six objectives of the policy are to: (i) promote entrepreneurship and job creation; (ii) promote environmentally sustainable mining practices; (iii) promote value addition techniques; (iv) address gender and social issues associated with ASM; (v) to promote revenue collection; and (vi) to build institutional capacity. The objective to ‘address gender and social issues associated with ASM’ is perfectly suited to this gender assessment. Therefore, it is of interest to investigate the way that it has been pursued in the draft policy. From this context, what women expect from the Policy should be understood, and then there should be an examination of the extent to which the draft final document meets these expectations. The matrix below (Table 3) presents this information.

<table>
<thead>
<tr>
<th>What women in mining want and why</th>
<th>Policy response and/or observations</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Licensing: Extend licence tenure from one year to three - five years, and just increase the fees</td>
<td>Policy acknowledges that ASM operators are burdened with delays in issuance of mineral permits and rights and duration of tenure is usually short with no guarantee for renewal. Short duration of tenure is unattractive to prospectors, investors and financiers. No policy guidance is provided on extending licence tenure. However, the Mines and Minerals Act is considering extending tenure.</td>
</tr>
<tr>
<td>Currently a licence is issued annually. For a licence to come out, it may take up to 4 months. This means that by the time a licence is being collected, ASM also have to immediately start thinking of renewing it. Apart from high transaction costs, they have problems with the Police when they are asked to produce licences for their merchandise. When they produce a receipt instead, they may be told that ‘a receipt is not a licence, you are mining illegally.’</td>
<td></td>
</tr>
<tr>
<td>a) Decentralise mining licencing</td>
<td>Policy states that ‘Government will streamline and simplify licensing procedures for ASM sub-sector.’</td>
</tr>
<tr>
<td>ASM seeking licences apply through their regional offices, who in turn submit the applications to the Department of Mines for processing. This also contributes to the acute delays mentioned above, Women in mining recommend</td>
<td></td>
</tr>
</tbody>
</table>

Table 3: Response of Draft National ASM Policy to women’s wish list
the decentralisation of mining licensing administrative offices to all mining districts.

b) Regulate mineral pricing

Women in mining attribute the exploitation from middlemen and buyers to lack of government leadership to regulate and enforce pricing in accordance with international standards. This can be done by regularly setting a price schedule for various grades of gemstones, limestone, terrazzo etc.

<table>
<thead>
<tr>
<th>The absence of local mineral pricing systems is recognised under ‘Formal Mineral Marketing Systems’ (Part 3.1.6). Though the policy statements do not offer a solution (ref. to (d) below), the policy’s Implementation Plan has a strategy to ‘introduce local mineral pricing systems.’</th>
</tr>
</thead>
</table>

The policy provides that:
- Government will facilitate establishment of mineral marketing centres;
- Government will put in place mechanisms to monitor the whole marketing chain for mineral sales;
- The policy will promote the growth of both competitive local and export mineral markets for ASM products; and
- Government will promote and facilitate participation of artisanal and small scale miners in Exhibitions, Trade Fairs and through foreign missions. **Part 3.1.6.1**

c) Formalise markets for selling ASM commodities

The recommendation by women in mining is that an auction floor model should be set up to enable ASM cooperatives and dealers to sell their commodities at national level, probably twice or three times a year. Cooperatives should also be strengthened to either be exclusive market centres, or to sell their commodities at designated market centres.

<table>
<thead>
<tr>
<th>The Policy provides that:</th>
</tr>
</thead>
</table>

| Government will facilitate creation of an enabling environment for easy access to, information and technology; and plant and equipment for mining and value-addition for ASM. **Part 3.1.4.1** |

Furthermore, the policy’s Implementation Plan has strategies to ‘facilitate trainings on entrepreneurship’ and ‘introduce specialised training programmes for artisanal and small scale miners. With strategic targeting and planning so as not to leave women behind, this has the potential to fulfil the expressed need by women. However, the risk of this not happening is real, given the absence of gender sensitive indicators as is noted later in this Part. |

<table>
<thead>
<tr>
<th>The policy will:</th>
</tr>
</thead>
</table>

| Promote and facilitate access to finance by linking ASMs to financial institutions and organizing them into cooperatives. |

d) Create business opportunities for ASM commodities

Women recommend the following several approaches to achieving this:

<table>
<thead>
<tr>
<th>(i) Develop a training strategy for ASM that targets leadership, entrepreneurship, marketing, technology and gemmology skills building, and encouraging service providers to develop specific products for women.</th>
</tr>
</thead>
</table>

| The Policy says that: |

| Government will facilitate creation of an enabling environment for easy access to, information and technology; and plant and equipment for mining and value-addition for ASM. **Part 3.1.4.1** |

Furthermore, the policy’s Implementation Plan has strategies to ‘facilitate trainings on entrepreneurship’ and ‘introduce specialised training programmes for artisanal and small scale miners. With strategic targeting and planning so as not to leave women behind, this has the potential to fulfil the expressed need by women. However, the risk of this not happening is real, given the absence of gender sensitive indicators as is noted later in this Part. |

<table>
<thead>
<tr>
<th>The policy will:</th>
</tr>
</thead>
</table>

| Promote and facilitate access to finance by linking ASMs to financial institutions and organizing them into cooperatives. |

<table>
<thead>
<tr>
<th>(ii) Adopt affirmative action that target women’s ASM cooperatives or cooperatives that have equal numbers of men and women for credit/funding, trainings and other programmes etc.</th>
</tr>
</thead>
<tbody>
<tr>
<td>(iii) Assist ASM to develop value-added products such as jewellery, ornaments, chalk, lime, ceramic products etc.</td>
</tr>
<tr>
<td>---</td>
</tr>
<tr>
<td>(iv) Support ASM cooperatives to identify markets for their products, including through regular specialised local trade fairs.</td>
</tr>
<tr>
<td>e) Create linkages to support services associated to business opportunities</td>
</tr>
<tr>
<td>Women in mining suggest the following in relation to support services:</td>
</tr>
<tr>
<td>(i) Develop strategies to ensure the availability of services related to production machinery (i.e. for hire to ASM at district levels), including identifying service providers and others who can fund machinery and infrastructure development.</td>
</tr>
</tbody>
</table>
The role that development partners, NGOs and INGOs can play in enhancing availability of services is not acknowledged in the policy.

(ii) Develop strategies to ensure availability and access to technology for all ASM subsectors.

The policy states that government will:
- Facilitate creation of an enabling environment for easy access to, information and technology; and plant and equipment for mining and value-addition for ASM. Part 3.1.4.1
- Encourage and facilitate employment opportunities in ASM by ensuring equal access to technology and involvement of women in mining development. Part 5.2.2

(iii) Strengthen CSOs, particularly women’s organisations, to address issues related to mining, including advocating for women in mining.

Linkages with CSOs are not addressed

f) Promote District Council and CSO programming to address issues of gender based violence, HIV and health risks that differently affect women and men in ASM.

- The policy will facilitate HIV and AIDS awareness campaigns
- Government will facilitate training in HIV and AIDS. Part 3.5.4.1

HIV is addressed in a limited way, and issues of GBV and specific health or social related risks for men and women are not addressed.

g) Address social economic issues associated with growth of ASM

Women in mining that were interviewed asserted that child labour is non-existent in their operations, since the focus is to recruit powerful men who can survive the intensity of the manual operations. However, they realised that this is a potential risk in mining, and one that can become more problematic as the sector enjoys growth. They also mentioned that the growth of the sector has to be wary of increasing challenges related to human trafficking, prostitution, child marriages, early pregnancies, sexual harassment and sex discrimination. The latter two mainly relates to situations when employment opportunities for both men and women will become available.

- Government will enforce regulations against child labour and abuse;
- The policy will facilitate sensitisation and awareness campaigns about child labour issues: and
- Government will provide more educational infrastructure in remote areas where ASM activities are taking place. Part 3.5.3.1

The focus on child labour is limited. The policy should commit that it will also take measures to ensure that the growth of the ASM sector is able to deal with problems of human trafficking, prostitution, early pregnancies, child marriages, sexual harassment and other forms of sex discrimination.

h) Empower ASM to pursue safe and environmental friendly mining practices, as well as supporting them with modern mining machinery

Women in mining were of the opinion that ASM is usually not safe and environmental friendly because they prefer to use the long time it takes them to achieve good production

- The Policy will support the provision of training in environmental management; and
- Government will facilitate monitoring and enforcement of compliance of mining environmental standards in ASM. Part 3.4.1.1
in digging pits for production, instead of spending labour resources to clear mine burdens that pose danger to life. During mine closure, they do not rehabilitate mined out areas because (i) their inadequate resources makes it unaffordable for them to pump resources into their tasks; (ii) their use of primitive tools makes them believe that the area is not totally mined out, and they will be burying minerals that others can exploit. All this endangers animals, life as well as promotes diseases like malaria. They assert that their access to modern machinery is a straight forward solution to this challenge.

- Government will enforce proper decommissioning and rehabilitation of mined out areas. Part 3.4.3.1. These measures are not contextualised in relation to the gaps that women in mining have identified, and may therefore not be sustainable.

| i) Improve ASM friendly financial services | - The policy will promote and facilitate access to finance by linking ASMs to financial institutions and organizing them into cooperatives; and - Government will endeavour to lobby with lending institutions to have lower interest rates for the ASM subsector. Part 3.2.3.1

Women would like the availability of micro financing for inventory. This means that there should be willingness by financial institutions and/or NGOs and the government to ensure that start-up ASM businesses have consistent cash flow during production phases, even though loan repayments may only commence after securing markets.

And in the policy’s Implementation Plan, there is a strategy to ‘facilitate in mobilising funds which can be available to ASM.’ However, credit facilities for inventory/risk that are more suitable to the nature of ASM, especially for start-ups, are not considered specifically.

Women specific products, as part of accelerating the empowerment of women in mining, are identified.

| j) Establish a mineral testing centre for ASM | Though this is not provided for under the Part on research and technical assistance (Part 3.1.4), in the Implementation Plan, there is a strategy to ‘construct a purpose built Laboratory.’ The language could be improved to allow judgment on whether or not the Lab is consistent with the identified need of women.

The above problem is arising because there is no centre to test and certify gemstones in Malawi. Therefore, one solution to the issue is to facilitate the establishment of a local testing centre. This can also count as one of the services that women in mining desire under (g) above).

Regardless, the Mines and Minerals Policy (2013) has a more precise language: ‘in the medium term, Government will invest in Laboratory technologies and build capacity for mineral sample analyses to be done within the country.’

| k) Remove requirement to make immediate royalty payment on samples | The issue of tax/royalties under (j) below does not incorporate this dimension.

Ref. to Table 2 for explanation

49 Part 2.2.1
| l) Lower royalty (which is currently between 5 and 10 %), and distinguish between taxes payable by ASM and those payable by large scale operators. |
| Women decried that ASM despite the fact that their ventures encounter various problems, government still expects high royalties and tax, and there is no distinction with highly productive large scale operators. |
| The policy articulates that government will review royalty rates and develop appropriate fiscal and taxation regime for the ASM subsector. Part 3.2.2.1. |

| m) Guarantees that their mines will not be 'grabbed' by the large scale mining sector due to findings of ‘kaunium’ |
| Women who own mines fear that due to their current low productivity, their mines can be easily 'grabbed' through licence revocation should it be established that they have extensive reserves. They feel that the role that the large scale mining sector can play in building the capacity of the ASM sector, including through partnerships, needs to be clarified. |
| The policy provides that government shall continue creating an enabling environment that will support and encourage co-existence of both ASM and large scale mining operations. Part 3.1.7.1 |
| This still does not provide the direct protection that ASM need. |

| n) Implement gender sensitive communication strategies |
| This demands the development and implementation of an ASM communication strategy that raise awareness on opportunities for both women and men to equally participate in ASM; and programmes that exist to develop the sector. This need is arising out of the finding that women in ASM do not have full information on the FDH financial services for the ASM sector, OVOP and other opportunities and developments. |
| The policy will conduct awareness campaigns in order to encourage women participation. Part 5.5.2 |
| The development of an appropriate communication strategy to meet women’s stated needs will have to be emphasised. |

From the foregoing, two general observations are made about the Draft ASM Policy:

**Despite a few shortfalls in meeting the wish-list of women in mining, the draft policy has some strong focus on women**

Except in the few areas where there are gaps, noted in the matrix above, the Policy has reasonably addressed the concerns and needs of women in mining. It is necessary that the outstanding issues be addressed in order to satisfy the intention to achieve equal participation by focusing on women in the ASM sector. The Policy has a subsection on gender, under which ‘the policy will encourage equal participation in the ASM sub-sector, including encouraging and facilitating employment and involvement of women in mining development. This is resultant from the draft policy’s admission that in the ASM subsector, women face more challenges than men.50 In the Implementation Plan, there are two strategies to achieve equal participation: (a) encouraging programmes which support women participation in ASM activities; and (b) providing support to women who participate in ASM sector. The gender assessment submits that this is a necessary approach because ‘the equal treatment of unequal people only preserves inequality.’ Even the Africa Mining Vision (2009) recommends that countries should initiate empowerment of women through integrating gender equity in mining policies, laws, regulations, standards and codes. Therefore, it is important to women in mining that practical measures be specifically directed towards empowering them in their own right.

---

50 Part 3.5.2.1
The draft policy’s M&E framework has substantial flaws that defeat the gender related intents of the policy

The M&E framework is usually the pointer of regarding how far a policy will practically meet its respective strategies, and who will benefit. This is because data that is collected through the framework leads to evidence-based programming that responds to milestones and gaps that are being achieved for women and men. Disappointingly, the framework that currently supports the draft Policy is very gender insensitive. This means that it fails to set any specific indicators for unambiguously ensuring that strategies towards benefiting women through equal participation in the sector materialise. The indicators are broadly couched, and even the basic requirement of sex disaggregated data is ignored. Annexure 3 demonstrates possibilities for engendering most of the indicators.

Perhaps the one indicator that can be implied to relate to women is aimed at ‘removing barriers faced by vulnerable groups. In this regard, indicators that will be tracked are (a) number of campaigns conducted and (b) number of association of vulnerable groups trained. First, this gender assessment rejects the presentation of women in ASM as vulnerable for the reasons provided in Part 1.3. Rather, they have been placed in a disadvantaged position due to structural barriers imposed by cultural, legal and institutional conditions that have perpetuated their discrimination in many spheres of life, including the mining sector. However, women in mining are exercising agency in pursuing business opportunities (though many unsuccessfully for now) and making their voice heard in policy making.

It has been argued in Part 1.3 that ‘the notion of women as ‘vulnerable’ (as children are) and in need of protection denies them their very human power to act to transform the world around them. Second, the indicators that are presented cannot facilitate the comprehensive tracking of interventions related to encouraging programmes which support women participation in ASM activities; and providing support to women who participate in ASM sector. The indicators are limited to campaigns and trainings towards removing barriers faced by ‘vulnerable’ groups. Third, if indeed training is an important strategy for removing barriers, it makes sense to target both those at the receiving end, and those that create the barriers.

5.4 GENDER AND OIL AND GAS RELATED LAWS

Malawi’s Petroleum (Exploration and Production) Act of 1983 (PEPA) makes provision for the ‘searching and production’ of petroleum. This law far predates the issuance of petroleum exploration licences in 6 blocks since 2008, and several shale gas explorations that are taking place in the lower shire. The law is earmarked for review. The provisions of the current law cannot be meaningfully critiqued from a gender perspective, since they are likely to be overhauled by the impending law review. Rather, the contribution of this gender assessment is to communicate gender considerations that are relevant to oil and gas legislation, including corresponding policy.

Perhaps one of the dilemmas for Malawi is that unlike mining, evidence on the unique impacts of oil and gas projects on communities has not yet been generated. Therefore, there is a paucity of information that even exposes the differential impacts of the oil and gas industry on men and women. Still, regional literature has experiences from which Malawi can draw from in its policy and legal processes related to the industry. At the same time, many of the gender issues related to mining also apply to oil and gas, especially those that have been recounted in the report’s analysis of environmental impact assessments, community compensation and resettlement, workers compensation, occupation health and safety, empowerment of women through employment, decision making structures and business opportunities etc.

A recent law in Uganda demonstrates how gender considerations have been integrated in oil law, although limitedly. In 2013, Uganda passed the Upstream Petroleum (Exploration, Development and
Production) Act and the Midstream (Refining, Gas Processing and Conversion, Transportation and Storage) Act. The Petroleum Exploration, Development and Production Act has two gender provisions. One requires three out of the seven members of the Board of Directors of the Petroleum Authority of Uganda to be women.\textsuperscript{51} The other obliges licensees to submit, within a stipulated period, a detailed programme for the training and recruitment of Ugandans in all phases of petroleum activities that shall take into account gender, equity, persons with disabilities and host communities.\textsuperscript{52} The upstream and midstream laws have provisions on local content, i.e. efforts aimed at building the local (national) capacities to engage in the extractives sector of a country. However, affirmative action for women’s businesses has not been considered, which is a gap. In any event, the local content provisions have been critiqued as confusing and shallow, since the two laws have different and vague approaches. For example, while one law refers to ‘Ugandan companies’ as beneficiaries, the other refers to ‘local business entities.’ In both instances, there are loopholes that can allow non-Ugandans to be local content beneficiaries.

The Ugandan government intends to practically mainstream gender in oil and gas industries through a project that can strengthen communities’ capacity to gain better access to, and utilise the benefits of, the oil and gas industries. The project design recognises the different ways in which men and women participate in and can benefit from the sector. It states the need to increase the level of community participation and involvement in the oil and gas industries by gender, especially through training women to enable them to tap into economic opportunities offered by the sector. It also includes increasing access to information and the capacity at all government levels to monitor and facilitate community engagement in the sector, including gender training. However, for such interventions to be normative and not simply ad hoc; there is need for gas and oil legal and policy frameworks to express commitment towards programming that will empower both men and women in the sector, and address gender specific impacts.

According to a 2014 study by International Alert, Uganda has found several challenges related to how compensation arrangements have negatively affected women in the oil industry. Some of these challenges are quite similar to those observed in the context of Malawi under Chapter 2. However, Malawi’s situation may be unique because the projected location of most of its oil reserves is not on land, but rather ‘off shore’—Lake Malawi. Some of the gender issues that exist in this environment are the impact of oil exploration and/or drilling activities on tourism, fishing related livelihoods and fresh water resources. Tourism is important for both women and men because it creates employment and other economic activities. Fishing related livelihoods for women include fish processing and buying fish for resale. In lake areas, women and their families also rely on fish as the major source of protein. Men are the ones that are engaged in fishing, and the majority of boat owners. This means that they support the livelihoods of their families, and women would be acutely affected if this source of livelihood was lost.

Therefore, apart from the tendency to consider physical environmental impacts, oil related legal and policy frameworks have to be sensitive to the need to address gendered economic and health impacts, including those that may arise due to oil spills during exploration and transportation. In 2012, Surestream Petroleum submitted the first oil exploration Environment and Social Impact Assessment (ESIA) to the Malawi Government. The attempt that was made to assess some social impacts revealed impacts such as disturbance to coastal graveyards during burial ceremonies and risk of injury to human swimmers. The social impacts do not divulge any gender dimensions. It is appreciated that

\textsuperscript{51} Section 17(3)
\textsuperscript{52} Section 126(2)
this ESIA only covers a proposed seismic survey campaign. A further ESIA would have to be done in respect of any prospects for oil drilling. It would therefore be necessary for such ESIA to delineate gender related impacts and full avoidance and mitigation measures plainly.

Meanwhile, it is recognised that in relation to pollution, principle of ‘polluter pays’ is entrenched in the Environment Management Bill (2014)\textsuperscript{53} and the Water Resources Act (2013). However, this is not enough unless there is certainty that payment will not just be for the oil related pollution, but also challenges that women and men will encounter differently as a result of the pollution. The Water Resources Act (2013) responds to underground water pollution, contamination and general pollution of water resources. Where an incident occurs in which a harmful substance spills into water, apart from bearing the costs of remedial measures, the costs of resultant impacts will also be borne by the polluter. While broad, this is an important provision that can potentially compensate for the increased susceptibility to impacts of pollution that women encounter by virtue of their traditional roles. Thus losses for women not only relate to direct economic costs, but also health related implications that they have to shoulder through caring for the sick, if they themselves do not fall sick first. Oceana has noted that acute health effects in the event of an oil spill include headaches, nausea, vomiting, eye irritation, worsened asthma symptoms, upper respiratory tract irritation, vertigo, leg and back pains and psychological ailments. Consumers eating contaminated fish are generally exposed to toxic chemicals.

Complementary provisions addressing the consequences of oil related pollution in the Environment Management Bill are quite ambiguous by providing that ‘a person who is convicted of discharging oil or a mixture containing oil shall be required to pay the costs of third parties in form of reparation, restoration, restitution or compensation.’\textsuperscript{54} It is not clear if this applies to oil spills by oil extractive corporations or just individuals. If the provision applies to extractive corporations, it is concerning that such costs only have to be borne after ‘conviction’ by a court of law, when the source of such spill is usually all clear. This has implications on communities’ particularly women’s capacities to initiate legal suits. In summary, this gender assessment suggests that legal provisions related to the contamination of water resources through oil spills or otherwise have to leave no doubt about the intention to make the polluter compensate for both economic and health costs of an affected population, taking into account gender roles. Therefore, it is imperative that respective gender related impacts should be well guarded in the implementation of the mandate of the National Environment Protection Authority to prepare guidelines or plans for coordination, prevention, mitigation and management of environmental emergencies including oil spills and gas leakages.\textsuperscript{55}

Sometimes, women’s losses may not even be as a result of oil spillage emergencies, but from gas flaring. For example, in Nigeria, the experience of women farmers from Imiringi, where oil related activities started in the 1960, demonstrates how gas flares have damaged agricultural productivity:

\textbf{When Shell came and situated their facilities here and invaded us, our crop yields started depreciating. Before ten, as a young girl, I noticed that our crops—coco yam, cassava, plantain, and more—grew more luxuriantly. When we harvested them, we got bountiful yields. But all that is now history. What we get these days could be likened to . . . [a] skeleton of those days . . . . We are really convinced that this gas flare is responsible for the decline in crop yield, because}

\textsuperscript{53}Section 72(1)(c) The Authority shall, in consultation with lead agencies, recommend to the Minister responsible for finance to include in annual budget proposals economic instruments to ensure that the costs of pollution are paid by the polluter.

\textsuperscript{54} Section 65

\textsuperscript{55}Section 71(1) (a)
Therefore, the risk of gas flaring and its impact on crops has to be specifically incorporated in ESIAs. Air pollution provisions under the Environment Management Bill (2014) have to be broad enough to cover these incidences. In the case of gas industries, women may impacted by the dying up of local water supply, especially when the drilling and production of gas shales is done through hydraulic fracking. This method involves a high pressure cocktail mixture of one to eight million gallons of water and other properties. The high pressure cocktail fractures rock formations and allows the gas contained in it to rise under its own pressure and escape. Since the water comes from lakes or rivers, the method has the risk of drying up local water supply, thus bringing challenges to agriculture and domestic waster needs—mostly a women’s purview. It is therefore up to the Water Resources Act or any gas related frameworks to explicitly regulate fracking.

5.5 GENDER IN ENVIRONMENT IMPACT ASSESSMENT FRAMEWORKS

Different international frameworks put the spot line on environmental impact assessment policies and laws, and recommend that beyond strictly looking at the environment, these assessments should specifically co-opt social, economic and gender aspects. The *Action Plan for Implementing the Africa Mining Vision (2011)* recommends that social and human rights principles of impact assessments should be mainstreamed into national mining policies, laws, and regulations. Impact assessment approaches that strongly address human rights and social aspects (including gender) have a strong likelihood of directing attention to health related risks of women in Malawi that have been exposed in this report.

The *UN Berlin II Guidelines (2002)* recommends that countries should conduct Social Economic Impact Assessments (SEIA), and that these SEIAs should integrate a gender analysis that systematically examines the roles and relationships between women and men in communities to be impacted by the mining operations. The guidelines provide tremendous direction that it should not be taken for granted that the implementation of social impact assessments will automatically translate into the consideration of gender related impacts. Rather, there has to be deliberate action to examine how subgroups of men and women are likely to be impacted by extractive industries. The impacts of mining on women’s health can include significant increases in sexually transmitted diseases, sexual harassment and increased incidences of violence against women in local communities by transient male mine workers. Steps should be taken to identify how mining operations may potentially affect women’s multiple roles in biodiversity management due to the propensity of mining activities to impact the surrounding ecosystem, and address the same.

In addition, the concept of ‘gender sensitive human rights impact assessments’ has been endorsed by the *2011 Report of the Special Representative of the Secretary- General on the issue of human rights and transnational corporations and other business enterprises (The Ruggie Framework)*. This may be carried out in addition to environmental and social impact assessments. The Ruggie Framework requires business enterprises to identify various groups whose human rights may be adversely affected by the proposed activity, and pay special attention to any particular human rights impacts on individuals from groups or populations that may be at heightened risk of vulnerability or marginalization, bearing in mind the different risks that may be faced by women and men. An

---

examination of Malawi’s impact assessment regulatory frameworks in the subsequent discussion will reveal the extent to which the local situation satisfies international standards.

5.5.1 State of gender mainstreaming in extractive industry ESIs in Malawi

The Department of Environmental Affairs has stated that one of the new aspects of an Environment Management Bill of February 2014 is that it incorporates the need to address both environment and social impacts of projects. And as a matter of practice, the Department asserted that in recent years, it has departed from a practice of requiring projects to merely conduct environment impact assessments, to requiring them to carry out environment and social impact assessments. Officers cited examples of projects by GMMA and Surestream as falling in the latter category. Part 5.4 has mentioned that the social impacts in the Surestream ESIA do not reflect any gender angle. However, since this is only an exploration ESIA, the opportunity for the company to cover gender considerations fully can still present itself in a future production related ESIA.

On the other hand, though the GMMA ESIA does not specifically mention women except in a potential CSR intervention as discussed in Part 2.4, it has several proposed mitigation measures that would directly respond to women's traditional roles and cultural positioning. For instance, it recommended the building of housing for communities that were to be resettled (though Part 2.2 has shown that traditional leadership and men opted for cash). For male headed households, the housing would have been more appropriate in the context of the low decision making power that women have ultimately ended up having over the cash due to intra household power relations and the community’s strong patrilineal set-up. The ESIA also gives thought to issues of access to agricultural land, firewood areas and borehole monitoring. Conversely, economic measures that address women specific livelihoods losses and their employment opportunities are not covered. What this illustrates is that future ESIA TORs and report reviews have to be diligent enough to be comprehensively responsive to women in different cultural situations.

5.5.2 How are gender considerations featuring in the Malawi Environment Management Bill?

The Environment Management Bill of February 2014 is seeking to repeal the Environment Management Act of 1996 in order to make it better responsive to emerging issues in environment and natural resources management. The focus in Table 4 is on those provisions that have connections with the extractive industries, and not those that are purely related to the physical environment.
Table 4: Level of gender sensitivity of the Environment Management Bill

<table>
<thead>
<tr>
<th>Issue</th>
<th>Observations from a gender perspective</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-inclusion of definition of social impact assessment either as a standalone definition or within the context of the definition of environment impact assessment (EIA)</td>
<td>EIA is defined as ‘a systematic evaluation of a project to determine its impact on the environment and the conservation of natural resources.’ It neither captures the social aspect, nor is there an independent definition that connects the EIA to social impact assessment. Similarly, the definition of Strategic Environmental Assessment excludes social impacts. <em>This approach limits the consideration of social/gender impacts as a core component of EIAs. It also is inconsistent with the claim by EAD that the new style will be to conduct Environment and Social Impact Assessments (ESIAs).</em> <em>In the United States, the National Environmental Policy Act of 1969 calls for the integrated use of the social sciences in assessing impacts on the ‘human environment.’</em> It also requires the identification of methods and procedures that ensure that presently unquantified environmental amenities and values be given appropriate consideration.</td>
</tr>
<tr>
<td>Inclusion of gender mainstreaming in development intervention as a general principle of the Bill, but no clarity on whether or not the scope of development interventions includes EIAs.</td>
<td>One of the general principles of the Bill is to ensure that social issues including gender, health, human rights, HIV and AIDS are mainstreamed in development interventions to minimize negative impacts on the environment and to enhance sustainable utilization of natural resources in accordance with relevant policies and legislation. <em>While this is a window for integrating gender issues, it is apparent that the focus is on ‘development interventions’ which term is not specifically defined so as to provide clarity on whether or not it includes environmental impact assessments.</em> The first impression is that it does not. Only ‘developer’ is defined as “any person who has proposed or has undertaken to implement a project.”</td>
</tr>
<tr>
<td>The composition of the National Environment Protection Authority Board is not gender sensitive</td>
<td>Among other functions, the Authority shall review and approve environmental impact assessments, strategic environmental assessments and other relevant environmental assessments in accordance with this Act. <em>It shall be governed by a 7 member board, appointed by the President.</em> <em>Being a modern age proposed law, the Bill should explicitly facilitate the participation of women in governance. And given existing trends where Boards are dominated by men, it is reasonable that a quota of women’s representation in the proposed Board be guaranteed. The Customary Land Bill provides inspiration, as it clearly recommends a proportion for women from local level committees to tribunal level (i.e. out of six committee members, at least three are to be women).</em> Similar consideration can be made in respect of the provision mandating the</td>
</tr>
</tbody>
</table>

57 Section 2  
58 Outer Continental Shelf Lands Act, as amended (43 U.S.C.A. 1331 et seq.): The term ‘human environment’ means the physical, social, and economic components, conditions and factors which interactively determine the state, condition, and quality of living conditions, employment, and health of those affected directly or indirectly by the resource development activities in question.  
59 Section 3 (n)  
60 Section 2  
61 Section 12(f)  
62 Section 8(a)  
63 Section 4(1) & (2)
Board to elect a Chairperson and Vice Chairperson by emphasising that ‘the Board shall elect a Chairperson and Vice Chairperson, with due consideration paid to gender balance.’

| Skills required for the proposed Technical Committee on EIA are limited. | The Board shall appoint a Technical Committee on EIA.  

The skills that committee members possess are limited to sufficient knowledge, training and experience in the protection and management of the environment and the conservation and sustainable utilization of natural resources. If EAD is to confirm its commitment for impact assessments to comprehensively consider gender and social impacts, it needs to expand the requisite skills set to gender and human rights analysis of environment and natural resources issues.  

This means that instead of requiring each member to have the currently listed skills, the Bill should aspire to have members that have a variety of skills. |

| Composition of Technical Committee members is gender insensitive | Each Technical Committee shall consist of not less than twelve members and not more than fifteen members.  

If it is practical, a target for female representation should be set (i.e. a minimum of 30 percent). But if this is not practical due to the fact that the members will be chosen based on their skills, this is all the more reason that gender and human rights analysis should be one of the core skills for the EIA Technical Committee members. |

| Non-ambiguity is needed on how far similar EIA requirements apply to both the large scale and ASM sectors. | EIAs shall be required for:  

(a) all mining and quarrying activity for which an exclusive prospecting license, a mining claim license or a mining license is required or any major amendments to any of the above licenses;  

(b) any extraction of sand, gravel and clay or topsoil material (be it from the ground, banks or beds of water bodies) by means of any explosive or heavy machinery; and  

(c) any explosive manufacturing and blasting operation.  

In South Africa, it has been observed that committing ASMs to the same standards as large scale mining operators has had the negative effect whereby many ASM are operating outside the law as they cannot afford costs related to the high standards/EIAs.  

The Yaounde Vision on ASM (2002), which is lauded by the African Mining Vision as one of the main frameworks for the development of the ASM sub-sector in the continent recommends a different and practical approach to the ASM sector:  

- Instituting incentives and training, rather than programmes or policies strictly focused on traditional monitoring and enforcement systems;  

- Ensuring that benefits are demonstrated, and that standards are not unrealistic and unattainable;  

- Developing ASM specific legislation or regulations could be more effective; |

64 Section 18(a)  
65 Section 19(1)  
66 Section 19(1)  
67 Section 26 as read with Part 8 of the schedule
since environmental problems require technical solutions that are culturally relevant, and an integral approach is needed for changes to be implemented. For example, in the Tanzanian law (The Mining Act), there is ASM specific environmental legislation.

<table>
<thead>
<tr>
<th>Requirement to articulate social impacts in a project brief, but not in the EIA report. This is inconsistent with the country’s vision to have EIA guidelines that adequately respond to social impacts, including gender.</th>
<th>Prior to conducting an EIA, a developer is required to submit a concise project brief stating the likely impact of activities on the environment, including social impacts. After this, the developer is supposed to submit an EIA report. Apart from concerns by CSO that there is no requirement for this report to be independent, it is noticeable that highlighting social impacts is no longer required in the EIA report. Rather, exclusive attention reverts to environment effects of the project. This is problematic because the Bill needs to be aligned with envisaged revised EIA guidelines that are interested in social impacts (ref. to Part xxx below).</th>
</tr>
</thead>
<tbody>
<tr>
<td>The law allows that the publication of report be accompanied by public inspection. The long standing challenge is that EIA reports are very bulky, and this limits the quality of public contributions though the law allows this theoretically. Apart from requiring the publication of a summary of the project, the Bill should require that the submission of the report should be accompanied by thematic summaries, including on social impacts.</td>
<td>Environmental audits and not both environmental and social impact audits are provided for. This means that any suggested measures to address social impacts may hardly be accounted for. Apart from addressing environment standards that should be met, it is also necessary to integrate social impact standards, even as an annexure.</td>
</tr>
</tbody>
</table>

It can be concluded from the above observations that the Environment Management Bill of February 2014 is hesitant to make express commitments to soundly incorporate social impacts, including gender related impacts, in EIAs and other critical processes that support EIAs. While EIA guidelines, discussed next, are supposed to provide more substantive guidance, it is the law that has to provide the basic framework to enable the full incorporation of gender considerations in the guidelines. In other words, the law and its guiding framework have to speak to each other so that the latter does not introduce completely new ideas that are not factored in the law. So far, this has not been done successfully.

### 5.5.3 Gender Sensitivity of Environment Impact Assessment Guidelines

Malawi has EIA Guidelines of 1997. This gender assessment does not dwell on the contents of the guidelines, since the government has taken a decision to review them. Rather, what is reviewed are

---

68 S.26(4)(a)  
69 Section 27  
70 Section 29  
71 Section 39  
72 Through the collaboration of Environmental Affairs Department, Department of HIV and Nutrition and UNDP
the Terms of Reference (TORs) for the revision exercise, earmarked for the last quarter of 2014. Therefore, the analysis is aimed at measuring the extent to which the TORs provide assurance that gender is an integral part of the review exercise. The assessment found that the revision of the guidelines is grounded in the concern that having been developed 16 years ago, the current guidelines do not integrate the impact that large development investments have on human health and fuelling HIV transmission and gender inequalities. Therefore, the TORs are specific that the revised guidelines should provide guidance on how to integrate emerging issues such as HIV, gender dimensions and human rights violations in the EIA process. One of the team members is to have expertise in social issues such as HIV, gender and human rights. Integrating a gender perspective in the EIA process implies taking into account differences between men and women in roles, rights, priorities, opportunities and constraints. It is therefore important that the revised guidelines should facilitate the uncovering of this information in the EIA process.

Oxfam Australia has offered practical suggestions for mainstreaming gender in impact assessments through its publication titled ‘Gender Impact Assessment Framework for Mining Projects’ (2009). The framework proposes considerations that should be made at different stages, namely: data collection; context analysis; issue identification; an examination of the project responses to women’s needs; making recommendations and developing a gender risk awareness strategy; and the undertaking of community based gender audits or reviews to monitor how a company is addressing gender issues. The application of such a framework in Malawi context should bear in mind that deducing from the TORs for the revision of EIA Guidelines of 1997, the purpose is not to generate stand-alone gender impact assessments, but to improve the quality and depth of EIAs so that they have a strong gender component. This validates the need for EIAs to be supported by a legal framework that guarantees their independence, as well as the specific requirement that EIA reports should include social impacts.

The process of revising the EIA guidelines is being led by the Department of Nutrition, HIV and AIDS in the Office of the President and Cabinet. It is important that the Ministry responsible for gender, UN Women and women’s rights CSOs should follow this process closely to support the tangible integration of gender dynamics in the EIA process.

5.6 GENDER PERSPECTIVE TO RESETTLEMENT AND COMPENSATION RELATED FRAMEWORKS

Existing frameworks that relate to land acquisition, resettlement are neither adequate nor responsive to felt needs and challenges of women, and by extension, children in the extractives sector. Annexure xxx displays how compensation is currently calculated. The Mines and Minerals Policy of Malawi (2013) cursorily mentions that one of the social issues that government will address is ‘compensation and resettlement of land owners and communities affected by mining.’ Since the policy will be operationalised by the Minerals and Mining Act (under review), the gender issues that are presented under this Part are informative towards the development of compensation and resettlement related provisions of this law, or indeed any appropriate legal framework.

The National Land Policy (2002) has a policy on land redistribution and resettlement, but this is for purposes of ensuring that (a) those that are experiencing severe land shortages for subsistence agriculture are able to get land through a land redistribution programme, and (b) encouraging the resettlement of landless and land-short households in carefully selected areas in Malawi. In terms of mining, the policy provides that mining rights will include conditions for practicing conservation
methods, including setting aside funds for compensation to those adversely affected by the activity. Though this is quite ambiguous, the need for compensation can arguably range from effects accruing from pollution, land degradation and relocation.

The *Land Bill of 2012* is meant to repeal the Land Act (Chapter 57:01). It stipulates that all customary land, is vested in perpetuity in the Republic. The little experience that Malawi has with mining related resettlements has shown that customary land is usually the subject of relocations, and since it is vested in the State, people are not awarded compensation for its loss. Rather, compensation is for surface rights. The Land Bill permits the compulsory acquisition of land for *public utility*. This is defined as utility which is for the direct or indirect benefit of the community as a whole, or part of the community within a Traditional Land Management Area. Unless a mine is clearly being operated for the interest of a local community, it is difficult to appreciate how State action to compulsorily acquire land in order to pass it on to mining ventures of for-profit corporations can qualify as ‘acquisition for public utility.’ To this extent, the Land Bill falls short of providing comprehensive regulatory guidance for land acquisitions that are related to extractive projects. But even if it can be argued that the provision similarly applies to such projects, the question of compensation has not been settled in a way that can benefit women.

The *Lands Acquisition and Compensation Bill of 2012* (amending the Lands Acquisition Act (Chapter 58:04)) steps in to guide in issues of compensation for land that has been acquired for public utility, either compulsorily or by agreement after negotiation. The Bill is being introduced in order to strengthen the compensation framework for persons affected by acquisitions, noting that the Lands Acquisition Act is presently weak in reflecting that any acquisition under the Act shall be accompanied by appropriate compensation. A gender analysis of the Bill by ActionAid posits that the list of losses that are currently proposed for compensation do not capture women specific losses in accordance with the Malawi context and challenges that matter to women. These women specific losses may include:

- Loss of income generation activities and networks, including disturbance of community schemes or groupings for money savings.
- Losses of access to water points, forests, natural resources and other amenities necessary for the delivery of care work by women, where these will not be as easily accessible due to the land acquisition.
- Loss of crops, including perennial crops and fruit trees and women’s ‘small gardens’ where they routinely grow subsistence food crops.

---

75 Part 9.10 (b)
76 Though it was initially passed by Parliament in 2013, the President did not assent to it following pressure from Chiefs, who were afraid that it will strip them of powers over land.
77 Probably from the perspective of the UN Basic principles and guidelines on development-based evictions and displacement (2007), which state that *development-based evictions* include evictions often planned or conducted under the pretext of serving the ‘public good,’ such as those linked to development and infrastructure projects (including mining and other extractive industries).
78 Section 10(2): (a) loss of occupational rights; (b) loss of land; (c) loss of structure; (d) loss of business; (e) relocation costs; (f) loss of goodwill; (g) costs of professional advice; (h) injurious affection; (i) nuisance; (j) loss or reduction of tenure; or (k) disturbance, if it is not too remote and is a natural and reasonable consequence of the disposition of the land."
79 In one community in Mzimba, women also expressed the fear of losing their money saving groups (village loans and savings) because the women’s network was being broken due to land acquisition. For women, this was a loss or revenue/income generation activity.
80 Women find the loss of perennial crops and fruit trees, from which women sustain families’ livelihoods and earn direct income is a threat. Yet compensation for these may not be paid directly at them.
• In addition, loss of food crops due to delayed resettlement particularly affects women (Part 4.2)

CCJP also adds that the potential loss of the labour of male relatives due to resettlement forces women to hire labour if they can afford it, or to hastily marry men from host communities. While a few of the losses recognised by ActionAid may be considered in compensation, the other side of the challenge for women is that compensations are approached from a perspective of household losses, which makes compensation that should otherwise accrue to women indiscernible.

This is particularly problematic to married women because compensation is paid to the man as a head of household. Part 2.2 has given practical examples of how most women have no control over how the compensation is managed. Many men have ended up spending compensation money not entirely towards recuperating household assets upon relocation, but rather also on ‘luxury’ items, other women and entertainment. This threatens the well-being of families, particularly women who have to shoulder the burden of looking after children with no or limited resources, in addition to predisposing them to HIV infection or unpaid care costs of such infections. Part 2.2 confirms what Action Aid established, that women prefer to receive suitable accommodation and replacement of land for farming, instead of cash. Men prefer cash.

This gender assessment takes the position that it is in the interest of sustainable development that government should adopt the straightforward approach of mandating the replacement of lost housing and land with comparable or better dwelling and land. Cash should only be payable in respect to other non-real estate assets. This recommendation is also being propagated by the UN Basic principles and guidelines on development-based evictions and displacement (2007)82, which specifies that forced evictions include the relocation of communities due to mining developments. The message is clear, that

**In cases of land loss, cash compensation should never replace real compensation in the form of land and common property resources. Where land has been taken, the evicted should be compensated with land commensurate in quality, size and value, or better. States must provide or ensure fair and just compensation for any losses of personal, real or other property or goods, including rights or interests in property.**

One positive aspect of the Lands Acquisition and Compensation Bill (2012) is that it recognises the need to compensate for loss or reduction tenure, loss of occupational rights and relocation costs. In addition, the Department of Environmental Affairs in collaboration with the Ministry of Mining, is implementing a Strategic Environmental and Social Assessment of Malawi’s Mineral Sector. One of the preliminary recommendations is that ‘compensation for displacement from land should reflect the true cost to existing occupants of replacing their assets and continuing their livelihoods, rather than being based, as at present, on loss of standing crops.’ These steps, which only need to be applied with a gender lens, are consistent with UN Basic principles and guidelines on development-based evictions and displacement (2007), which have declared that the tendency of not offering compensation for people who may not have title to the land they were using (and women mostly fall in this category) is contrary to international standards. Therefore, all those evicted, irrespective of whether they hold title to their property, should be entitled to compensation for the loss, salvage and transport of their properties affected, including the original dwelling and land lost or damaged in the process.

---

81 In patrilineal and/or patrilocal areas where women do not have direct access to land, they are allowed a small garden where they can grow vegetables and other crops for a family’s daily consumption while men are deemed to own the big field, i.e. for growing cash crops

82 Formulated by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living
However, in the context of prevailing challenges articulated under Chapters 2 and 4, the need to solidly protect women to ensure that they benefit from compensation that has been payable need to be integrated in the law. Therefore, Action Aid has proposed that any law related to compensation for land acquisitions [for public utility and extractive missions] has to reinforce shared control of compensation proceeds by men and women by co-opting the following provisions:

- Where costs of relocation are being assessed, women shall be consulted as a special group, and they shall have an equal say as men.
- Any assessment for compensation that excludes women shall be void, and assessment reports shall include women specific losses that fall under the grounds that are eligible for compensation.
- Where compensation is being paid to a household where the man and woman are married or are cohabiting, the payment shall be paid into a bank account that shall be opened in the joint names of the couple at a nearest bank.
- Any compensation that has been incurred by a woman shall be paid directly to the woman, or in her absence, to such person that she may authorise. A local or village headman shall confirm the authenticity of such authority.
- Government shall involve civil society organisations and other relevant stakeholders in educating households that are eligible for compensation on the proper application of the money.

In implementing gender sensitive resettlement and compensation terms, caution has to be exercised so as not to maintain the negative effects of delayed relocation as discussed in Part 4.2.1. It has been seen that in Kanyika, people who were instructed to cease growing cassava after compensation assessment in the belief that they would be moved in 6 months’ time (and cassava takes two years to grow) have been affected by severe hunger. Even the Land Bill (2013) provides that ‘no compensation shall be payable to interests created after publication of the notice to acquire’ (in respect of land acquisitions for public utility). The Kanyika experience attests that it is unreasonable for such interests to include food crops in circumstances where dates of relocation as uncertain, or where the delays have not been caused by the community. This only works to aggravate hardships of women as people that are responsible for ensuring the availability of meals for their household members.

5.7 HOW GENDER RESPONSIVE IS THE WORKERS’ COMPENSATION ACT OF 2000?

The Workers’ Compensation Act (2000) bears two points of importance to this gender assessment: (a) it applies to women and men working in the extractive industries as it provides compensation for injuries suffered, diseases contracted or death resulting from such injuries or diseases in the course of employment; (b) it is relevant to women as partners and dependants of the higher numbers of men who work in the extractive industries, who may be suffer any of the mishaps enunciated under (a). This information is key to women, because CSOs have reported unconfirmed incidences in some coal mines in Malawi where insufficient compensation is to widows paid for deaths of a spouse in the course of work, where injuries are not satisfactorily compensated for, and where medical care for those that have suffered injuries or contracted diseases in the course of work is not guaranteed. For example, in respect of one widow in the Northern Region, a CSO representative working in the area claimed that ‘the coal mine only gave her MK30,000.00 as death compensation.’ It is therefore important the compensation packages and procedures of obtaining them be known by miners and their dependants, in addition to improving them where necessary.

A general observation has been made under the Malawi Decent Work Programme (2011-2016) that the current workers’ compensation system is deficient because it only provides for lump-sum
payments and no periodical payments thereafter. It also places liability for compensation with individual employers, meaning that there is no pooling of risks across the labour market, like in the case with social insurance. As a consequence, there are usually delays in the processing beneficiary claims since employers have to first mobilise the necessary financial resources.

In terms of extractive industries, there is also likelihood that compensation that is paid for deaths and injuries of expatriates and other senior staff may also be way higher than that which may be due under the Malawi Workman Compensation Act. Ensuring that laws/conditions of service in this sector are able to provide generous workman's compensation across the board is crucial.

5.7.1 How is compensation calculated?
The Workers' Compensation Act (2000) has different computation formulas for death, permanent total incapacity and permanent partial incapacity. In addition, it also compensates for a list of diseases that are contracted by being in contact with a range of industrial chemicals or harmful exposures in the course of different forms of occupations. While this assessment does not deeply examine the respective exposures, some of them already are applicable to the extractive industries. For example, the Act mentions of diseases that spring from: mineral-dust through work connected to mining, quarrying, pottery ceramics, masonry and drilling tunnels; the use or handling of, or exposure to the dust or vapour of, mercury or a compound of mercury or a substance containing mercury; the use or handling of mineral oil. However, with the budding extractive industries in Malawi, the schedule will have to be reviewed by those that are well versed in health exposures related to mining, oil and gas.

### Table 5: Workman compensation calculations

<table>
<thead>
<tr>
<th>Incidence</th>
<th>Compensation calculation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Death</td>
<td>42 x monthly earnings at the time of injury</td>
</tr>
<tr>
<td>Permanent total incapacity</td>
<td>44 x monthly earnings at the time of injury</td>
</tr>
<tr>
<td>Permanent partial incapacity</td>
<td>Different injuries are compensated as a percentage of the compensation one would have obtained had he or she suffered permanent total incapacity (see Annexure 4).</td>
</tr>
</tbody>
</table>

Note that:
- Compensation is not payable for an injury that is self-inflicted or that arises due to wilful misconduct.
- If death from an injury occurs after compensation was already paid for permanent total incapacity or permanent partial incapacity in respect of the injury, this shall be deducted from any death compensation.
- If a worker who has suffered permanent total incapacity will need constant help of another person, additional compensation will be paid at the discretion of the Workers Compensation Trustees Board.

In the event of death compensation is paid to dependents, who under the Act, are ‘those members of the family of a worker who were wholly or in part dependent upon his earnings at the time of his death, or who but for the incapacity due to the injury have been so dependent.’ The concept of ‘partial dependency’ is quite ambiguous and the Act explains that that a person shall not be deemed to be a partial dependent of another person unless he was dependent partially on contributions from

---

84 Section 3
that other person for the provision of the ordinary necessaries of life suitable for persons in his class and position.

To set direct parameters, the definition of dependents has to be standardised with the one under the Deceased Estates (Wills, Inheritance and Protection) Act No. 14 of 2011. In the inheritance law, a dependant, in relation to a deceased person, means a person, other than a member of the immediate family, who was maintained by that deceased person immediately prior to his or her death and who was (a) his or her parent; or (b) a minor whose education was being provided for by that deceased person, who is not capable, wholly or in part, of maintaining himself or herself.  

5.7.2 Medical expenses and women’s unpaid care work for the ill

The provision under the Workers’ Compensation Act (2000) for the employer to be responsible for medical expenses and transport charges for injury is important, though it is not clear the extent to which this applies to the recognised diseases. This ambiguity mainly concerns a former worker who is no longer under the employment of a company, but has contracted the disease during a period that is recognised by the Act. This concern originates from experiences of South Africa, where miners have conveniently been sent back to their communities by mining companies upon falling ill (premature retirement). Women’s unpaid care of asbestosis or silicosis infected men has therefore become a big topic. Tuberculosis and HIV are significant health risks in the South African mining industries due to the fact that these diseases are bound up with living and working conditions of miners, such as migrant labour, single sex hostels, undiagnosed active TB and closed ventilation systems in underground mines. Additionally, exposure to silica dust in mining operations together with HIV infection exacerbates the risk of active TB.

South Africa’s compensation system has been critiqued by IANRA for its flaws in failing to adequately support labour sending families, particularly women. As a result, women, supported by children, have tended to sacrifice substantial time, paid care work or livelihood generation and education opportunities in nursing a miner through his illness or to his death, possibly over several years. In the Malawi law, it is noted that care related compensation is considered in the event of permanent total incapacity arising out of injury, but not the scheduled diseases. This only serves to undermine and exploit women’s unpaid care work in the case of disease induced illnesses, usually in situations of limited resources.

It is therefore important that the law should be clear in its guarantees for both the compensation of care giving at domestic level, and for medical related expenses throughout such an illness and death. In relation to the former, cash forms of compensation and subsidy should be explored, where women can exercise control over the benefits. The calculation of this form of compensation, including in respect of care for permanent total incapacity, should be spelt out, instead of just leaving it to the discretion of the Board. In South Africa, IANRA and the Women’s Legal Centre have partnered to build a regional case and political strategy for the recognition of women’s unpaid care work of male mine workers afflicted with silicosis. It is hoped that this will generate legal precedent that will inspire legal reforms and the overhaul of mining related compensation systems for the benefit of women and households.

85 Section 3
86 Section 14(1)
5.7.3 Additional considerations

The Workers' Compensation Act (2000) has created a Workers Compensation Trustees Board and a Workers Compensation Tribunal. A quota for women should be guaranteed in these structures.

5.8 GENDER ASPECTS OF OCCUPATION HEALTH AND SAFETY LAW

Occupation health and safety (OHS) issues have to be approached from a gender perspective, least because in male populated sectors such as the extractive industries, this is one more incentive to attract and retain women. The history of male dominance in the industries has for a long time led to safety and health measures that are institutionalised from the perspective of the male worker, which do not usually work as well for the female worker. The International Labour Organisation (ILO) has made explicit the connection between safe work and decent work and raised the need to take account of gender-specific factors in the context of OSH standards, other instruments, management systems and practice. The Malawi Occupation Safety, Health and Welfare Act (1997) has some gender sensitive provisions to the extent that it requires workplaces\(^87\) to have sanitary conveniences that afford separate accommodation for people of each sex,\(^88\) and to have separate washing facilities for male and female employees.\(^89\)

However, women friendly OHS standards, particularly in the extractive industries, have to go beyond basic sanitary welfare and consider the suitability of personal protective equipment (PPE) to the female physique and comfort, so that PPE does not expose women to run away hazards, i.e. through entry of dust particles and other hazardous substances if oversized safety goggles that are meant for men (one size fits all) have gaps around the seal when worn by women. Women have also found overalls, which are the regular work wear for male miners, to be hot and inconvenient for toilet breaks. Women friendly OHS standards in the extractive industries should also address women’s acute and chronic stress reactions that emanate from two primary occupational sources: (a) feelings of discrimination in a male-dominated work environment and; (b) conflicts associated with balancing work and the family. Thus OHS standards must have regard to the impact of shift work on women’s family lives. More importantly, they should be able to effectively prevent reproductive hazards are related to exposure to chemical, physical, or biological agents that can cause either reproductive impairment or adverse developmental effects on foetuses.\(^90\) OHS standards should respond to physiological changes and psychological vulnerability inherent among women that may affect their health and safety at workplace,\(^91\) which may or may not culminate from the preceding factors.

These needs have been identified as a result of gaps in OHS standards in several African countries, including South Africa, that have heavily disadvantaged women, particularly in underground mining. Thus the fact that mining in Malawi is still in its infancy is an opportunity to take lessons from others. It is clear that OHS laws that are gender sensitive have to be accompanied by guidelines/regulations that articulate specific safeguards for women that face different occupation hazards, i.e. related to underground and surface work in oil and gas, mining, and organised small scale mining. These should include the need for awareness and understanding among mine/extractive workers of how their gender identity affects behaviour which can sometimes commend unsafe practices.

---

\(^87\) which by definition include any premises belonging to a quarry or mine related to the dressing, breakdown, processing or preparation for sale of sand, stone or minerals- Section 3(2)

\(^88\) Section 27(1)

\(^89\) Section 28(1)
Beyond the typical safety and health hazards, ILO also recognises that sexual harassment is a hazard encountered in workplaces across the world that reduces the quality of working life, jeopardises the well-being of women and men, undermines gender equality and imposes costs on firms and organizations. Further, it is a barrier towards the primary goal of promoting decent working conditions for all workers. A realisation to give due attention to sexual harassment as a gender-based occupational health and safety issue in the oil and gas industries has similarly been felt in Ghana, where 2008 projections indicated that the country had reserves of one billion barrels of oil and substantial quantities of gas. It is therefore important that the prevention of sexual harassment should form the package of OHS standards, given its harms on the physical and psychological well-being of workers who are victims, including HIV risk for both the victim and perpetrator.

5.9 CONCLUSION

This Chapter has established that legal and policy frameworks have a high potential to facilitate or derail opportunities, benefits and mitigation measures that are pertinent to subgroups of women in the extractive industries in Malawi. To maintain relevance, these frameworks have to be fully relevant to women as entrepreneurs, workers, wives, mothers and individual community members depending on the needs and threats that exist in their circumstances. Mine and minerals frameworks have the duty to create an enabling environment for women to thrive as entrepreneurs and workers (including as potential workers). They should also create the framework for appropriate gendered responses to socio-economic impacts on mining on men and women. Frameworks related to oil and gas have to give primary consideration to providing redress for impacts on women and communities that may arise due to the pollution and contamination of water resources, and in the case of gas, even due to the depreciation of water resources for agriculture and household consumption resulting from methods like fracking. Environment Impact Assessment frameworks have to guarantee the execution of ESIAAs that comprehensively take into account social, economic and health impacts that could be suffered by women and men due to their specific roles, needs, concerns and cultural contexts. In this regard, ESIAAs have to comprehensively cover all gendered impacts on health and livelihoods that may result from extractive industry projects. Having said that, it is necessary to clarify ESIA standards for large scale and ASM sectors so that the ASM sector has practical requirements to address social and environmental impacts.

In order to avoid women being left worse off by extractive projects, frameworks related to involuntary resettlement and compensation have to be sensitive to women specific losses and arrangements that can potentially compromise women’s position due to prevailing intra household power imbalances or discriminatory cultures. Compensation frameworks for workers should have stronger capacity to safeguard the interests of women as workers, widows and care givers in relation to injuries, diseases or deaths that are a direct result of extractive industry occupations. Occupation health and safety (OHS) frameworks are responsible for promoting an environment that supports and retains female workers, including by considering gender specific threats to occupational safety (i.e. safety discrimination, harassment and indifference to women’s OHS specific needs in extractive industries) as unacceptable occupational safety breaches.

Across all frameworks, there is resounding need for safeguarding women’s place in different sector specific decision making structures that are driving aspects of extractive industry governance. In addition, it is high time that the Ministry responsible for gender became a permanent fixture in sectoral technical committees in the extractive industry.
CHAPTER 6: MAPPING OF GENDER INTERVENTIONS BEING IMPLEMENTED BY KEY PLAYERS IN THE EXTRACTIVE INDUSTRIES

INTRODUCTION

This Chapter is a mapping of the role, if any, that institutions that are actively involved in extractive industries related interventions are playing in addressing gender issues in their programming. The purpose is to identify gender interventions that are in place, gaps that exist, and possible opportunities for greater integration of gender in extractive industry institutional programming. It scrutinises roles that are being played by CSOs, selected government institutions, development partners, service providers and Parliament.

6.1 NON-GOVERNMENTAL ORGANISATIONS

The mapping of NGOs focused on organisations that are leading different extractive industry interventions in Malawi, and these may have also mentioned other partners whom they are working with. The interest was to find out where they are operating, and how their interventions incorporate gender and/or HIV mainstreaming.

<table>
<thead>
<tr>
<th>NGO &amp; extractive project</th>
<th>Details about intervention and extent of gender and/or HIV mainstreaming</th>
</tr>
</thead>
<tbody>
<tr>
<td>CCJP National Secretariat, 2013-2015</td>
<td></td>
</tr>
<tr>
<td><strong>Project:</strong> Tonse Tipindule</td>
<td></td>
</tr>
<tr>
<td><strong>Coverage:</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Donor:</strong> Tilitonse Fund through Norwegian Church Aid</td>
<td></td>
</tr>
<tr>
<td>The project’s aim is to contribute towards having a more transparent, inclusive and responsive mining regime that benefits all Malawians. It is being implemented by a consortium of faith based organisations in 10 districts. The Episcopal Council of Malawi, through CCJP, is leading all research components and advocacy. Quadria Muslim Association is implementing local level activities in Balaka and Mangochi. The Malawi Council of Churches has activities in Dowa and Ntcheu. The Church and Society Programme of the Livingstonia Synod has interventions in Mzimba, Karonga and Chitipa. The Evangelical Association of Malawi is focusing on Phalombe, Mulanje and Mwanza. CCJP’s role in the project is to initiate reform in legal and policy frameworks in the mining sector.</td>
<td></td>
</tr>
</tbody>
</table>

**Incorporation of gender perspectives**

- CCJP has conducted a mapping of mining activities respective districts so that the institutions can target their activities to these areas. Implementing institutions are focusing on the establishment and strengthening of community groups so that they are able to engage mining companies are monitor mining activities. Though gender based violence is likely to manifest itself in the areas where mining activities are occurring, this is not clearly defined as an area of focus in the interventions.
- The conceptualisation of the project did not strongly integrate women or gender equality related issues, thus gender considerations are limited to ensuring that women are represented in CAGS.
- The Tonse Tipindule consortium published an analysis of the legal and policy framework of Malawi’s Mining Sector in 2014. While the analysis raises important broad gaps and opportunities in mining related frameworks, it does not apply a gender perspective. The one occasion where ‘women’ appears is in respect to the National Gender Policy, where proposals are made for the policy to ensure equal opportunities for men and women in mining jobs; and for the policy to be proactive in addressing social ills that impact more on women. However, this gender assessment (Chapter 5) has shown that instead of cornering gender issues in mining to gender related frameworks, there is sufficient room for a wide array of gender responses to come into all mining related frameworks, including in implementation and M&E frameworks. This
will be the hallmark of gender mainstreaming in the sector, which is the only way to ensure that the sector practically contributes to the poverty reduction and economic growth of both women and men.

**Incorporation of HIV**
This was not strongly factored in.

<table>
<thead>
<tr>
<th>CCJP Mzuzu Diocese Project: TIWONE 2 Project, 2013-2014:</th>
<th>Coverage: Kanyika, Mzimba—community affected by the Kanyika Niobium Project Donor: Catholic Relief Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>The project focuses on issues of compensation/resettlement in order to build the community’s capacity to negotiate with the mining company and to get fair compensation. Initial advocacy was for the community to be given suitable accommodation and farming and at a resettlement area, though in the end, the choice lay with the community members themselves (Chiefs and men). Only 25 out of 248 households opted for housing and land, while the rest chose cash compensation. The intervention is supporting the 25 till they get properly resettled.</td>
<td></td>
</tr>
</tbody>
</table>

**Incorporation of gender perspectives**
- There has been no deliberate strategy to tackle issues that differently affect women and men in compensation/resettlement. However, Chapter 4 has documented that the project has stumbled on some gendered impacts of the compensation arrangements that have been put in place (though these are not being specifically addressed). For the 25 households that have opted to be resettled by being given housing and land, the intervention is supporting women by default because widows and the female elderly make the majority of such households.
- The intervention does not particularly deal with gender based violence, which manifests itself through divorce, polygamy, buying of sex. The challenge facing the area is that the unfettered power by men to exclusively control of resources due to the community’s culture directly perpetuates situations where gender based violence thrives, probably without deliberate intent by the perpetrator to commit GBV. The project does not address issues of access and control of resources either.
- The Community works through Community Action Groups (CAGs), who are volunteers that are sensitising community members on mining issues and how to spend compensation. They are influential in the sense that they are recognised as the mouthpiece or entry point to the community. However, the CAGs push for general issues, and are dominated by men. This is because due to the local patrilineal culture, when the CAGs were introduced, women were reluctant to join as they don’t have influence/they lack decision making power.

<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>At Eland Coal mine CCJP is working with communities that have been resettled, and those that are earmarked for resettlement. In Kayerekeka, focus is on resettlement issues since Paladin applied for mine expansion.</td>
<td></td>
</tr>
</tbody>
</table>

**Incorporation of gender perspectives**
Since mining issues are new, the approach has been that the impacts touch everyone, so no special attention was given to gender considerations. However, critical issues that are affecting women have been identified now (i.e. hardened water, prostitution and sexual exploitation, lack of fair compensation for widows for death from occupational injuries, misuse by men of resettlement money, distance to health facilities and water) but they are not addressed yet.

**Incorporation of HIV**
This was not incorporated in planning, but it soon became apparent in Karonga.
Relief Services

that that sex workers were a problem. Therefore, the capacity building of community action groups now incorporates HIV.

<table>
<thead>
<tr>
<th>Centre for Environmental Policy and Advocacy Project: Strengthening Mining Governance in Malawi, 2013-2015</th>
</tr>
</thead>
</table>
| **Coverage:** National Mzimba/Phalombe and Karonga  
**Donor:** Tilitonse Fund |
| The aim of the project is to make governance in the mining sector more inclusive and accountable. This is out of concerns that the mining sector’ policy, legal and regulatory framework has not kept pace with the rapid modernisation of the mining codes; that civil society is largely uncoordinated in the sector; and that there is lack of public understanding of mining issues. CEPA works as a member of the Natural Resources Justice Network (NRJN).  
**Incorporation of gender perspectives**  
CEPA has taken steps to integrate gender/women specific issues in two of its recent publications aimed at guiding law and policy reform, namely Policy Audit and Institutional Analysis Report for Mining in Malawi (2014); Model Mining Policy (June 2014). These frameworks propose a full priority area on women and mining, apart from reflecting women and gender equality commitments in the policy objectives and guiding principles and in compensation/relocation arrangements. However, CEPA’s recommendations to the improvement of the proposed Mines and Minerals Bill of 2013 are devoid of gender related considerations.  
CEPA works in Mzimba/Phalombe and Karonga by utilising the Association of Environmental Journalists to hold media interactions with community forums. The idea is to get evidence from the community that can be taken to policy forums or the right stakeholders. Effort is made to have women representation. Though not equally represented, women are part of the community action group in Karonga, which is the entry point for media interactions. Women have been able to express their needs, i.e. for water. |

| FOCUS Project: Empowerment for health citizen led advocacy Coverage: Karonga: Paramount Kyungu’s area—Paladin Mabulambo in TA Kilipula’s area (Eland Coal Mine)  
**Donor:** Scottish Executive through Christian AID |
|---|
| **Incorporation of gender perspectives**  
The project concentrates on large scale mining and addresses the impacts of mining; advocacy for corporate social responsibility; and awareness of environmental issues. One component of the project is dealing with pollution, because Eland Coal Mine is dumping waste in Lufilya river. Additionally, resettlement is a hot topic, and it has been noted that female headed households are compensated differently because of the view that they are not entitled to own land. Yet, when a woman is moved it will take them time for her to get settled i.e. to construct a house and to get her livelihoods back. Many women are also excluded from employment at the coal mine because of low levels of literacy. FOCUS is empowering these women village savings and loans, though this is not an initiative of the mining company. In Karonga, FOCUS conducts awareness on the impact of extractives on HIV in the communities, including on women and children. It is also advocating for Micro Loan to reduce interest rates for women. Micro Loan was given USD 25,000 by Paladin, which women could access for micro credit. However, the interest rate of 28 percent that Micro Loan has been charging women has been deemed to be high, and has ended up impoverishing women.  
**Incorporation of HIV**  
FOCUS has been advocating for institutional HIV policy in the mining companies. It also works with communities to raise awareness on HIV prevention; access to nutrition and care and support services; and on how to engage duty bearers or service providers to increase access to key services. |

<table>
<thead>
<tr>
<th>OXFAM Project under conceptualisation</th>
</tr>
</thead>
</table>
| Is conducting a scoping study on issues in the extractive industries that can inform the organisations’ entry point in its Strategic Plan of 2015 to 2019. Women and children will be a critical area of focus. Possible areas of programming are:  
- Active citizenship, i.e. issues of free and prior informed consent, especially |
- Transparency, accountability and strengthening institutional frameworks, i.e. contract negotiation, corporate social responsibility, and advocacy for extractive sector’s resources to be invested in essential services that matter to women, i.e. health services. Women themselves will also be empowered to demand the realisation of their rights in the industries.

**Caveat from the Ministry of Finance:**

Though the dedication of EI resources to specific purposes (including depositing them in an investment fund) is the ideal, Malawi’s poverty situation cannot accommodate this arrangement. For instance, current revenue from the EI sector is around MK3 billion annually. The 2014/15 budget is MK720 billion, and most of it is money that the country does not even have. It is therefore incomprehensible that MK3 billion can be put in savings when the country needs this to meet a small portion of its budget. In this poor resourced situation, it is similarly farfetched to set aside EI money for a specific essential service when there is acute shortage of resources across the board. It is therefore convenient to just pool any revenue that the country makes into the consolidated fund and let the fund meet whatever overall budgetary costs that it can afford to.

**CFJ Project: Promoting Inclusive Governance in the Mining Sector, 2013-2015**

**Coverage:**
- Karonga (Kayelekera and Eland Coal Mine Mine-Mwaulabo)
- Mzimba: Kanyika community
- Phalombe: Songwe Hill community

**Donor:** Tilitonse Fund

With a focus on large scale mining, the main objective of the project, which is being executed in partnership with ActionAid, is to promote responsive mining governance in Malawi by influencing the reform of minerals and mines laws/policies; and by building a strong coalition of mining Civil Society Organisations. In the partnership, CFJ is responsible for coordinating and facilitating all national level policy, advocacy and coalition movement activities.

**Incorporation of gender perspectives**

Gender mainstreaming is regarded as an overarching component, both in project staff recruitment and at community level. In Kanyika, women’s involvement is being emphasised having learnt from lessons of those that were resettled in Karonga that women did not know how much money men had received for compensation, and that many men ended up misusing the money, i.e. to take in more wives etc. Therefore, attention is being paid to addressing women’s concerns in Kanyika.

- CFJ coordinates the Natural Resources Justice Network, and MAWIMA is a member. WLSA Malawi is also a member, though it is dormant.
- In respect to oil, CFJ has used its own resources to conduct a scoping study of potential impacts of the oil industries on beach communities in Nkhata Bay, Chilumba and Nkhotakota. By gathering data from chiefs, men and women, the study sought to understand the concerns of the communities, and their views regarding how they will manage any potential impacts, including any socio-economic impacts that will emerge from the residence of oil employees within the communities in the event that drilling commences. CFJ intends to use the findings to source funding from partners such as Progressio and Oxfam Malawi. Progressio is planning to support oil and gas interventions that address the role of corporations in supporting or derailing socio-economic rights. On the other hand, Oxfam is conceptualising a programme that will fund EI interventions focusing on women and children.
- CFJ has developed different publications on uranium mining in Malawi, including analyses of laws. It is the one institution that has produced documentation on oil through a policy and legal audit related to oil exploration and production in Malawi. However, the publications do not carry gender analyses.
CFJ’s interventions are not addressing gender based violence.

Incorporation of HIV

Existing EI interventions are not addressing HIV. However, CFJ has developed a concept note on Mining, HIV and Human Rights which will be submitted for funding consideration to DFID, who are formulating a programme in this area.

**Action Aid**

**Project: Responsive Mining Governance for Equitable and Sustainable Development, 2013-2015**

**Coverage:**
- Karonga (Kayelekera and Eland Coal Mine-Mwaulabo)
- Mzimba: Kanyika community
- Phalombe: Songwe Hill community

**Donor:** Tilitonse Fund

Project is concentrating on community empowerment, so that people are able to know their rights related to mining and demand action to redress all injustices emanating from large scale mining. Communities are being organised into REFLECT circles that are aligned to various issues that make the communities vulnerable. It is expected that the REFLECT circles will identify action points, based on which AA can build solidarity with CSOs for advocacy. The project is also promoting collective advocacy by CSOs in order to get more meaningful results connecting local CBOs and national structures, and has incorporated Ulaha Foundation (Karonga), TIDECO (Mzimba) and Ufuluwathu (Phalombe) into the Natural Resources Justice Network that is being coordinated by CFJ.

**Incorporation of gender perspectives**

- The community empowerment component has dedicated one REFLECT circle in each area to women so that they can independently generate issues and action points on how different impacts are affecting them as women (i.e. water pollution). In the highly patriarchal community of Kanyika, the use of REFLECT is making men open to learning new perspectives. Women were deliberately recruited as REFLECT facilitators, and they constitute 10 out of the 27 facilitators.
- Gender based violence is not being expressly addressed.

**Incorporation of HIV**

The training of REFLECT facilitators had a small component on strategies for HIV mainstreaming. It is expected that every REFLECT circle will also be examining HIV issues that affect the mining community.

**CHRR**

**Project: Community Advocacy and Litigation on Access to Information on Mining (Kayelekera and Eland Mines), 2013-2014**

**Coverage:**
- Karonga (Kayelekera and Eland Coal Mine-Mwaulabo)

**Donor:** Open Society Justice Initiative (2013-2014)

Focuses on large scale mining and is implementing a community mobilisation project that is used as a strategy for pushing for the access to information law. The community is being mobilised around two demands for the release of (a) the Kayelekera Development Agreement and (b) the Kayelekera EIA. The former demand has been satisfied since the Joyce Banda administration took the decision to make the document public. However, the EIA remains outstanding, and the advocacy interventions are interested in this document so that communities should know exactly what the document said on the potential impact of uranium radiation on the community. This need has been heightened by the case of *Siluwonde vs Paladin/Kayelekera* (pending judgment), in which CHRR facilitated a court action on behalf of a Kayelekera employee that has since gone blind, allegedly due to radiation effects. Thus CHRR plans to again invoke litigation as a tool to force the company to release the EIA, and is working on mobilising the Kayelekera community to appreciate their right to information so that it can be a party to the case.

**Incorporation of gender perspectives**

This has not been factored in.

The CSO mapping is bringing out the following patterns:

- There is no CSO activity in oil and gas, including in gender related aspects of the industry.
• CSOs are not prominently working in the ASM sector.

• The Tilitonse Fund is the current major donor of mining related interventions. Though there are few pockets of gender considerations in some of the interventions, gender is largely sweepingly treated as a cross cutting issue, which has diluted its depth in the respective mining related responses.

• There is inadequate technical knowledge of how to design EI interventions with strong gender components amongst CSOs.

• CSO activities are concentrated in Karonga and Mzimba, with Phalombe trailing. Typically, projects are following known large scale mining projects. While the faith response being spearheaded by CCJP has gone to 10 districts, it is not clear what the targeted companies will be, or whether the ASM sector will somehow be included. Mapping of mining activities happening in the 10 districts is yet to be concluded.

• Gender based violence is indirectly addressed by a few CSOs, but most do not address the issue in extractive industry interventions.

• HIV interventions are weakly visible in CSO interventions, but a few are addressing this from the perspective of prostitution.

• While MAWIMA is present at national level, there is no women’s rights CSO that is palpably pushing the exclusive agenda of women’s rights in the extractive industry dialogue.

• Several organisations are working with CBOs or in consortiums, thereby widening the scope of interventions that are on the ground. However, there is still limited attention to comprehensive gender dynamics.

6.2 GOVERNMENT INSTITUTIONS

For government, the mapping findings cover four key institutions by examining the extent to which they have mainstreamed gender in their institutions, and general observations about their current situation.

Ministry responsible for Mining

Is coordinating the implementation of the Mining Governance And Growth Support Project, which is focusing on: developing human capacity for the sector; public communications, outreach and stakeholder dialogue; reforming minerals legislation; modernizing minerals licensing; strengthening mineral operations supervision; strengthening environmental and social management of mining; reforming the mineral royalty & tax regime; maximizing mineral revenue collection; building mineral revenue transparency; developing mineral revenue forecasting; developing mineral revenue management policies; geo-data acquisition, interpretation and promotion; establishing a geo-data management center; training and awareness raising for artisanal mining; building capacity for tertiary education in mining; and developing PPP framework for mining-related infrastructure.

<table>
<thead>
<tr>
<th>Extent of gender mainstreaming in extractives interventions</th>
<th>Observations</th>
</tr>
</thead>
<tbody>
<tr>
<td>An ongoing sector wide functional review of the Ministry responsible for Mining took views from gender/women related institutions, i.e. UN Women.</td>
<td>In the various interventions, some awareness to mainstream gender is there, though inconsistently. There are inadequate skills on how to execute this, as well as to fully comprehend what gender mainstreaming</td>
</tr>
<tr>
<td>There has been regular collaboration with MAWIMA, who have submitted their ‘shopping list’ to the Ministry in respect of their entrepreneurial needs. But for now, practical interventions to strengthen the women in mining and the ASM sector in general still remain loose.</td>
<td></td>
</tr>
</tbody>
</table>

90
The Ministry has signed a Memorandum of Understanding with FDH Bank for the financial support of ASM players focusing on industrial minerals, i.e. terrazzo and lime. The scheme has not rolled out yet since FDH are first conducting a survey/familiarization tour of the sector. Support will be provided through cooperatives and miners are being encouraged to organize themselves so that they can be trained accordingly by the Ministry of Industries and Trade. However, the co-option of women has been by default, because though women are also mobilising themselves, they have not specifically been encouraged to. Together with FHD and other partners, the Ministry has planned an ASM symposium to be held in October in order to improve an understanding of the ASM sector and to create a forum to consult ASM players on the draft ASM policy.

The Mines and Minerals Policy has not successfully integrated provisions towards fulfilling one of its objectives of strengthening women in mining. Its M&E framework completely fails to have indicators for tracking how women and men are benefiting from interventions in different ASM sub-sectors. Ref. Annexure 2).

On the other hand, the ASM Draft Policy reflects a good portion of the aspirations of women in mining. However, in some areas, there is still need for stronger provisions that can ensure that the objective of promoting women in mining is not lost. Discouragingly, the draft policy’s M&E framework has no indicator to enable the tracking of how women and men are benefiting from interventions in different ASM sub-sectors (Ref. Annexure 2).

Though there are several training initiatives to build the capacity of staff, none of these has targeted gender mainstreaming. The common modality to learn about ‘women’s issues’ has when some staff are sent on ASM study tours in Australia. Though useful, these cannot effectively build comprehensive gender mainstreaming skills in planning.

Female representation in the Ministry responsible for Mining is very low, as there is only one woman at management level. In the Department of Mines, 13 staff members are women (out of which 2 are technicians) and 52 are men. This means that though staff training/upgrading in mining related skills has been planned, few women will benefit.

There has been undergraduates support to study mining in Botswana. Out of 15 students that were sponsored by the Government of Botswana, only 5 were female. This reflect a gender imbalance that will only perpetuate the under representation of women in mining engineering fields.

Environmental Affairs Department
Is responsible for the implementation of some aspects of the Mining Governance and Growth Support Project, especially in relation to environmental issues.

<table>
<thead>
<tr>
<th>Extent of gender mainstreaming in extractives interventions</th>
<th>Observations</th>
</tr>
</thead>
<tbody>
<tr>
<td>- So far, the Environmental Affairs Department included social impacts as a condition of EIAs for the Kanyika Nioubium Project and SureStream oil exploration. However, the gender analysis of the social impacts is inconsistent and in the case of the Surestream ESIA, non-existent.</td>
<td>- There is low internal gender mainstreaming capacity among key staff, including in the legal section. Only two officers have attended a short training workshop on Mainstreaming Gender in Capital Projects, organised by UNDP in 2012.</td>
</tr>
<tr>
<td>- The Environmental Affairs Department is in the process of commissioning the review of EIA Guidelines, and relevant TORs have strong gender considerations.</td>
<td>- The participation of the Ministry responsible for Gender in the existing technical committee that reviews TORs, project briefs and EIA reports has been weak.</td>
</tr>
<tr>
<td>- The Environmental Affairs Department has formulated the Environment Management Bill of 2014, which is pending enactment. The Bill provides for EIAs, but according to Chapter 5, the attempt to consider social impacts in EIAs has been weakly executed. Provisions relating to the composition of key structures are gender blind (i.e. failure to guarantee a minimum representation for women; and where applicable, the Ministry responsible for gender not incorporated as a key institution).</td>
<td>- Information retrieval is a challenge as EAD does not store EIA related documents as online.</td>
</tr>
<tr>
<td>- The Environmental Affairs Department is collaborating with the Ministry responsible for Mining in implementing a strategic environmental and social assessment of the mining sector. A preliminary report brings out the need for consideration for social impacts, though not necessarily from a gender perspective. Also, apart from ‘hard core’ mining related frameworks, it has not focused on how other laws/policies that address issues like sex discrimination, sexual harassment, gender based violence, human trafficking and child labour can apply in strengthening the mining sector.</td>
<td></td>
</tr>
</tbody>
</table>

**Ministry of Industries and Trade**

<table>
<thead>
<tr>
<th>Extent of gender mainstreaming in extractives interventions</th>
<th>Observations</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Chapter 3 has mentioned that the One Village One Product (OVOP) Secretariat supports two limestone cooperatives (in Blantyre and Balaka) and two gemstone cooperatives (in Blantyre and Mzimba) in value addition through the production of machinery for processing raw production. Currently, women’s cooperatives do not really utilise the product as only 2 out of 60 cooperatives that OVOP is supporting belong to women. OVOP’s approach is demand driven, so it does not have targets on women’s cooperatives that should be supported, nor does it pay strict attention to the sex composition of the groups that it is supporting. Neither does it concentrate on whether or not the cooperative has gender related objectives.

Generally, there are institutional delays in formalising cooperatives.

Training in the use of machines is difficult to get for some mining cooperatives, meaning that though some women in these cooperatives have access to value addition machines, they do not utilise them due to lack of skills. They therefore end up making small income through selling raw gemstones.

While OVOP’s Strategic Plan (2014-2018) acknowledges the relevance of upholding gender equality considerations at institutional and programme levels, the strategic activities do not pay attention to how both men and women, including those with disabilities, will benefit from OVOP opportunities.

• OVOP planners lack skills on how to tangibly integrate gender in programming.
• It is hard for the OVOP Strategic Plan (2014-2018) to improve gender equality in the absence of purposeful interventions and indicators targeted at uplifting women based on their obstacles and needs.
• The demand driven approach by OVOP can best work for women if there is a communication strategy to reach and organise them, as well as efforts to train them in proposal writing skills.
• The Ministry responsible has not fully capitalised on OVOP by ensuring that the product is fully utilised by targets of its women’s economic empowerment interventions.

Ministry of Finance

Extent of gender mainstreaming in extractives interventions

Observations

- Since around 2010, the Government, NGOs and mining companies have been actively working together through an EITI Taskforce in order to consider the issue of whether or not Malawi should join the EITI. The aim of EITI is to give mining companies a mechanism for publishing what they pay to government and government to also publish what it earns from the companies. MAWIMA was a member of the taskforce. While MAWIMA is an important player, the scope of women’s representation is limited because there is no one to represent women in grassroots communities, who are impacted by the extractive industries (including oil and gas) in several ways.

- The EITI Taskforce became defunct around 2013 after it discharged its mandate by making a recommendation to the government to subscribe to EITI. The government has in June 2014 announced that it will join EITI, which means it will soon be setting up a multi stakeholder group to manage EITI activities in the country.

- The presence of women in EITI is grossly inadequate.
- The need for gender considerations in the forthcoming multi stakeholder group (government, private sector and CSOs) is being left to the discretion of nominating constituencies, which can further marginalise women if no deliberate action is taken to appoint female representatives.
### 6.3 Development Partners

<table>
<thead>
<tr>
<th>Name &amp; status of support</th>
<th>Support</th>
<th>Potential entry points that UN Women/programming can explore</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australia (on-going)</td>
<td>Training in mining</td>
<td>Advocacy for equal opportunities for women</td>
</tr>
<tr>
<td>Botswana (on-going)</td>
<td>Capacity Building</td>
<td>Advocacy for equal opportunities for women/underground students that are being offered scholarships</td>
</tr>
</tbody>
</table>
| African Development Bank (interested) | Mining infrastructure, private sector financing, oil and gas, ASM | - Funding ASM machinery  
- Funding the provision of inventory loans to ASM  
- Supporting the development of market centres for ASM  
- Funding gender programmes in oil and gas |
| DFID                     | Oil and gas, mining infrastructure, private sector financing Is interested in funding mining and human rights | - Funding for expansive research in gender, oil and gas  
- Funding gender programmes in oil and gas  
- Funding women’s rights interventions in mining  
- Financing ASM related infrastructure |
| JICA 2014/19             | Review of ASM Policy and preparation of implementation plan; providing advice for the improvement of ASM Supporting technology related to environment and safety issues for ASM | Advocacy for engendering of interventions based on findings of this gender assessment                                       |
| Indian Government (on-going) | Strengthening and capacity building- technical support | Advocacy for capacity building of women ASM and CSOs seeking to support women in mining                                   |
| Millennium Challenge Account Malawi (interested) | Interested in providing gender technical support to the review process of the energy law | Advocacy/submission of issues for gender related considerations in proposed law                                           |
| Royal Norwegian Embassy (interested) | Have previously supported the EITI process/taskforce. The gender programme is seriously considering a programme for women in mining, i.e. to support machinery and other needs so that they can have strong businesses. | - Funding for ASM machinery for women, including for mining and value addition  
- Funding for different areas of training/capacity building for women in mining  
- Refurbishing MAWIMA showroom and their other programming needs  
- Supporting the development of market centres for ASM  
- Developing capacity of CSOs to provide ongoing technical support to MAWIMA  
- Funding CSOs to address gender issues in mining |
| Tilitonse Fund (2013-2015) | Funding a wide range of CSO mining interventions aimed at mining governance advocacy, law and policy reform, strengthening coordination amongst CSOs etc. | Advocacy for greater gender mainstreaming in funded interventions |
### UNDP (interested)

- Interested in supporting women, children and youth in ASM in collaboration with UN Women
- Funding for ASM machinery for women and youth
- Supporting the development of market centres for ASM
- Funding for training for ASM women and youth
- Funding interventions to address child labour
- Funding education related incentives for girls and boys in mining communities
- Funding CSOs to address gender issues in mining
- Ongoing technical support to MAWIMA
- Funding education related incentives for girls and boys in mining communities

### World Bank/EU (2012-2016/17)

- Extensive support under the Mining Governance and Growth Support Project, including Social and Environment Impact Strategic Assessment; sector functional review; capacity building for tertiary education in mining; ASM Policy final draft, training and awareness raising for ASM etc.
- Advocacy for comprehensive engendering of interventions based on findings of this gender assessment

### French (soon to be operational)

- Technical Support for ASM
- Funding for different areas of training/capacity building for women in mining

### USAID (on-going)

- Technical support for oil and gas
- Advocacy for funding for capacity building for CSOs in oil and gas, including gender dimensions

**Source:** adapted from UNDP Malawi, Donor Support Coordination Matrix

### 6.4 POTENTIAL LOCAL SOURCES OF BUSINESS SUPPORT AND/OR OPPORTUNITIES FOR ASM AND WOMEN

<table>
<thead>
<tr>
<th>Name &amp; status of support</th>
<th>Support</th>
<th>Potential entry points for UN Women/programming</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business Linkages Matching Fund (operational)</td>
<td>- Equipment, machinery, infrastructure, or services / technical assistance to increase production quantity and quality to the value of up to MK 8 million for a single matching grant. They also fund technical support. - Business needs to make its own contribution of between 20-50 percent. It also needs to have secured a big market to supply products.</td>
<td>Support ASM women to find markets Support ASM women in different subsectors to identify technical experts that can build their different capacity’s based on the MAWIMA strategic plan</td>
</tr>
</tbody>
</table>
FDH Bank (MoU signed, but first conducting a familiarization tour of ASM sector)  
- Initial interest is to fund ASM cooperatives dealing in the industrial minerals of lime and terrazzo.  
- They may expand to other minerals based on the findings of their scoping survey.  
Facilitate the capacity building of women cooperatives in preferred areas of funding by bank  

OVOP  
Funds value addition machinery  
Empower ASM women cooperatives to write proposals to OVOP based on MAWIMA’s strategic plan  
Build capacity of women ASM cooperatives to acquire skills that they can apply in the use of OVOP machinery.  

Nyala Mines and Columbia Gemstone House, Inc  
Planning a collaboration to build a gemstone factory in Malawi for value addition, and exclusively focusing on women in mining.  
Build skills and capacity of women in mining to be able to satisfy value addition demands of company whether as employees or suppliers.  

Aonyx  
Intends to ensure that Malawians have a workforce that is capable and ready to be recruited in the mining, oil and gas. It is talking to TEVETA so that it can offer courses that will build skills of Malawians, particularly women, to be employed in skilled portfolios in mining, oil and gas. The intention is to develop Malawian courses that are recognised internationally. Should there be demand, Aonyx is willing to offer customised trainings that meet the needs of the ASM sector as well.  
Identify and financially support training needs of women to enable them to participate meaningfully in mining, oil and gas.  

6.5 PARLIAMENT  
Malawi does not have a committee on extractive industries. Instead, related issues are supposed to be handled by the Agriculture and Natural Resources Committee.  

<table>
<thead>
<tr>
<th>Parliamentary Committee</th>
<th>Whether gender issues affecting women in extractives are part of their workplan/interests</th>
</tr>
</thead>
<tbody>
<tr>
<td>Natural Resources and Climate Change</td>
<td>- No Committees reported covering this area. Most do not even have work plans yet.</td>
</tr>
<tr>
<td>Social and Community Affairs</td>
<td>- They have not been sensitised about gender issues in extractive industries, and how the committees’ respective mandates can facilitate more gender responsive accountability.</td>
</tr>
<tr>
<td>Health</td>
<td>- Mechanisms for the Committees to collaborate on extractive industries issues do not exist.</td>
</tr>
<tr>
<td>Women’s Caucus</td>
<td></td>
</tr>
</tbody>
</table>

---

92 Nyala Mines has a ruby mine in Ntcheu while Columbia Gemstone House, Inc is a big dealer in a wide variety of loose natural colored gemstones and brand-name exotic gemstones on the international market. Whether you're interested in superior cut melee, standard calibrated cuts, single one-of-a-kind award winning cuts, or even gem carvings - Columbia Gem House, Inc. has the variety and quality you need.
CHAPTER 7: RECOMMENDATIONS

7.1 GOVERNMENT

7.1.1 Ministry responsible for Mining
(a) Review monitoring and evaluation frameworks of the Mines and Minerals Policy (2013) and the Draft ASM Policy (2014) so that they have gender indicators that can support the full implementation of the policy objective to promote women in mining.
(b) Routinely develop sectoral M&E frameworks that have gender indicators.
(c) Maintain a gender data base for consistently capturing sex disaggregated mining statistics, including on licensing, ASM participation in planned opportunities and interventions etc.
(d) Speedily adopt and fully implement an ASM policy that meets the needs of women in mining. Strengthen the capacity of the ASM Directorate to fully coordinate the implementation of the ASM Policy, once adopted. Create a platform for ASM especially women miners to periodically access latest information on mining value chain (exploration, contracting and licensing, operations/extraction, value addition, tax and royalty collection and revenue distribution/management)
(e) In collaboration with MAWIMA, develop a transparent action plan for women in mining to fully benefit from known opportunities that are available for them, including horizontal learning visits.
(f) Co-opt recommended gender provisions in proposed mining law, and lobby for the speedy enactment of the Act.
(g) Consistently include the Ministry responsible for gender, UN Women, and/or women’s rights/gender CSOs, Ministry of local government and councils in mining forums and related technical groups.
(h) Devolve centralized processes like issuing of ASM mining licenses, market information for instance to Local authorities.
(i) Give equal training opportunities to male and female youth that are being offered various training scholarships in mining.
(j) Make gender mainstreaming an integral part of planned capacity building, including at management levels.
(k) Appoint and build the capacity of a senior sector official to be a gender focal point.
(l) Set targets for women employment in mining technical positions, including at sectoral level.
(m) Develop an institutional gender and HIV and AIDS strategy and include how local authorities housing mines can also benefit from it using their own local resources (district Aids Coordinating Committees).
(n) Develop a gender action plan for the mining sector.
(o) Conduct a full institutional gender audit and implement its recommendations.

7.1.2 Environmental Affairs Department
(a) Engender the Environment Management Bill (2014) as recommended in this report.
(b) Comprehensively develop the capacity of technical staff and management in gender mainstreaming.
(c) Appoint and build the capacity of a senior sector official to be a gender focal point.

(d) Develop gender sensitive indicators for extractive industry related interventions.

(e) The participation of the Ministry responsible for Gender in the existing technical committee that reviews TORs, project briefs and EIA reports has been weak.

(f) Closely collaborate with the Ministry responsible for gender, UN Women, and/or women’s rights/gender CSOs in the development of ESIA revised guidelines for the extractive industry.

(g) Develop gender sensitive checklists for the implementation of extractive industry ESIA, and ensure that applicable ESIA reports are fully compliant.

(h) Repackage and make accessible online ESIA reports for the extractive industry.

**7.1.3 Ministry of Industry and Trade**

(a) Build the capacity of OVOP management and planners in gender programming.

(b) Develop a monitoring framework of the OVOP Strategic Plan (2014-2018) that has gender sensitive indicators.

(c) Develop a communication strategy to ensure that OVOP products are known and utilised by cooperatives of women in mining and women’s cooperatives generally.

(d) Closely collaborate with cooperatives of women in mining to identify suppliers of required machinery to ensure that it meets their needs.

(e) Deliver timely services to women in mining cooperatives, i.e. registration and training.

**7.1.4 Ministry responsible for Finance**

(a) Specifically encourage constituencies that will be represented in the EITI multi stakeholder group (government, private sector and CSOs) to appoint gender balanced teams.

(b) Require, enforce and allocate more resources to services that are based on needs and priorities of men and women of different subgroups, so that EI revenue that is contributed to the consolidated fund works towards tangible social improvements.

(c) Develop a long term goal of strengthening EI revenue collection and management with the aim of eventually establishing an EI investment fund that can be dedicated towards improving essential services according to the felt needs of subgroups of women and men.

**7.1.5 Ministry responsible for gender**

(a) Strengthen its involvement in EI related technical groups where it is a member, and lobby for its involvement where it is not yet a member.

(b) Incorporate the women in the ASM sector as part of its district level economic empowerment interventions.

(c) Collaborate closely with OVOP to support women’s access to OVOP products by women cooperatives, including mining women cooperatives at district level.

(d) Collaborate with UN Women and/or respective development partners in the implementation of sectoral gender mainstreaming interventions related to extractive industries.

(e) Advocate for and contribute to the mainstreaming of gender in legal and policy frameworks that as analysed by this report, i.e. in the areas of mining, oil and gas, environment impact
assessments, resettlement and compensation, workers compensation, occupation safety, water resources, energy etc.

(f) Advocate for the full adoption of gender responsive budgeting in key government EI sectors.

7.2 PARLIAMENT

(a) Develop committee work plans that address gender issues in EI that are relevant to key committees, i.e. natural resources, health, social affairs and women’s caucus.

(b) Strengthen the Public Accounts Committee to reinforce transparency about revenues that are collected from the extractive industries, especially following Malawi’s subscription for EITI.

(c) Strengthen oversight function by acting as the watchdog of the policies and politics governing the extractive industries sector.

(d) Monitor and evaluate the extractive industries, including by making full use of question period, public hearings, parliamentary debates and audit entities.

(e) Ensure that EI related laws to be enacted by Parliament are fully gender sensitive, including, as a minimum and consistent standard, by stipulating minimum representation for women in different statutory structures that are being set up across the respective proposed laws.

(f) Ensure that EI related laws seek to promote women’s employment as an industry standard, including by ensuring incentives for compliance and the existence of a vibrant oversight body for monitoring; and guaranteeing adequate resources for a variety of strategies aimed at women’s empowerment in the sector.

(g) Closely monitor and evaluate government policies and actions in the extractive industry by actively engaging with the government sectors and NGOs that are actors involved etc. Hold sectors that are managing the EI industry accountable to implement gender responsive budgeting in order to ensure that the money that comes from the extractive industries (and which is contributed to the Consolidated Fund) is equally beneficial to various subgroups of women and men.

(h) Follow up on whether adequate resources are being committed towards programmes that address evidence based needs of females and males, with a view to eradicating any gender inequalities that prevail in different sectors, including the EI sector.

7.3 UN WOMEN AND OTHER DEVELOPMENT PARTNERS

(a) Support the development and/or engendering of frameworks and checklists that can support key government sectors to systematically mainstream gender in the extractive industry, including in resettlement, compensation, ESIs etc.

(b) Provide regular gender backstopping support to key government sectors under a programme aimed at inculcating gender responsive budgeting culture as a way of improving mining/EI governance. This programme could support institutional gender audits, the coaching of technical staff and management in developing gender sensitive/engendering existing institutional frameworks, and imparting to them gender mainstreaming skills relevant to their institution etc.

(c) Support women’s rights/gender CSOs that can play a prominent advocacy role in the extractive industry, including in advocating for MAWIMA’s needs and implementing community interventions in mining areas.

(d) Support comprehensive research related to gender in oil and gas, ASM and mining.
(e) Support the development of a strategic vision/plan for MAWIMA that clearly defines the niche of various mining subsectors that members are working in, and that has practical actions on how to achieve the respective niche areas, including through members’ capacity and skills building.

(f) Support the availability of regular technical backstopping support to MAWIMA in areas that will be identified in their strategic plan.

(g) Support regular symposiums and/or local mining indabas for the ASM sector.

(h) Support or identify the identification of opportunities for women in mining to strengthen their operations, i.e. through access to machinery, showroom/market centre set-up, secretariat support, inventory loans etc.

(i) Support women ASM to meet environmental protection standards and occupation health and safety standards.

(j) Support campaigns to lobby for affirmative action for women in education and training opportunities, employment opportunities, participation in technical governance structures in the extractive industry etc.

(k) Fund EI interventions that are comprehensively gender sensitive.

(l) Support the building of gender mainstreaming skills of CSOs working in the EI sector.

7.4 CIVIL SOCIETY ORGANISATIONS

(a) Design and implement gender programmes in ASM, large scale mining and oil and gas; and strengthen gender perspectives in mining interventions, including through M&E.

(b) Design EI gender interventions that are based on evidence originating from mining communities.

(c) Develop gender mainstreaming capacity in all EI interventions, including the skills to address gender based violence and HIV systematically.

(d) Develop skills in contract monitoring.

(e) Document gender issues in workers compensation and occupation health and safety in Malawi extractive industry context.

(f) Document and share lessons and replicate innovative gender interventions (i.e. REFLECT circles for women to address extractive issues).

(g) Visibly advocate for issues affecting women in mining, including MAWIMA, through CSO mining networks.

(h) Incorporate gender balanced teams of men and women in national governance forums related to extractives where CSOs are invited to join (i.e. EITI multi-stakeholder group).

(i) Support Parliament in implementing oversight functions of gender related issues in the EI sector.

7.5 EI COMPANIES

(a) Develop institutional gender strategies.

(b) Assess gender specific impacts when conducting ESIAs and throughout the project phase by recruiting personnel with necessary skills.

(c) Collaborate with CSOs to consult women in their own right in issues that require decision making by communities and strategically devise interventions to respond to their contributions.

(d) Repackage ESIA reports into short briefs that demonstrate gender impacts and corresponding mitigation measures for use by affected communities during report consultation/feedback phase.
(e) Develop impact mitigation measures that fully take into account women’s traditional roles, their specific livelihoods sources and that minimize marginalization that may result from discriminatory traditions.

(f) Develop targets for the training of local women in technical jobs, including through the provision of on-the-job training and training scholarships.

(g) Strengthen women specific CSR measures, including through local content and other empowering income generation strategies.

(h) Reinforce the education of girls in mining communities, i.e. by offering incentives and scholarships for girls to study science and technology subjects at tertiary level.

(i) Complement District Implementation Plans by supporting gender sensitive interventions in different sectors, including those that can help in addressing social impacts of the extractive industry.

### 7.6 MAWIMA AND OTHER ASM GROUPS

(a) Develop strong and well trained structures and leadership that can systematically link MAWIMA members to opportunities available through both the government and the private sector.

(b) Formulate a medium term strategic plan that is supported by local action plans for the different subsectors within MAWIMA, and that can facilitate the acquisition of knowledge, skills and machinery to enable MAWIMA subsectors to produce products that are on demand on the international market.

(c) Develop an advocacy strategy and acquire advocacy skills for a broad base of MAWIMA’s membership to ensure the implementation of policy commitments that aim to promote ASM/women in mining, as well as strengthen MAWIMA’s authority in policy forums.

(d) Establish networks with gender and women’s rights NGOs that can support MAWIMA’s advocacy agenda.

(e) Develop a communication strategy to facilitate access to information by members so that they can increase productivity, find markets and obtain other relevant services.

(f) Strengthen networking in order to learn from each other and support each other.
REFERENCES

ABANTU, Report on Challenges for Women in Oil and Gas, 2014

Action Aid International Malawi, Women’s Rights Audit of Land Related Bills, May 2014. Authored by Tinyade Kachika


ActionAid International/NiZA, Women’s land rights in Southern Africa: Consolidated baseline findings from Malawi, Mozambique, South Africa, Zambia and Zimbabwe, 2009. Authored by Tinyade Kachika

ActionAid International, Women’s land rights in Guatemala, India and Sierra Leone: Strengthening poor and excluded women’s empowerment and fight against hunger through enhanced access to and control over land, 2012. Authored by Tinyade Kachika


Adriana Eftimie, John Strongman and Sheila (COCPO), Integrating Gender into Extractive Industries (EI) Projects; Draft Guidelines for Task Team Leaders, (Undated)


Africa Renewable Energy Access Program (AFREA), Rural Electrification and Opportunities for Gender Integration in Mali, 2011

Akolua K. Darkwah, the Impact of Oil and Gas Discovery and Exploration on Communities with Emphasis on Women, (Undated)

Anandita Philipose, Policy Implications of Droughts and Food Insecurity in Malawi and Zambia, 2007

Australian Government, Social Responsibility in the Mining and Metals Sector in Developing Countries, 2011

Australian Women in Resource Alliance (AWRAE), Supporting Workforce Diversity, (Undated)

Australasian Institute of Mining and Metallurgy, Submission to the House of Representatives Standing Committee on Employment and Workplace Relations Inquiry into Pay Equity and Associated Issues Related to Increasing Female Participation in the Workforce, 2009

Bern Dreshcher, Small-Scale Mining and Sustainable Development within the SADC Region, 2001

Blackburn GL. Nature, 2001; 409: 397

Cathal Doyle and Jill Carino, Making Free Prior and Informed Consent a Reality; Indigenous Peoples and the Extractive Sector, 2013 www.piplinks.org/makingfpicareality

Catholic Commission for Justice and Peace (CCJP), Analysis of Malawi’s Legal and Policy Mining Framework, 2014

Catholic Commission for Justice and Peace (CCJP), an Analysis of Malawi’s Legal and Policy Mining Framework, 2014

Catholic Commission for Justice and Peace (CCJP) and Peace of the Episcopal Conference of Malawi (ECM), Mapping of Extractive Companies in Malawi, 2013


Citizens for Justice (CFJ) Friends of the Earth Malawi, Report for Uranium Mining in Malawi, Perspectives on National Legislation: The license to loot and Plunder, March 2011

Citizens for Justice (CFJ) Friends of the Earth Malawi, Oil Exploration and Production in Malawi, Policy and Legal Audit, December 2012

Citizens for Justice (CFJ)/Friends of the Earth Malawi, The Scramble for the Yellow Cake in Malawi, March 2011

CFJ-Action Aid Final Proposal, Thematic Calls for Proposals Application Form

CCJP, CEPA and CFJ, Submission to GoM on Policy and MMA (A Brief Overview)


UNDP, EI Donor Support Coordination Matrix

Deirdre McCann, Sexual Harassment at Work: National and International Responses, 2005


Draft Summary Report on High Level Forum and Technical Workshop on Extractive Industries in Malawi, held at Capital Hotel Lilongwe Malawi, October 29 to November 1, 2013


Earth works, Oil and Gas Accountability Project, Loopholes for Polluters-The Oil and Gas Industry’s Exemptions to Major Environmental Laws

Economic Commission for Africa, Compendium on Best Practices in Small-Scale Mining in Africa (Undated)

Ellyeia Harrould-Kolieb, Jacqueline Savitz, Jeffrey Short and Marianne Veach, Toxic Legacy: Long Term Effects of offshore Oil on Wildlife and Public Health (Undated)

Garriaga, E and Mele, D, Corporate Social Responsibility Theoriest: Mapping the Territory, Journal of Business Ethics, 2004

Genevieve Wingrave and Stuart Sharp, ESIA of 2D Seismic Operations in Blocks 2 & 3 in Lake Malawi/Nyasa (2012)
Government of Australia, Environmental Protection and Biodiversity Conservation Act, 1999
Government of Kenya, the National Minerals and Mining Policy, 2010
Government of Malawi, Petroleum (Exploration and Production), 1983
Government of Malawi, Mines and Minerals Policy, 2013
Government of Malawi, Energy Regulation Act, 2004
Government of Malawi, National Artisanal and Small Scale Mining Policy, 2014
Government of Malawi, Request for Expression of Interest (EOI) for Revising Environmental Impact Assessment Guidelines for Malawi, Issued on 22nd August 2014
Government of Malawi Ministry of Mining, Artisanal and Small-Scale Policy of Malawi, 2013
Government of Malawi, Terms of Reference for the Consultancy Services to Undertake Sectorwide Functional Review and Develop a Sectoral Communication Strategy
Government of South Australia, Guidelines for Miners Preparation of a Mining Lease Proposal or Mining and Rehabilitation Program (MARP) in South Australia, 2011
Government of South Africa Department of Environmental Affairs, Environmental Impact Assessment Regulations, 2010
Government of Uganda, Petroleum (Exploration, Development and Production) Act 2013
Global Rights Alert, Our Land is Our Bank, Gender Issues in Uganda’s Resettlement Action Plan, 2013
International Alert, What in it for us? Gender Issues in Uganda’s Oil and Gas Sector, 2014
International Atomic Energy Agency (IAEA), Best Practice in Environmental Management of Uranium Mining, 2010


John Strongman, Empowering Women through EITI, Submitted to EITI blog on 27 July 2010, EITI https://eiti.org/blog/empowering-women-through-eiti


Kerry Fairley, Environmental Impact Assessment Report for the Kanyika Niobium Project in T.A. Mabulabo, Mzimba District, 2012

Lao People’s Democratic Republic, Technical Guidelines on Compensation and Resettlement in Development Projects, 2005


Millennium Challenge Corporation, Program Procurement Guidelines, 2009

Millingen Challenge Account- Malawi and Fichtner GmbH&Co.KG, Consulting Engineer/Construction Supervisor Agreement, 3rd October 2013

Marta Miranda, David Chambers, Catherine Coumans, a Framework for Responsible Mining: A Guide to Evolving Standards, 2005

Mining in Malawi, Mkango Resources Reaffirms Malawi’s Potential to Become a Lead Producer of Rare Earths, 19 July 2013, http://mininginmalawi.com/2013/07/19/mkango-resources-reaffirms-malawis-potential-to-become-a-lead-producer-of-rare-earths/

Mining in Malawi, Intra Energy Exploration Team Finds Thick Coal Seams in Northern Malawi, 26 July 2013

Mining in Malawi, Over One Million Pounds Given to Civil Society Organizations in Malawi for Community Engagement in Mining, 14th November 2013

Mining in Malawi, The case of Paladin’s Kayelekera Uranium Mine: Report Released on the Revenue Costs and Benefits to Malawi, 24 May 2013

Mining in Malawi, Paladin Suspends Production at Kayelekera, Malawi’s Largest Mine, 7 February 2014

Mining in Malawi, Malawi’s Mining Stakeholders Divided over New Report on Last Tax Revenue, 6 July 2013

Ministry of Industry and Trade, Introduction to One Village One Product (OVOP) Programme, 2013

Ministry of Irrigation and Water Development, Supplementary Environmental Report for the Detailed Design of the Up Graded Kamuzu Barrage, November 2011

Ministry of Mines, Women and Mining Sector in Ethiopia, Prepared for the Workshop on ASGM in Ulaanbaatar/Mongolia, Presented by Sofia Mahommed Director, Gender Mainstreaming Directorate and JSDF/ASM Ethiopia Project Coordinator, 28-31 May 2013
Mining, Minerals and Sustainable Development, Global Report on Artisanal and Small-Scale Mining, 2002

Ministry of Finance, Impact Analysis of EITI Implementation in Malawi, 22 June 2011. Work conducted by Nils Junge, Francis Ng’ambi, Jürgen Reitmaier

Ministry of Mines and Minerals Development in Zambia, the Development of the Mining Sector in Zambia, a Ministerial Statement by the Minister Hon Maxwell M.B. Mwale


Monica Macovei, the Right to Liberty and Security of the Person, Implementation of Article 5 on the Convention on Human Rights, 2004

National Statistical Office, Third Integrated Household Survey, 2010-11

Oxfam International, Women, Communities and Mining: The Gender Impacts of Mining and the Role of Gender Impact Assessment, 2009

Oxfam International, Review of IFC Performance Standards and Sustainable Policy, Recommendations from Oxfam International


Peter Ndilowe, Benjamin Banda, Abdula Chilungo, Richard Kussei, A Joint Baseline Study on Mining Sector, Report Prepared for Norwegian Church Aid (NCA), Action Aid and Centre for Environmental Policy and Advocacy (CEPA), 2014

PWESER (Program on Women’s Economic, Social and Cultural Rights), Social Security: A Woman’s Human Right presented by Priti Darooka (Undated)

USAID, Guide for Incorporating Gender Considerations in USAID’s Family Planning and Reproduction, Health RFAs and RFPs, 2000


Rural Electrification and Opportunities for Gender Integration in Mali (Undated)

Safe Work, International Programme on Safety health and the Women, Workers and Gender Issues on Occupational, Safety and Health (Undated)

Stephen J. Malto, Mitigating the Activities of Artisanal and Small-Scale Miners in Africa: Challenges for Engineering and Technological Institutions, 2012

Strategic Environmental and Social Assessment of Malawi’s Mines Sector, Preliminary Findings from discussion at the Stakeholder’s workshop, 11 September 2014


Thomas Akabzaa, Gender Dimensions of Ghana’s Oil and Gas Policy Draft (Undated)

Tilitonse Fund, Political Economy Analysis of Mining in Malawi, May 2013


UN Women Malawi, UN Women Extractive Industries Zero Draft Strategy, 2014

UN Women, Guidelines for Gender Responsive Policy Review and Engagement in the Extractive Industry Sector, (Undated)

UN Women, UN Women Policy Brief on Gender Equality in the Extractives Industries, 2014


Wessel Badenhorst, South Africa: Legislating Social Responsibility and the Standing of the Mining Charter in Achieving this Aim, Legal Brief, July 2011

World Bank Oil, Gas and Mining Policy Division (COCPO), Mining for Equity: The Gender Dimensions of the Extractive Industries, 2009

## ANNEXURE 1: WOMEN’S STANDING IN EI SURVEYED COMMUNITIES

<table>
<thead>
<tr>
<th>Area of influence</th>
<th>Current status</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>High</td>
</tr>
<tr>
<td>Decision making at household level</td>
<td>x</td>
</tr>
<tr>
<td>Decision making at household level</td>
<td>x</td>
</tr>
<tr>
<td>Participation in consultations</td>
<td>x</td>
</tr>
<tr>
<td>Influence over decisions resulting from consultations</td>
<td>x</td>
</tr>
<tr>
<td>Participation in community organising (CAGs)</td>
<td>x</td>
</tr>
<tr>
<td>Influence over advocacy issues by CAGs</td>
<td>x</td>
</tr>
<tr>
<td>Control over compensation</td>
<td>x</td>
</tr>
<tr>
<td>Benefiting from women specific losses</td>
<td>x</td>
</tr>
<tr>
<td>Benefiting from CSR interventions</td>
<td>x</td>
</tr>
<tr>
<td>Employment opportunities in industry (unskilled workers)</td>
<td>x</td>
</tr>
<tr>
<td>Employment opportunities in industry (skilled workers)</td>
<td>x</td>
</tr>
<tr>
<td>Involvement in unpaid care work</td>
<td>x</td>
</tr>
<tr>
<td>Involvement in legal ASM activities</td>
<td>x</td>
</tr>
<tr>
<td>Participation in decentralisation forums as the ASM sector</td>
<td>x</td>
</tr>
<tr>
<td>Participation in national forums as the ASM sector</td>
<td>x</td>
</tr>
<tr>
<td>Influence over decisions in key national forums</td>
<td>x</td>
</tr>
<tr>
<td>Women’s guaranteed participation in EI sector statutory structures</td>
<td>x</td>
</tr>
</tbody>
</table>
## ANNEXURE 2: ENGENDERING INDICATORS UNDER THE MINES AND MINERALS POLICY’S M&E FRAMEWORK

<table>
<thead>
<tr>
<th>Outcomes</th>
<th>Output indicator (with added suggestions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Enhanced accessibility to geological information</td>
<td>Number of data centres operationalised</td>
</tr>
<tr>
<td></td>
<td>Number of men and women accessing data centres</td>
</tr>
<tr>
<td></td>
<td>Number of local, sub-regional, regional and international mining investment fora participated</td>
</tr>
<tr>
<td></td>
<td>Number of men and women participating in the various fora</td>
</tr>
<tr>
<td>Strengthened institutional capacity of the mining sector</td>
<td>Number of exploration and mining laboratories modernised and operational</td>
</tr>
<tr>
<td></td>
<td>Number of ASM operators utilising mining testing laboratories, disaggregated by subsector.</td>
</tr>
<tr>
<td>Modern equipment operationalised</td>
<td>Number of modern exploration and mining equipment operational</td>
</tr>
<tr>
<td></td>
<td>Number of ASM operators utilising modern exploration and mining equipment, disaggregated by subsector.</td>
</tr>
<tr>
<td>An institution to spearhead mineral development established</td>
<td>Number of investment institutions established</td>
</tr>
<tr>
<td>Skills in the mining sector developed and expanded</td>
<td>Number of officers trained in mining sector-relevant fields, disaggregated by sex</td>
</tr>
<tr>
<td></td>
<td>Number of technical and professional posts filled, disaggregated by sex</td>
</tr>
<tr>
<td></td>
<td>Number of artisanal and small scale miners cooperatives established, disaggregated by sex composition and subsector.</td>
</tr>
<tr>
<td></td>
<td>Number of women artisanal and small scale miners cooperatives established</td>
</tr>
<tr>
<td></td>
<td>Number of small scale miners trained in small scale mineral production, disaggregated by sex and subsector.</td>
</tr>
<tr>
<td>Institutional, legal and regulatory frameworks reviewed and harmonised</td>
<td>Number of sector wide functional review conducted</td>
</tr>
<tr>
<td></td>
<td>Number of legal and regulatory frameworks reviewed or developed</td>
</tr>
<tr>
<td></td>
<td>Number of legal and regulatory frameworks that comprehensively integrate social and gender issues reviewed or developed</td>
</tr>
<tr>
<td>Extensive value addition by small, medium and large scale miners is improved</td>
<td>Number of modern value addition laboratories operational</td>
</tr>
<tr>
<td></td>
<td>Percentage of miners utilising quality value-adding facilities, disaggregated by sex and subsector in case of ASM</td>
</tr>
<tr>
<td></td>
<td>Number of institutions with relevant skills and technologies for value addition</td>
</tr>
<tr>
<td></td>
<td>Number of small scale miners trained in small scale mineral production, disaggregated by sex and subsector.</td>
</tr>
<tr>
<td></td>
<td>Number of cooperatives linked to loan providers, disaggregated by sex composition and subsector.</td>
</tr>
<tr>
<td></td>
<td>Number of cooperatives for women in mining linked to loan providers, disaggregated by sex composition and subsector.</td>
</tr>
<tr>
<td>Employment opportunities</td>
<td>Number of mines newly established</td>
</tr>
<tr>
<td>Increased</td>
<td>Number of women and men employed in mining operations (small scale, medium scale and large scale)</td>
</tr>
<tr>
<td>-----------</td>
<td>-------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td></td>
<td>Number of mineral related courses offered by local institutions of higher learning</td>
</tr>
<tr>
<td></td>
<td>Number of students trained and qualified in mineral related disciplines, disaggregated by sex</td>
</tr>
<tr>
<td>Environmental, occupational health and safety hazards in the mineral sector are reduced</td>
<td>Number of mining activities inspected</td>
</tr>
<tr>
<td></td>
<td>Number of inspections conducted</td>
</tr>
<tr>
<td></td>
<td>Number of occupational health and safety hazards addressed, disaggregated by gender dimensions of hazard/safety issue</td>
</tr>
<tr>
<td>Social issues</td>
<td>Number of empowerment initiatives that specifically benefit men, women and people with disabilities in mining communities</td>
</tr>
<tr>
<td>The empowerment of local people is improved</td>
<td>Number of mining companies with clear social responsibilities that are responding to different needs of women and men</td>
</tr>
<tr>
<td>Social responsibilities for mining companies are well articulated</td>
<td>Number of mining companies with policies against sex discrimination and sexual harassment</td>
</tr>
<tr>
<td>Impacts of HIV and AIDS are minimized</td>
<td>Number of mining operations that have a policy against child labour</td>
</tr>
<tr>
<td>Gender in equality at the workplace</td>
<td>Number of mining companies that promote and implement compensation and resettlement arrangements that do not widen gender inequalities within communities affected by mining</td>
</tr>
<tr>
<td></td>
<td>Number of mining companies that take into account specific losses of men and women in compensation and resettlement of communities affected by mining</td>
</tr>
</tbody>
</table>
### ANNEXURE 3: ENGENDERING THE DRAFT ASM POLICY’S M&E FRAMEWORK

<table>
<thead>
<tr>
<th>Objective</th>
<th>Output</th>
<th>Performance Indicator (with added suggestions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>To streamline and simplify licensing procedures for artisanal miners and mineral dealers</td>
<td>Increased number of licenses</td>
<td>Number of license issued disaggregated by sex (for individuals) and ASM subsector</td>
</tr>
<tr>
<td></td>
<td>Public awareness campaign conducted</td>
<td>Develop communication strategy to reach both men and women</td>
</tr>
<tr>
<td></td>
<td>Number of license issued disaggregated by sex (for individuals) and ASM subsector</td>
<td>Number of public awareness campaign</td>
</tr>
<tr>
<td>To restructure and enhance all line functions of the Ministry of Natural Resources, Energy and Mining</td>
<td>Human resources recruited</td>
<td>Number of officers recruited, disaggregated by sex</td>
</tr>
<tr>
<td></td>
<td>Human resources trained</td>
<td>Number of officers trained, disaggregated by sex</td>
</tr>
<tr>
<td></td>
<td>Equipment and vehicles procured</td>
<td>Number of equipment, disaggregated by ASM subsector and vehicles procured</td>
</tr>
<tr>
<td></td>
<td>Number of public awareness campaign</td>
<td>Number of public awareness campaign</td>
</tr>
<tr>
<td></td>
<td>Number of license issued disaggregated by sex (for individuals) and ASM subsector</td>
<td>Number of public awareness campaign</td>
</tr>
<tr>
<td></td>
<td>Number of license issued disaggregated by sex (for individuals) and ASM subsector</td>
<td>Number of public awareness campaign</td>
</tr>
<tr>
<td></td>
<td>Number of public awareness campaign</td>
<td>Number of public awareness campaign</td>
</tr>
<tr>
<td></td>
<td>Number of license issued disaggregated by sex (for individuals) and ASM subsector</td>
<td>Number of public awareness campaign</td>
</tr>
<tr>
<td></td>
<td>Number of public awareness campaign</td>
<td>Number of public awareness campaign</td>
</tr>
<tr>
<td></td>
<td>Number of license issued disaggregated by sex (for individuals) and ASM subsector</td>
<td>Number of public awareness campaign</td>
</tr>
<tr>
<td>To facilitate the formation and operation of cooperatives and associations in order to reduce poverty</td>
<td>Target groups identified</td>
<td>Number of needs assessment reports that are targeted at promoting the participation of women in cooperatives reports</td>
</tr>
<tr>
<td></td>
<td>Cooperatives registered</td>
<td>Number of Cooperatives registered, disaggregated by sex composition and ASM subsector</td>
</tr>
<tr>
<td></td>
<td>Number of women cooperatives registered, disaggregated by ASM subsector</td>
<td>Number of women cooperatives registered, disaggregated by ASM subsector</td>
</tr>
<tr>
<td></td>
<td>Cooperatives trained</td>
<td>Number of Cooperatives trained, disaggregated by sex composition and ASM subsector</td>
</tr>
<tr>
<td></td>
<td>Number of women cooperatives trained, disaggregated by ASM subsector</td>
<td>Number of women cooperatives trained, disaggregated by ASM subsector</td>
</tr>
<tr>
<td>To foster the needed economic diversification.</td>
<td>Identified alternative economic activities</td>
<td>Number of alternative economic suitable for men and women activities identified</td>
</tr>
<tr>
<td></td>
<td>Trainers trained</td>
<td>Number of trainers trained, desegregated by sex and ASM subsector</td>
</tr>
<tr>
<td></td>
<td>Technical extension services provided</td>
<td>Number of technical extension services report, disaggregated by sex of beneficiaries and ASM subsector</td>
</tr>
<tr>
<td>To coordinate needs driven research and dissemination of results to relevant stakeholders</td>
<td>Research conducted</td>
<td>Number of research reports produced</td>
</tr>
<tr>
<td></td>
<td>Number of research reports produced</td>
<td>Number of research reports driven by demand of women in ASM</td>
</tr>
<tr>
<td></td>
<td>Technical extension services provided</td>
<td>Number of research reports produced</td>
</tr>
<tr>
<td></td>
<td>Training of trainers conducted</td>
<td>Number of trainers trained, disaggregated by sex and ASM subsector</td>
</tr>
<tr>
<td></td>
<td>Number of research reports produced</td>
<td>Number of research reports driven by demand of women in ASM</td>
</tr>
<tr>
<td>To promote the growth of both competitive local and export mineral markets for ASM products</td>
<td>Capacity building programmes for research and development set up</td>
<td>Number of officers trained in specialised areas of research, <strong>disaggregated by sex</strong></td>
</tr>
<tr>
<td>Local marketing committee system in place</td>
<td>System established and operational</td>
<td></td>
</tr>
<tr>
<td>Website for mineral in place</td>
<td>Website established and operational</td>
<td></td>
</tr>
<tr>
<td>Number of market identified through foreign missions</td>
<td>Number of market identified through foreign missions</td>
<td></td>
</tr>
<tr>
<td>Number or women ASM/cooperative accessing markets, disaggregated by ASM subsector</td>
<td>Number or women ASM/cooperative accessing markets, disaggregated by ASM subsector</td>
<td></td>
</tr>
<tr>
<td>ASM participate in trade fairs and exhibitions</td>
<td>Number of ASM, <strong>disaggregated by sex</strong> (and/or gender composition of cooperatives) and ASM subsector participating in trade fairs/exhibition</td>
<td></td>
</tr>
<tr>
<td>To facilitate the creation of enabling environment that will encourage the co-existence of ASM and large scale mining operation</td>
<td>Mineral exhibition facilitated and conducted</td>
<td>Number mineral exhibition conducted</td>
</tr>
<tr>
<td>Study tours conducted</td>
<td>Number of study tours conducted</td>
<td></td>
</tr>
<tr>
<td>Website for minerals in place</td>
<td>Number of websites</td>
<td></td>
</tr>
<tr>
<td>Government shall promote research and development of the ASM equipment</td>
<td>Research on locally fabricated equipment conducted</td>
<td>Research reports</td>
</tr>
<tr>
<td>Reviewed Mines and Minerals Act</td>
<td>Number of Acts reviewed</td>
<td></td>
</tr>
<tr>
<td>Revisited MMA that addresses needs of men and women ASM</td>
<td>Number of Acts reviewed</td>
<td></td>
</tr>
<tr>
<td>Develop new legislation for ASM subsector</td>
<td>Number of Acts reviewed</td>
<td></td>
</tr>
<tr>
<td>To facilitate provision of technical assistance to ensure optimal exploitation of resources</td>
<td>Training Provided to ASM</td>
<td>Number of ASM provided with training, <strong>disaggregated by sex and ASM subsector</strong></td>
</tr>
<tr>
<td>Pegging of mining claim areas</td>
<td>Number of claim areas pegged, (disaggregated by the sex of mining claim licence holder, where applicable)</td>
<td></td>
</tr>
<tr>
<td>Evaluation of ASM samples</td>
<td>Number of mineral samples analysed</td>
<td></td>
</tr>
<tr>
<td>Utilisation of laboratory services by ASM, disaggregated by sex and ASM subsector</td>
<td>Number of mineral samples analysed</td>
<td></td>
</tr>
<tr>
<td>To facilitate creation of an enabling environment for easy access to plant and equipment for mining and value addition of ASM</td>
<td>Modern mining and processing equipment accessible to ASM</td>
<td>Number of ASM with access to processing and mining equipment, <strong>disaggregated by sex</strong></td>
</tr>
<tr>
<td>To establish a facilitating institution on mineral marketing</td>
<td>A mineral marketing institution established</td>
<td>Number of mineral marketing institutions established</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>To promote and facilitate participation of artisanal and small scale miners in exhibitions, trade fairs and through foreign missions</td>
<td>Trade fairs conducted</td>
<td>Number of trade fairs conducted</td>
</tr>
<tr>
<td></td>
<td>Exhibitions conducted</td>
<td>Number of exhibitions conducted</td>
</tr>
<tr>
<td>To put in place mechanisms to monitor the whole marketing chain for mineral sells</td>
<td>Guidelines for mineral marketing developed</td>
<td>Number of guideline documents developed</td>
</tr>
<tr>
<td></td>
<td>Officers trained in mineral marketing</td>
<td>Number of Officers trained</td>
</tr>
<tr>
<td>To provide access to finances</td>
<td>Financial support accessible to ASM</td>
<td>Number of ASM accessing financial support, disaggregated by sex and ASM subsector</td>
</tr>
<tr>
<td>To review royalty rates and develop appropriate fiscal and taxation regime for ASM subsector</td>
<td>Reviewed fiscal and tax regime</td>
<td>Regulations reviewed</td>
</tr>
<tr>
<td>Lobby with financial institutions to lower interest rates for the ASM</td>
<td>Special rates for ASM established</td>
<td>Reviewed interest rates for ASM</td>
</tr>
<tr>
<td>To support the provision of training in environmental management</td>
<td>Environmental Management Plan (EMP) reports reviewed</td>
<td>Number of EMP reports reviewed</td>
</tr>
<tr>
<td></td>
<td>Inclusion of social and gender issues in EMPs</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Technical extension services provided</td>
<td>Number of extension services, disaggregated by sex and ASM subsector</td>
</tr>
<tr>
<td></td>
<td>Co-management of health, safety and environmental standards enhanced</td>
<td>Number of safety, health and environmental inspection reports</td>
</tr>
<tr>
<td></td>
<td>ASM trained in environmental management</td>
<td>Number of ASM trained in environmental, disaggregated by sex and ASM subsector</td>
</tr>
<tr>
<td>To remove barriers faced by vulnerable groups</td>
<td>Awareness campaigns</td>
<td>Number of campaigns conducted</td>
</tr>
<tr>
<td></td>
<td>Vulnerable target groups trained</td>
<td>Number of association of vulnerable groups trained</td>
</tr>
<tr>
<td>To remove barriers faced by women in mining</td>
<td>Women in mining</td>
<td>Number of women on annual learning tours</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>-----------------------------------------------------------------</td>
<td>------------------------------------------------------------------</td>
<td>------------------------------------------------------------------</td>
</tr>
<tr>
<td>faced by women</td>
<td>empowered through training/learning opportunities and availability of resources</td>
<td>Number of women trained, disaggregated by ASM subsector</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Number of skilled women with access to mining related machinery, disaggregated by ASM subsector</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Number of women with access to markets, disaggregated by ASM subsector</td>
</tr>
<tr>
<td>To prevent and withdraw children from all ASM activities</td>
<td></td>
<td>Number of campaigns conducted</td>
</tr>
<tr>
<td></td>
<td>Awareness campaigns conducted</td>
<td>Number of children withdrawn from ASM activities, Number of ASM participating in trade fairs, disaggregated by sex and ASM subsector</td>
</tr>
<tr>
<td></td>
<td>Education infrastructure provided</td>
<td>Number of good education infrastructure built in ASM communities</td>
</tr>
<tr>
<td>To increase awareness on risks and dangers of HIV and AIDS in ASM communities</td>
<td></td>
<td>Number of campaigns conducted</td>
</tr>
<tr>
<td></td>
<td>Awareness campaigns conducted</td>
<td>Number of campaigns conducted</td>
</tr>
<tr>
<td></td>
<td>Trainings facilitated</td>
<td>Number of trainings on HIV and AIDS facilitated in ASM areas</td>
</tr>
</tbody>
</table>
### ANNEXURE 4: COMPENSATION COMPUTATIONS UNDER THE WORKERS COMPENSATION ACT

<table>
<thead>
<tr>
<th>Loss of two limbs 100%</th>
<th>Loss of both hands or of all fingers and thumbs 100%</th>
<th>Loss of both feet 100%</th>
<th>Total loss of sight 100%</th>
<th>Total paralysis 100%</th>
<th>Injuries resulting in being permanently bedridden 100%</th>
<th>Any other injury causing permanent total disablement 100%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Loss of arm at shoulder 70%</td>
<td>Loss of arm between elbow and shoulder 60%</td>
<td>Loss of arm at elbow 55%</td>
<td>Loss of arm between wrist and elbow 50%</td>
<td>Loss of hand at wrist 50%</td>
<td>Loss of four fingers and thumb on one hand 50%</td>
<td>Loss of four fingers 35%</td>
</tr>
<tr>
<td>Loss of thumb-both phalanges 35%</td>
<td>Loss of the one phalange 35%</td>
<td>Loss of index finger-three phalanges 10%</td>
<td>Loss of index finger-two phalanges 8%</td>
<td>Loss of index finger-one phalange 4%</td>
<td>Loss of middle finger-three phalanges 6%</td>
<td>Loss of middle finger-two phalanges 4%</td>
</tr>
<tr>
<td>Loss of middle finger-one phalange 2%</td>
<td>Loss of ring finger-three phalanges 5%</td>
<td>Loss of ring finger-two phalanges 4%</td>
<td>Loss of ring finger-one phalange 2%</td>
<td>Loss of little finger-two phalanges 3%</td>
<td>Loss of little finger-one phalange 2%</td>
<td></td>
</tr>
<tr>
<td>Loss of metacarpals-first or second (additional) 3%</td>
<td>Loss of metacarpals-third, fourth or fifth (additional) 2%</td>
<td>Loss of leg-at or above knee 70%</td>
<td>Loss of leg-below knee 60%</td>
<td>Loss of foot 40%</td>
<td>Loss of toe-all of one foot 15%</td>
<td>Loss of toe-great, both phalanges 5%</td>
</tr>
<tr>
<td>Loss of toe-great, both phalanges 5%</td>
<td>Loss of toe-other than great, if more than one toe lost each 1%</td>
<td>Loss of sight of one eye 30%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Other injuries

<table>
<thead>
<tr>
<th>Scars from injuries or burns which result in disfigurement</th>
<th>0 to 50% permanent incapacity, according to their size and location.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total permanent loss of the use of a member</td>
<td>Shall be treated as loss of such member.</td>
</tr>
<tr>
<td>The percentage of incapacity of ankylosis of any joint</td>
<td>From 25 to 100% of the incapacity for loss of the part at that joint, according to whether the joint is ankylose in a favourable or unfavourable position.</td>
</tr>
<tr>
<td>Where there is a loss of two or more parts of the hand,</td>
<td>The percentage of incapacity shall not be more than for the loss of the whole hand.</td>
</tr>
<tr>
<td>Injuries which result in permanent incapacity but which are not included in this Schedule</td>
<td>shall be assessed in relation to the percentage of incapacity specified in this Schedule, wherever possible.</td>
</tr>
<tr>
<td>Name</td>
<td>Position</td>
</tr>
<tr>
<td>-----------------------</td>
<td>----------------------------------------------------</td>
</tr>
<tr>
<td>Emma Mabvumbe</td>
<td>Deputy Director, Planning</td>
</tr>
<tr>
<td>Peter Chilumanga</td>
<td>Deputy Director, Minerals Engineering Division</td>
</tr>
<tr>
<td>Mclaud Ching’ong’a</td>
<td>Economist</td>
</tr>
<tr>
<td>Stanley Nyama</td>
<td>ASM Desk Officer</td>
</tr>
<tr>
<td>Gibson B. Nyirenda</td>
<td>Senior Mining Engineer (Mineral Rights)</td>
</tr>
<tr>
<td>Cathy Mussa</td>
<td>Environment Affairs Officer</td>
</tr>
<tr>
<td>Jacinta Chipendo</td>
<td>Chief Rural Development Officer, Marketing</td>
</tr>
<tr>
<td>Hon. Dr Jessie Kabwila</td>
<td>Chairperson, Women’s Caucus</td>
</tr>
<tr>
<td>Hon. Juliana Lunguazi</td>
<td>Chairperson, Committee on Health</td>
</tr>
<tr>
<td>Hon. C.R.W Banda</td>
<td>Chairperson, Committee on Social and Community Affairs</td>
</tr>
<tr>
<td>Lisungu Dzinkambani</td>
<td>Advocacy Coordinator</td>
</tr>
<tr>
<td>William Nyirenda</td>
<td>Project Officer</td>
</tr>
<tr>
<td>Felix Manda</td>
<td>Project Officer</td>
</tr>
<tr>
<td>Success Sikwese</td>
<td>Project Officer –El Desk</td>
</tr>
<tr>
<td>Cynthia Simkonda</td>
<td>Programme Officer</td>
</tr>
<tr>
<td>Kossam Munthali</td>
<td>Executive Director</td>
</tr>
<tr>
<td>Reinford Mwangode</td>
<td>Executive Director</td>
</tr>
<tr>
<td>Lugede Chiumia</td>
<td>Programme Officer Gender &amp; HR</td>
</tr>
<tr>
<td>Emma Adam</td>
<td>MAWIMA President, and Secretary of Chichiri Cooperative</td>
</tr>
<tr>
<td>Mrs Chasowa</td>
<td>Regional Chairperson, South</td>
</tr>
<tr>
<td>Mrs Sumaili</td>
<td>Treasurer</td>
</tr>
<tr>
<td>Margaret Nkhoma</td>
<td>Chairperson, Northern Region/Mine Owner</td>
</tr>
<tr>
<td>Agnes Gausi</td>
<td>Member and Mine Owner, Northern Region</td>
</tr>
<tr>
<td>Mervis Juwa</td>
<td>Regional Secretary</td>
</tr>
<tr>
<td>Tionge Banda-</td>
<td>Member, Ceramics</td>
</tr>
<tr>
<td>Chrissie Chigawa</td>
<td>Member, Gemstone</td>
</tr>
<tr>
<td>Alice Luwanja</td>
<td>Member, Lime</td>
</tr>
<tr>
<td>Dorothy Fungulani</td>
<td>Member, Ceramics</td>
</tr>
<tr>
<td>Temwa Banda</td>
<td>Member, Chalk and Vim</td>
</tr>
<tr>
<td>Gilbeta Moyo</td>
<td>Member, Ceramics</td>
</tr>
<tr>
<td>Amina Kachepe</td>
<td>Member, Chalk/POP/Tiles</td>
</tr>
<tr>
<td>Juliet Salima</td>
<td>Member, Chalk/POP/Tiles</td>
</tr>
<tr>
<td>Catherine Banda</td>
<td>Member, Chalk/POP/Tiles</td>
</tr>
<tr>
<td>Martha Malunga</td>
<td>Chair, Lime</td>
</tr>
<tr>
<td>Chikomeni Manda</td>
<td>Secretary</td>
</tr>
<tr>
<td>Greg Walker</td>
<td>General Manager – International Affairs</td>
</tr>
<tr>
<td>Eric Braunwart</td>
<td>President</td>
</tr>
<tr>
<td>Thomas Kebbie</td>
<td>Managing Director</td>
</tr>
</tbody>
</table>