

TRACING PROGRESS TOWARDS REVENUE TRANSPARENCY AND REVENUE SHARING IN THE ZIMBABWE EXTRACTIVES SECTOR 2013-2019

ZIMBABWE EXECUTIVE SUMMARY

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PUBLISH WHAT
YOU PAY



PWYP Zimbabwe Case Study Executive Summary

Tracing progress towards revenue transparency and revenue sharing in the extractives sector in Zimbabwe (2013-2019)

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Acronyms

AMI	Alternative Mining Indaba
CBO	Community-based organisation
CSOTs	Community share ownership trusts
DEP	Data Extractors Project
EITI	Extractive Industry Transparency Initiative
IEE Act	Indigenisation and Economic Empowerment (IEE) Act
IIED	International Institute for Environment and Development
MMCZ	Minerals Marketing Corporation of Zimbabwe
OAG	Office of the Auditor General
PWYP	Publish What You Pay
RBZ	Reserve Bank of Zimbabwe
RDC	Rural District Council
SOEs	State-owned enterprises DEP
ZELA	Zimbabwe Environmental Law Association
ZIMRA	Zimbabwe Revenue Authority
ZMRTI	Zimbabwe Mining Revenue Transparency Initiative

1. Introduction and Country Context

The advocacy campaign by Publish What You Pay (PWYP) Zimbabwe aiming to influence mining revenue transparency and benefit sharing in the extractives sector in Zimbabwe is the focus of this case study. The PWYP Zimbabwe campaign sought to use data already in the public domain³ to cement public demand for improved transparency and accountability. Secondly, over the last decade, the campaign consistently exerted pressure on government to either resuscitate the Zimbabwe Mining Revenue Transparency Initiative (ZMRTI) or join the Extractive Industries Transparency Initiative (EITI). In addition, outside the overall push for transparency within the mining sector, the campaign focused on CSOTs, calling for enhancing community participation, the tightening of regulations to make the schemes mandatory, and transparency and accountability in CSOT management. An ever-changing policy environment meant the campaign recorded both progress and regression in its quest to push for transparency and enhanced community benefit from mining through CSOTs. To date, Zimbabwe has yet to join EITI or resuscitate

ZMRTI. However, the sustained public discourse on EITI and a reignited interest in joining the organisation remain notable achievements of this resilient and increasingly nimble campaign. Determined to implement the “Open Zimbabwe for Business” approach since November 2017, the new government reversed the Indigenisation and Economic Empowerment (IEE) framework. The outcome is that CSOTs no longer have a legal foundation and the government is now calling for a new empowerment framework.

Design of sub-national system for revenue collection

Because mineral rights are owned by the Zimbabwean Government, mining tax revenues accrue to the central government. The Constitution of Zimbabwe, Section 301 (3) states that not less than five per cent of the national revenues raised in any financial year must be allocated to the provinces and local authorities in that year. Sub-national revenue mechanisms in the mining sector in Zimbabwe are regulated by the Constitution through

³ From the Office of the Auditor General (OAG) mainly on mining State-owned Enterprises (SOEs), Kimberly Process, the Zimbabwe National Statistics Agency (ZIMSTAT), national budget statements, integrated annual reports generated by listed companies, voluntary disclosures, and data from mandatory disclosures for mining companies listed in Canada and the European Union.

the Public Finance Management Act and the respective local authorities that are governed by the Rural District Councils Act. Prior to the new 2013 Constitution, revenue-sharing mechanisms with a direct link to the extractives sector in the form of CSOTs were established as a result of the IEE regulations of 2010.

The Ministry of Finance and Economic Development (MoFED) is responsible for collecting and effecting the aforementioned sub-national payments on behalf of the Government of Zimbabwe (GoZ). ZIMRA has the mandate on behalf of MoFED to administer tax revenues from the different players in the extractives sector through the various taxes such as royalties, the PAYE tax, the capital gains tax, income tax and others. These revenues are then allocated by MoFED annually through national budget allocations as governed by the Constitution and Public Financial Management Act.

On tax revenue collections by the central government, mineral sales are primarily conducted by the Minerals Marketing Corporation of Zimbabwe (MMCZ) other than for gold and silver that fall under the authority of the Reserve Bank of Zimbabwe (RBZ). MMCZ and RBZ collect royalties on behalf of the Zimbabwe Revenue Authority (ZIMRA). Other payments go directly to other government agencies through different taxes and levies. These revenues are then allocated by MoFED annually through national budget allocations as governed by the Constitution and Public Financial Management Act. RDCs in resource-rich areas have limited legal and political leeway to collect revenue from mining activities in their areas. There are no specific regulations on gender representation or other social differentiation in the bodies in charge of spending sub-national revenue in Zimbabwe. In the absence of these regulations, women and minorities are not fairly represented and both politicians and mining companies maximise their benefits.

2. Purpose and design of the PWYP Zimbabwe advocacy campaign

The ongoing PWYP Zimbabwe advocacy campaign, which started in 2011, was multi-pronged, targeting the most important stakeholders within the extractives sector: the government, parliament, CSOTs, local authorities and the respective mining communities in Zimbabwe. The campaign focused on fiscal transparency, fiscal decentralization and public-expenditure tracking PWYP Zimbabwe did not

have a formal campaign uniquely focused on the sharing of mining revenues in Zimbabwe. This work was instead part of the larger programme on decentralized fiscal governance. One of the major thrusts of the PWYP Zimbabwe advocacy campaign has involved the adoption of the EITI, a global standard for promoting open and accountable governance of oil, gas and minerals.

3. The PWYP Zimbabwe Advocacy Campaign (ongoing from 2011 to date)

3.1 Mining sector transparency reforms

Generally, the mining sector transparency framework in Zimbabwe fails to meet the minimal requirements established by globally accepted standards like EITI. As a result, citizens and civil society lack the information leverage to effectively ask government and corporates hard questions on how their resources are managed to deliver an optimal national development dividend. Given this situation, from as early as 2012 the PWYP Campaign sought to have an appreciation of data that is already in the public domain that can be useful to generate some traction on citizen participation and demand-driven accountability. The Data Extractors Project (DEP) provided a springboard for this advocacy as it equipped participants with skills to dig into, analyse and use data to back up advocacy messages for improved transparency and accountability in the extractive sector. More importantly, DEP was cascaded down to community-based organisations (CBOs) in the mineral rich areas of Gwanda, Mutare, Shurugwi and Zvishavane in Zimbabwe. Through ZELA, PYWP Zimbabwe, was instrumental in making use of reports in the public domain and also

pushed for the adoption and implementation of EITI or its domestic version, the ZMRTI, which failed in 2011.

3.2 Using already existing data to fuel the transparency campaign

Cognisant that the State has a significant footprint in the mining sector as a player, the PWYP campaign leveraged OAG reports on mining SOEs and other aforementioned documents to gain insight on transparency and accountability issues. By scrutinizing these documents, a major revelation was that the OAG reports were quite handy in exposing the rot of state institutions in charge of the mining sector. Such analyses were used to craft data-driven advocacy messages on mineral revenue transparency and accountability. Some of the key highlights include:

- Disclosure of mining tax contributions.
- Disclosure of tax incentives/revenue foregone in the quest to attract investment in the mining sector.
- Revenue-sharing arrangements between the national and subnational governments.

3.3 Pushing for EITI adoption and implementation

In the last decade, PWYP campaigns in Zimbabwe have been consistently pressuring government to adopt EITI or resuscitate the ZMRTI, a domestic version for EITI.⁴ This was predominantly pursued during pre-budget public consultations, with both oral and written submissions given to Parliament⁵. In addition, multi-stakeholder annual platforms at local, provincial and national levels emerged as such as the Alternative Mining Indabas (AMI), to raise awareness and to advocate for mining sector transparency reforms⁶. The PWYP campaign managed to keep alive the policy dialogue on EITI/ZMRTI from 2011 to date. This feat was achieved through blended strategies that entailed the use of champions within the Ministry of Finance, harnessing the power of media to call for EITI, along with submissions made to Parliament, production of several papers and a series of high-level multi-stakeholder meetings on EITI. This created an environment that propelled the EITI leadership, led by its board chairperson, to visit Zimbabwe in October 2019. Whilst no tangible gains have been recorded to date on Zimbabwe's quest to join EITI, the resilience of the PWYP campaign is a notable achievement⁷.

3.4 Community Share Ownership Trusts

The legal groundwork for CSOTs was established in Chapter 14 (33) of the Indigenisation and Economic Empowerment (IEE) Act, which provided that local communities whose natural resources are being exploited by

any “qualifying business” must be guaranteed shareholding in such a business⁸. CSOTs comprise of a deed of trust presided over by trustees who include community leaders (chiefs and village heads) and local Government representatives (local authorities) and various interest groups (women, youth, people living with disabilities) in the community. Their objectives are to facilitate development and stimulate growth of the local economy through building and maintaining roads, dams, clinics, schools, dip tanks, and promoting self-help, empowerment and skills development projects.⁹ The CSOTs are run by a secretariat composed of a chief executive officer of the rural district council, a district administrator, a lawyer, an accountant, special interest groups and a company representative from the mining entity. In Statutory Instrument 114 of 2011, the mining companies were to cede 10% shareholding of the mine to the CSOTs and the revenue was to be transferred to the CSOTs through dividends.

Several research papers were produced by PWYP members as part of a process to gather evidence on legislative and practice gaps in Zimbabwe. A summary of the key findings showed that CSOTs appear to have been established as an afterthought on the part of government and a response to criticism from stakeholders including civil society. The law did not make it mandatory to transfer 10% shareholding to CSOTs for compliance purposes with the 51% indigenous ownership requirement. Ironically, a true sense of community ownership in CSOTs was non-existent. The establishment of CSOTs was defined by limited transparency, no community participation and no accountability. The choice of dividends as the sole revenue stream to spearhead local

4 <http://www.zela.org/from-zimbabwe-mining-revenue-transparency-initiative-to-the-extractive-industries-transparency-initiative/>

5 <https://www.sundaymail.co.zw/mining-steps-into-the-future>

6 Lillian Matsika, Veronica Zano, Dorothy Hove and Ronnie Murungu, Community Participation in Natural Resources Governance. An Exposition of the Outcomes of Alternative Mining Indabas in Zimbabwe. Available at: <http://www.ssrn.com/link/OIDA-Intl-Journal-Sustainable-Dev.html>

7 Several blogs continue to be generated which are keeping alive public conversation on EITI, and meetings on EITI targeting multi stakeholders are in the pipeline: <https://www.newsday.co.zw/2020/02/who-wins-if-zim-joins-eiti/>

8 The Indigenisation and Economic Empowerment Act and the Statutory Instrument for Community Share Ownership (2010).

9 Mabheha, C. and Moyo, F. (2014). Community Share Ownership Trust scheme and empowerment: The case of Gwanda Rural district, Matabeleland South Province in Zimbabwe. IOSR Journal of Humanities and Social Science (IOSR-JHSS), Volume 19 (1) Ver. XI (Feb. 2014), 72-85.

economic and social development (LESD) was questioned. Through a series of annual multi-stakeholder meetings organised by PWYP from 2012 to 2019, at local, provincial and national levels, patterned after AMIs, community benefit schemes from mining and CSOTs were a topical issue¹⁰. Key messages were transparency and citizen participation in the management of mineral revenues under the auspices of CSOTs, sustainability concerns, and pushing for mining

companies to support CSOTs. PWYP also engaged Parliament, which played a critical oversight role to unravel malpractice in the establishment and implementation of CSOTs. Changes in government in 2017/8 brought in leadership which firmly believed in opening Zimbabwe for business, which led to the reversal of the IEE framework which had put in place CSOTs.

10 <http://www.zela.org/alternative-mining-indaba-in-bulawayo-zimbabwe>

4. Results and Lessons of the campaign

- For countries that have not embraced EITI, civil society actors must use data in the public domain such as the annual OAG reports to advocate for accountability in the extractives sector.
- When it comes to influencing policy on EITI, blended strategies must be employed by civil society such as working with champions within government ministries to ensure buy-in; accessing the media to raise public awareness and influence policy decisions; and taking advantage of pre-budget public consultations.
- Advocacy initiatives must not be evanescent, rather they must be sustained to apply constant pressure on policy makers to heed to the call for mining sector transparency reforms like EITI.
- Research and evidence are critical to ground advocacy initiatives that will be sustainable and effective in the long run.
- The non-confrontational approach to advocacy and multi-stakeholder dialogue is critical in the promotion of social accountability and transparency where different stakeholders are involved.

5. Recommendations

The following are some of the main recommendations based on lessons learnt in Zimbabwe that could potentially be used by other PWYP coalitions that embark on similar advocacy campaigns.

- Any advocacy campaign should be grounded in local realities and contexts, as was the case for PWYP campaign in Zimbabwe. The need for broad mining-sector transparency reforms should shape the advocacy approach.
- Data from publicly available government sources like OAG reports, and local and national budget statements must be used to call for improved transparency and accountability in the extractive sector because it is publicly available and irrefutable.
- In some political environments, advocacy with government is delicate and needs to be evidence-based, using less confrontational approaches that are focused on closed-door engagement. Furthermore, the approach to advocacy needs to be tactful, evidence based and not confrontational, taking into account the sensitive nature of extractives in Africa.
- There is a need to plan for the fragility of government and its actions because government may introduce new regulations that undermine and erode gains of the advocacy campaign. This was evident in Zimbabwe where the approach of government shifted after the change of regime in November 2017; and, in the process, undoing all that had been achieved by the previous government.
- When conducting advocacy campaigns, it is important to work with Parliament and the relevant portfolio committees as they can be useful in ensuring accountability for both mining companies and central government.

6. Opportunities for advocacy in the next three years

- Pushing for mining sector transparency reforms: EITI or a piecemeal approach
- Even when the EITI door remains shut, there is still room, albeit limited, to leverage available data for accountability
- Revenue-sharing arrangements: Follow the money to ensure transparency, and equitable and accountable revenue management
- CSOTs and the new economic empowerment framework: The search for a revenue-sharing framework that benefits mining communities in a sustainable manner



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