

From Mountains of Hope to Anthills of Despair



Assessment of human rights risks in the extraction and production of natural stone in Zimbabwe

Dr. James Tsabora
Darlington Chidarara
Harare, Zimbabwe
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TruStone 

 ARISA

 CNV

 FNV

International
RBC | SER

 WSM
We Social Movements

 ACV
juw - industrie & energie

List of acronyms and abbreviations

AP	Approved Prospector
EIA	Environmental Impact Assessment
EMA	Environmental Management Agency
EMP	Environmental Management Plan
EITI	Extractive Industries Transparency Initiative
FGD	Focus Group Discussion
FPIC	Free, Prior and Informed Consent
GoZ	Government of Zimbabwe
GRM	Grievance Redress Mechanism
ILO	International Labour organisation
ITUC	International Trade Union Confederation
KII	Key Informant Interview
MAB	Mining Affairs Board
MC	Mining Commissioner
MMCZ	Mineral Marketing Corporation of Zimbabwe
NEC	National Employment Council
NGO	Non-Governmental Organisation
NSSA	National Social Security Authority
PGM	Platinum Group Metals
PL	Prospecting License
ZACC	Zimbabwe Anti-Corruption Commission
ZCTU	Zimbabwe Congress of Trade Unions

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The pictures in the report have been taken by the authors during the research in April - July 2021, with the exception of certain pictures on pages 12, 22, 25, 26, 27, 29 and 30 that were taken courtesy of ActionAid Zimbabwe between December 2019 - December 2020. All pictures were are taken from Mutoko and Mt Darwin.

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0. Executive summary

Granite mining operations in Zimbabwe's districts of Mutoko and Mt Darwin have serious social and economic impacts on the life and livelihoods of communities residing in these two districts.

This research observed that the major risks that are commonly associated with granite mining in these two districts include: violation of land rights, environmental degradation, forcible relocations and evictions, discrimination, labour rights violations, including short term contracts, denial of the right to organise and the right to collective bargaining, corruption, failure to comply with health and safety standards for employees, exposure of communities and workers to pollution, and pollution of the living environment (including pollution of air, soil, water and noise pollution).

Since huge tracts of land are involved, the livelihoods of most communities in Mutoko and Mt Darwin that are based on land uses are greatly disturbed. The research observed that these livelihoods are dependent on small scale agriculture, livestock ranching, hunting and gathering forest products, grazing pastures, ritual ceremonies and practises, firewood sourcing, setting up homes and small businesses. Massive disturbances are induced on community lands by granite mining companies. The extreme noise from blasting disturbs both humans and livestock. Extreme levels of dust make habitation in the vicinity of these operations impossible. The vibrations from the trucks transporting tonnes of granite cause cracking on the houses located by the roadside. Mining activities are therefore difficult to co-exist with other community activities.

A study of the legal framework, conducted in this research, illustrates that the existing mining legal regime does not address human rights risks inherent in granite mining operations. The laws are dedicated to ensure effective and optimal extraction of natural stones, and this also applies to other minerals in Zimbabwe. Further, the mining laws do not accommodate roles and responsibilities for human rights institutions. Communities are thus unable to directly use mining laws to pursue human rights redress mechanisms to protect and enforce their human rights. The study noted that human rights issues are only addressed outside the mining law framework and by institutions created by other laws. Notwithstanding this, the clear dichotomy between mining laws and human rights law means that human risks inherent in the mining sector are difficult to address.

Apart from the domestic legal regime, Zimbabwe is also party to several international law treaty frameworks. Importantly, Zimbabwe has signed and ratified many human rights treaties and moved to domesticate norms and principles from international law. It must however be said that there is no treaty framework that directly binds companies in the granite mining sector and that compels them to enforce human rights standards for the protection of host communities or workers in the sector.

Zimbabwe is not a party to any scheme or arrangement that seeks to enforce responsible business conduct in the mining sector in general, or granite mining sector in particular.

1. Background to this research

Natural stone companies that are members of the TruStone Initiative¹ are committed to fulfil their obligations under international guidelines as the OECD guidelines for Multinational Enterprises², the UN Guiding Principles for Business and Human Rights and international labour standards. As part of these guidelines and standards within TruStone, companies are obliged to identify the human rights risks in their supply chain, assess their severity, draft a plan of action on how to address the risks and track how effectively these actions address these risks.

While only a few members of the TruStone Initiative source material (mostly black granite) from Zimbabwe, and some only indirectly through wholesalers in Italy and/or South Africa, the human rights risks associated with natural stone quarrying and production in Zimbabwe is largely un-known to the members of TruStone.

This risk assessment is aimed at starting to be able to assess whether the TruStone members are causing, contributing, or linked in any way to the human and labour rights risks and -violations identified in the granite mining sector and the underlying causes hereof.

TruStone members are sourcing natural stone from Zimbabwe, particularly from quarries in Mutoko and Mt Darwin. The research therefore focused on these two areas.

2. Methodology

The risk assessment commenced with a desk review to map out key stakeholders and actors in the sector and analyses the legal, institutional, and economic environment within which the granite mining sector operates in Zimbabwe. The desk research included a review and analysis of published research related to the mining sector, the granite mining sector, and human rights in Zimbabwe.

The main information-gathering phase of this assessment was conducted by a four-person team between April and July 2021. During this phase, a range of Focus Group Discussions (FGDs) and structured and semi-structured interviews were conducted with communities, key informants in the granite mining in Mutoko and Mt Darwin and regulatory bodies and agencies. Short questionnaires were also prepared and distributed to key informants and follow up inquiries were done through phone calls and emails where this was necessary. In order to be able to ensure cooperation of the communities, conversations were conducted with traditional leaders and councillors from Mutoko. In Mutoko 35 community members were interviewed and in Mt Darwin five. Nine workers participated in this research as key informants and several more as members of Focus Group Discussions (FGDs) in Mutoko and five in Mt Darwin. Questionnaires, with a mix of open and closed questions, were used to interview workers in identified granite mining companies in both districts.

Three people within management of a natural stone company were interviewed (a financial director, an administrator and one senior supervisor). A call with two of the TruStone members importing natural stone from Zimbabwe was also organised in order to assess their views and issues for the research.

¹ <https://www.imvoconvenanten.nl/en/trustone>

² <http://mneguidelines.oecd.org/guidelines/>

In Mutoko, the respondents for the FGDs were pre-selected and briefed by the mobilisation persons assisting the researchers. In Mt Darwin, the assessment team randomly selected key informants to interview from communities hosting mining activities.

Apart from this, interviews with provincial offices of the Environmental Management Agency (EMA) in Marondera were held as well as interviews with the Provincial Mining Department in Marondera. Finally, some informal discussions were conducted on three WhatsApp groups on Mutoko Granite mining, namely Mutoko Association for Socio-economic Transformation; Mutoko Urban and Rural Residents Association and Mutoko Black Granite Development Association. See for a list of people interviewed Annex 1.



One of the FGDs in session in Mutoko in Nyamutsahuni Ward

The researchers also used their own observations during the field visits, e.g. they witnessed the physical degradation and damage to the natural environment by visiting granite mining sites in Mutoko and Mt Darwin.

2.1 Limitations of the research

The research met a number of challenges and therefore has its limitations. The researchers observed that there was very little granite mining operations in Mt Darwin, this contrasted sharply with Mutoko and Murehwa, where mining is extensive. The research findings and recommendations are therefore more centred on Mutoko. It was observed that granite mining stopped in Mt Darwin because of low quality, whilst the best quality is in Mutoko.

Both government departments and granite mining companies are suspicious of information requests by non-governmental organisations (NGOs). The current government accuses NGOs of supporting Western governments, and of being funded to tarnish government's image.³ This made it difficult for the researchers to obtain information from government departments.

Important government institutions were unable to release information, even where the researchers believed such information as non-sensitive. These departments include the Ministry of Mines and Mineral Development; the Minerals Marketing Corporation of Zimbabwe (MMCZ); office of the Provincial Mining Department; the Chamber of Mines and the Ministry of Industry and Commerce and the Companies' Deeds Office. The information required from these departments related to human rights obligations of granite mining companies, statistics and quantities of granite, identity of international buyers; nature of regulation; specific details about minerals audits and other related information.

The more established granite mining companies were not prepared to release information to researchers. They either refused to discuss or to be interviewed through the telephone calls; or demanded formal academic letters which they did not respond to. Some of them provided contact details including emails but were unable to provide information. This stalling approach affected data collection and deprived the research of the views of granite mining companies themselves.

Due to the bottlenecks in accessing critical information from government departments and granite companies, this research mostly reflects the views of the host communities and workers. This makes this research more an affected people research.

2.2 Impact of COVID -19

Apart from initial travel restrictions and in a later stage one of the researchers being seriously ill due to COVID, the research was not badly hindered by the pandemic. From the onset of COVID 19 related restrictions and lockdowns, the mining sector was declared an essential service, and therefore exempt from most of the public health restrictions. However, the mining sector was obligated to provide PPEs and conduct regular testing of employees.

The exemption of the mining sector however did not mean that the sector was not impacted. The closure of businesses, borders, road-blocks, limitations in economic activities all affected actors and employees in the industry. Retailers were affected and had business hours reduced and curfews imposed, and schools closed. The long term effects of the pandemic, such as people being out of work because of illness, children missing out of school for a long period of time and the risk of them becoming involved in child labour, would need further research.

³ See e.g. All Africa News: Zimbabwe: 'Government intensifies crackdown on NGOs', available at <https://allafrica.com/stories/202107100059.html> accessed on 05 August 2021. See also Zimbabwe's Newsday: 'NGOs take govt to court over ban', available at <https://www.newsday.co.zw/2021/08/ngos-take-govt-to-court-over-ban/> accessed on 05 August 2021.

3. The mining sector in Zimbabwe

Zimbabwe is a mineral resources-rich country. Mining or the extractive sector is a key economic sector in Zimbabwe. Zimbabwe is estimated to have about 66 base and industrial deposits of which only 40 are currently being exploited.⁴ It has the second largest reserves of Platinum Group Metals (PGMs) and chrome in the world⁵ and significant reserves in gold and diamonds. Zimbabwe's vast mineral resources, especially platinum, gold, diamonds, methane gas, asbestos, nickel, coal, and chromite, are sufficient to generate export earnings in the region of US\$2 billion annually over the medium term and upwards of \$5 billion a year.⁶

The natural stone industry, which includes the granite mining sector, has grown in leaps in the past three decades to become a key economic sector in Zimbabwe. It is constituted mainly by quarrying or extraction companies, with processing companies so insignificantly small for any patterns to be discerned or scrutinised. Despite being initially dominated by European based companies from Italy, Spain and other states that are members of the European Union, the last ten years has seen the entry of Chinese companies. Its contribution to overall mining output has grown steadily, having increased from 177 tonnes in 2017, 182 tonnes in 2018 to 184 tonnes in 2019.

The importance of the mining sector as a significant contributor to economic development has become more evident in the last two decades due to several factors. These include the significant decline of other sectors of the economy that used to provide meaningful contribution to the GDP like agriculture, industry and tourism.⁷ The government has targeted the "realisation of the US\$12 billion mining industry target by 2023".⁸ It is projected by the national economic policy blueprint to contribute 11% to overall GDP in 2021. The Table below illustrates the contribution of the mining sector in comparison to other sectors to the overall GDP.

⁴ Ministry of Mines and Mining Development (2018) 'Mineral Potential Procedures and Requirements of Acquiring Licenses and Permits in terms of the Mines and Minerals Act (Chapter 21:05): Unlocking Our Mineral Resource Potential', Government of Zimbabwe (GOZ), Harare. 2018.

⁵ Parliament of Zimbabwe. Parliamentary Portfolio Committee Report on Chrome Mining sector in Zimbabwe (2013) 5.

⁶ Information obtained from the Zimbabwe Human Development Report (2009) available at <http://hdr.undp.org/en/countries/profiles/ZWE#>.

⁷ J Tsabora 'A report on the Legal and Economic Framework for Natural Resources related Statutory Funds in Zimbabwe' Zimbabwe Environmental Law Association (2016) 10.

⁸ See 2020 Budget statement, para 82.

Table 1: Sectoral GDP Growth Rates (%) (2019-2025)

Year	2019	2020	2021	2022	2023	2024	2025
Overall GDP	-6.0	-4.1	7.4	5.5	5.2	5.2	5.0
Agriculture and forestry	-17.8	-0.2	11.3	8.9	7.6	9.5	10.4
Mining and quarrying	-12.4	-4.7	11.0	7.4	8.8	9.2	8.0
Manufacturing	-8.7	-9.6	6.5	6.5	7.7	6.1	5.9
Electricity and water	-19.2	-7.9	18.8	14.4	5.9	4.5	4.8
Construction	-13.9	-11.4	7.2	5.0	4.0	5.0	4.0
Distribution	-8.2	-6.8	5.7	5.5	5.0	4.5	4.1
Transport and Communication	12.9	3.4	7.1	4.5	4.3	4.8	4.4
Finance and Insurance	-6.1	-6.5	7.2	3.3	5.2	6.1	5.0
Government Services	1.4	-2.1	6.2	2.9	2.5	2.3	2.0
Other Services	-3.7	-2.0	4.4	2.7	2.6	2.5	2.5

Source: National Budget Statement: Ministry of Finance and Economic Development and Reserve Bank of Zimbabwe, 2020

It becomes clear therefore that, even though mining is riddled with the risk of adverse human rights impacts, it has real and potential contribution to the fulfilment of developmental aspirations through revenue generation, growth of the economy and community development (UNDP 2009).

For Zimbabwe, mining has long raised many challenges and caused harm to host communities. Mining companies are frequently condemned as complicit in the exploitation and human rights abuses of indigenous populations. This is partly premised on the growing realisation that in countries with weak governments and/or laws, the taxes and revenues from mining operations largely do not benefit local communities and, possibly, may not ultimately benefit the economic and social development of the host country.

It must be indicated that the natural stone industry is subject to several initiatives aimed at achieving certain objectives. Firstly, the industry is part and parcel of the Chamber of Mines, a private sector voluntary organization established by an Act of Parliament whose members include mining companies, suppliers of machinery, spare parts, and chemicals, service providers including banks, insurance companies, consulting engineers, and various mining related professional bodies and individuals.

Another more specific voluntary organisation for natural stone mining companies is the Dimension Stone Producers Association. This encompasses virtually all granite mining companies, and certain other actors in the chrome industry. The association is a platform to discuss standards, developments, policies, laws, practises and other issues relevant to the industry and recommending certain measures to the government. Despite its generally universal appeal, Chinese companies have shown reluctance in participating in this platform, or implementing universally agreed practises, especially related to safety and health, environmental commitments, relations with communities and corporate social responsibility schemes.

Employees constitutes a key component of the natural stone mining sector. The law allows workers to form, join and participate in workers' committees and trade unions without sanction by their employers. The most important workers union is the Black Granite Workers Union, which is affiliated to the national Zimbabwe Congress of Trade Unions (ZCTU).

The focus group discussions and key informant interviews held with workers representatives in the Workers' Union showed that workers had several complaints against the granite mining companies. The grievances related to various issues such as safety and health, wages, employment contracts, unfair labour practises and other ill-treatment. The interviews illustrated that the Black Granite Workers' Union always appraises the mother trade union, the ZCTU, of these grievances. Actual figures of all granite workers

affiliated to the Black Granite Workers Union were not available, however seems to be low. The ZCTU is not very visible since most granite mining companies are located in the remote rural areas that are not easily accessible. The dynamics between trade unionism and opposition politics, particularly in relation to affiliate organisations of the ZCTU means trade union activities are suspiciously regarded by employers and politicians in the rural remote areas.⁹

The International Trade Union Confederation (ITUC) annual report states that Zimbabwe is among the ten worst countries for workers in 2020. It rates a 5+ which means no guarantee of rights due to the breakdown of the rule of law.¹⁰ The top 10 being: Bangladesh, Brazil, Colombia, Egypt, Honduras, India, Kazakhstan, the Philippines, Turkey and Zimbabwe.

Human rights risks in the natural stone sector have been a major concern for non-profit organisations in the last two decades. Non-profit organisations have thus been evidently present in Mutoko, but less so in Mt Darwin. Examples of active organisations include the Zimbabwe Environmental Law Association, ActionAid Zimbabwe, Youth Initiatives for Community Development, Bethel, Jesuit Social Justice and Development Centre, Centre for Natural Resource Governance and others. The main focus of these organisations has been rights-based education to communities hosting granite mining companies, recommendations of grievance redress mechanisms to companies, human rights issues related to evictions from land, disturbance of livelihoods and relationships between mining companies and communities. Despite their advocacy and other efforts, very little has been achieved by these non-profit organisations to push government or the companies operating in the areas, to address human rights risks inherent in granite mining practises.

Taxation and revenue collection agencies are also involved. The Zimbabwe Human Rights Commission is one of the independent commissions set up in the Constitution to address human rights issues. Another relevant commission is the Zimbabwe Gender Commission. Despite clear issues of human rights violations by mining companies, including allegations of discrimination based on sex and gender, these two institutions have not brought new dimensions in the protection of human rights in granite mining areas. In essence, despite some limited attempts by the Zimbabwe Human Rights Commission, the independent commissions have not introduced tangible measures or monitoring mechanisms to reduce the exposure of communities and employees to human rights risks.

⁹ E.g. In 2019 Zimbabwe was on the short list of the CAS (Committee of Standards) in the International Labour Conference (ILC) for breaching C87; conclusions of the CAS have been rejected by the Zimbabwean government which shows how little interest there is by Zimbabwean government to comply with international labour standards; Trade union leaders are in the frontline of the oppression and persecution of the present government; they are actually under constant threat of violence by (para) state institutions including security forces. see e.g. https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_713974.pdf (pag 300).

¹⁰ https://www.ituc-csi.org/IMG/pdf/ituc_globalrightsindex_2020_en.pdf.

3.1 Granite Mining



Granite mine in Mutoko.

Granite mining is generally given the term granite quarrying. A quarry is a place where rocks, sand, or minerals are extracted from the surface of the earth. It is also usually a type of mine based on an open-pit mining approach because it results in massive digging, blasting of rock surfaces and creation of huge holes, pits and enclaves in mountains. Other forms of quarries are sub-surface mines, consisting of underground tunnels or shafts. By their nature, quarries change the physical environment. They displace huge amounts of soil and plants and force people and animals out of their areas. Abandoned quarries rarely leave enough soil to allow life to return to the area; they become dangers to life and limb of livestock, wild animals and human beings. The most common natural stone that is extracted through quarrying in Zimbabwe is black granite.

Black granite, mainly used for construction, tiles and tombstones, is mostly mined in Mutoko, Mt Darwin and Murehwa districts and is extracted mainly for export.

Figure 1: Map of Zimbabwe

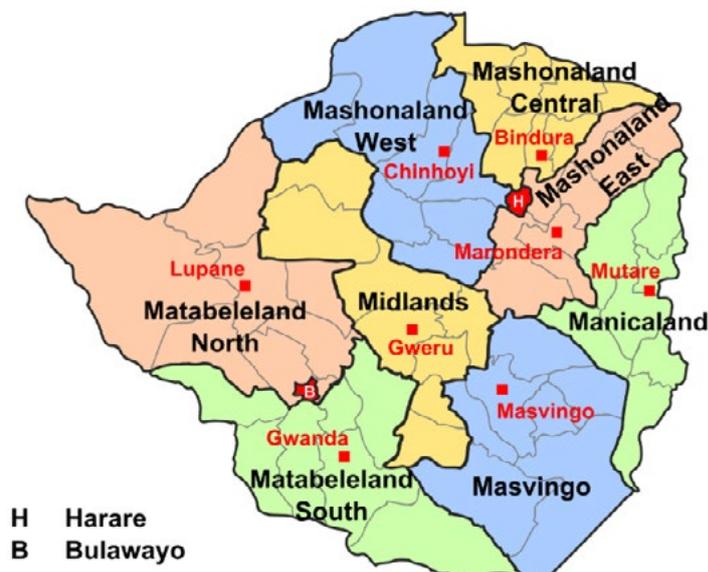


Fig 1a: Mt Darwin district of Mashonaland Central



Fig 1b: Mutoko District of Mashonaland East Province



Mt Darwin is a district in Mashonaland Central province, and is surrounded by several other districts as shown in the map above. The most affected wards in Mt Darwin are Chitse ward; Ward 8; Ward 16; Ward 22; Ward 24 and Ward 25.

There are 29 wards in Mutoko district of Mashonaland East province. For Mutoko, the areas affected by granite mining are Katsukunya area; Manhembra; Nyadire; Nyamutsahuni; Kowo area; Mbudzi village; Makaha; Mutoko, ward 5 Mutoko. The mining areas identified in the report are located less than 150 km from the capital city of Harare. The road network is generally poor, with most roads unpaved, and un-tarred. A village generally consists of between 18 – 100 households. A household generally consists of 6 – 12 people.

See for location of the mines in Mutoko annex 2.

In recent times, a domestic market has arisen in Zimbabwe, though it is clearly dwarfed in significance by the export market.¹¹ The mining of black granite in these districts has a long history.¹² Local granite is exported to South Africa, Mozambique, EU countries, and the United States, among other markets. It has been mined in some parts of the Mutoko district since 1972, and more than 10 companies are mining black granite in this area alone.¹³ Villagers, as the community members, double as employees in quarry mines in most cases, but most are restricted to basic casual labourers.¹⁴ Currently, the contribution of granite exports is relatively small, being less than 2% of the national export value.

¹¹ Dziro C (2014) Community Development and Corporate Social Responsibility: A Case Study of Mining Companies in Zvishavane and Mutoko in Zimbabwe. IOSR Journal of Humanities and Social Science (IOSR-JHSS) Volume 19, Issue 1, pp. 61-70.

¹² Matondi. P. B: Horizons of Extractives: Decoupling Water Balance in the Current & Future Economy of Zimbabwe.

¹³ Dziro C as above.

¹⁴ Maguwu F: Extractives and sustainable Development ii: Alternatives to the exploitation of extractives Extractivism, Social Exclusion & Conflict in Zimbabwe – The Case of Mining.

“Our granite is our heritage, but we are being exploited by companies that come to Mutoko, promising us investment and development. However, these companies do not leave anything beneficial to our communities. What we have left are the huge pits that they leave behind. Most of these companies are connected to powerful politicians and are so arrogant since they do not listen to communities.”

Community member, Nyamuganhu Ward 10.



Welcome to Mutoko road sign demonstrating polished black granite

The major economic critique in black granite mining has been that profits are concentrated in the hands of the few and have no multiplier effects; local workers and local communities still reside in conditions of immense poverty.¹⁵ Operations do not adhere to minimum labour standards, environmental regulations and have caused considerable damage in the form of air, land, and water pollution, land degradation, deforestation, and lowering water tables.¹⁶

¹⁵ Maguwu F (as above).

¹⁶ Maguwu F (as above).

3.1.1 Granite mining companies in Mutoko and Mt Darwin

The major granite mining companies operating in Mutoko and Mt Darwin districts of Zimbabwe are:

- **Natural Stones Export Company (NSEC)** – one of the oldest companies operating in Mutoko. It commenced mining in the early 1970s and its current ownership is linked to Italian shareholders. They are the largest granite mining company, in comparison to all companies in Mutoko and Mt Darwin. NSEC mines granite mainly for export to international markets. The Mutoko mines have approximately 220 workers, with less than ten (10) being female.
- **CRG Quarries** - has been mining since around 2000 and its ownership is linked to Italian shareholders. It has an important presence in Mutoko and complies with several mining laws. Its CSR profile is not remarkable, having built a clinic that has taken years before its completion to date. A direct accusation against CRG is that their activities have damaged road infrastructure as their heavy vehicles and trucks carrying tonnes of raw granite blocks require a flattened road to move, not the hunchback roads we have in Zimbabwe. This accusation also holds true for other companies.
- **Zimbabwe International Quarries (ZIQ)** – this company has local Zimbabwean and European shareholders. It has been mining natural stone since around 1995 and its European shareholders are from Spain. It adopts ordinary open cast mining of granite, and its activities has affected fields, roads, dust and decrease in the water table. They usually remove borehole infrastructure upon winding up, leaving no benefit to the communities after they close operations.
- **Quarrying Enterprises** - the company has been mining since around 1986 and has a shareholder mix of Italians and Zimbabweans. They have been involved in a CSR project, building a kindergarten school block at Nyamakope and a borehole at Katsukunya Primary School in Mutoko.
- **Ilford Services Mining Company** - this company has been in business since mid-1980s. It has changed its name due to changes in shareholding. Its impacts are mainly in ward 10. Its CSR projects include a classroom block and Administration Block at Gurure Secondary School. It has fought with workers' union representatives for refusing to apply and comply with National Employment Council standards. Their major mine is called Southern Granite Processing.

Chinese owned Companies

- Jintings – this is a relatively new company, mainly operating in Mutoko District Ward 5 since 2014.
- Surewin Pvt Ltd – has been operating since 2017. It came into Zimbabwe in terms of opportunities created by special economic zone regulations. It has not sought to comply with several laws; and is accused of dodging paying any form of taxation or royalties to local authorities. Its main area of operation is in Nyamutsahuni ward 10 of Mutoko District.
- Longlui – is another small Chinese granite mining company. It has fought several conflicts with local communities for destroyed community gardens, constructing a dam along the river which deprives community of water as it disturbs water flow. It also operates in Nyamutsahuni ward 10 of Mutoko District.
- Dingmao – is another Chinese company that is operating in Nyamutsahuni ward 10 of Mutoko District.

It must be pointed that these companies have barest of details on the internet, with most of them even without a website.

The true ownership status of these companies is not clear. Research with the national companies' deeds registry proved fruitless with chaotic documentation responsible. The Deeds Office consequently issued a notice calling all companies in Zimbabwe to provide full disclosure of their true owners. The notice was made in terms of section 72 of the Companies and Other Business Entities Act, which requires all companies to keep a register of beneficial owners – who are essentially the individuals who control the companies or who hold a substantial number of shares. In line with this, the Government, through the Ministry of Finance and Economic Planning and the Financial Intelligence Unit of the Reserve Bank of Zimbabwe published the notice.

The important part of the notice reads as follows:

“LEGAL REQUIREMENT FOR ALL COMPANIES TO MAINTAIN INFORMATION ON BENEFICIAL OWNERS
Pending the completion of the Companies Registry computerization exercise, all companies are required under the law to ensure that they maintain a Beneficial Ownership Register which should contain accurate and up-to-date information on the identity, identification number and address of each of the beneficial owners. This will entail maintaining information on each natural person / individual that ultimately owns / controls 10% or more of the company’s shares, whether directly or indirectly through proxies or other corporate vehicles or trusts.

This register of beneficial ownership information should be maintained in Zimbabwe and be available if and when required by competent authorities. All companies are expected to be in compliance with this requirement by 31 July 2021, after which date the Companies Registry inspectorate teams will conduct on-spot compliance inspections and impose penalties on non-compliant companies.”

At the time of writing, there was no information that could be shared by the Deeds Registry concerning the true owners of these companies. The Deeds Registry however remains a good source for future information. The correctness of submitted information is also in question since window-dressing or proxies can be used to front companies for various reasons.

Granite companies and government departments refused to provide a list of companies buying granite from Zimbabwe. The research observed a disturbing secrecy in relation to this issue, which is not justified or explained. From general research of world markets,¹⁷ the researchers found useful information, which could not be corroborated or denied by granite companies or government departments. From the various inquiries, certain key points were made on the major markets for granite in Zimbabwe. The table below illustrates this.

Table 2: Countries with companies sourcing granite from Zimbabwe

EU Countries	Annual Granite Imports	Non-EU Countries	Annual Granite imports
Italy	24,9	Mozambique	43,2
Spain	4,95	China	9,37
Poland	4,43	South Africa	7,68
Germany	0,78	Canada	0,99
Belgium	0,26	Serbia	0,76
France	0,23	Zambia	0,87
Portugal	0,12	United States	0,47
The Netherlands	0,037		
Slovakia	0,08		
Croatia	0,093		
Hungary	0,048		
Approximate Total to EU	36,648%	Non EU	63.34%

Source: <https://oec.world/en/profile/country/zwe#yearly-exports>

¹⁷ See for instance granite global markets information at <https://oec.world/en/profile/country/zwe#yearly-exports>, accessed on 5 August 2021; and also <https://trendeconomy.com/data/h2/Zimbabwe/2516>.

Mozambique is the biggest importer, contributing a huge 43,2% of Zimbabwe's granite exports. However, Mozambique proceeds to export over 90% of its granite to Italy and Spain.¹⁸ There are several meanings to this, but it is clear that some of the granite, if not all, imported from Zimbabwe finds its way to Spain and Italy, and other countries. This means that Mozambique is a transit country, and that Zimbabwe actually exports more granite to EU countries, particularly Italy and Spain, than its own statistics show. There was no source of data on Mozambican imports and exports of granite.

Most probably 95% of mined granite is shipped in raw blocks. There are few cutting and polishing factories in Zimbabwe that supply the local market. Some of these factories are subsidiary companies of the mining companies. Information on these factories was not easy to extract and all attempts were not successful.

3.2 National Policy Framework

Several government institutions have been mandated with specific roles to regulate, administer and enforce laws and policies related to granite mining. These institutions include central government mining department (Ministry of Mines and Mineral Development), provincial mining departments (Provincial Mining Director) and local authorities (Mutoko Rural District Council and Mt. Darwin Rural District Council).

Zimbabwe has a basic domestic legal and policy regime that applies to both foreign and domestic actors in the mining sector. This law and policy framework has struggled to regulate powerful multinational corporations in the mining sector. The dilemma faced by Zimbabwe as a developing country is how to regulate global operators dominating the mining sector in a manner that not only ensures continual attraction and inflows of investment, but also that guarantees basic human rights for communities and workers in the industry.

Zimbabwe has several laws and policies that regulate the exploration and exploitation of mineral resources, including natural stones. These include the 2013 Constitution, the Mines and Minerals Act [Chapter 21:05]¹⁹, Rural District Councils Act [Chapter 29:13], Communal Land Act [Chapter 20:04], the Environmental Management Act, [Chapter 20:27], Precious Stones Trade Act [Chapter 21:06], Explosives Act [Chapter 10:08]; Environmental Management Act [Chapter 20:27]; Water Act [Chapter 20:24]; Zimbabwe National Water Authority Act [Chapter 20:25]; Labour Act [Chapter 28:01] Diamond Policy, Zimbabwe Mining Development Corporation Act [Chapter 21:08] Exchange Control Act [Chapter 22:05]; Land Acquisition Act [Chapter 20:10]; Indigenisation and Economic Empowerment Act [Chapter 14:33], and National Environmental Policy and Strategies, among others.

The Mines and Minerals Act is the principal legal framework regulating the exploration and exploitation of mineral resources in Zimbabwe.²⁰ The Act provides for the acquisition, maintenance, and relinquishing of mining titles. The Mines and Minerals Act is supported by a plethora of other laws and policies.²¹

The legal framework for the natural stone sector is covered by the overall legal regime for the mining sector as a whole. It must be asserted that there are several laws that relate to mining in general, and that apply to the natural stone mining sector in particular. In general, the laws are concerned with the life cycle of the mining business, regulating exploration, acquisition of mining rights, cession and transfer thereof, exercise of such rights, conditions of title, termination of rights and decommissioning.

¹⁸ See <https://oec.world/en/profile/country/moz>, accessed on 6 August 2021.

¹⁹ Its attendant regulations include Mining regulations, Mining (Management and Safety) Regulations, Mining (Health and Sanitation) Regulations; and the Mines and Minerals (Custom Milling Plants) Regulations

²⁰ S. Moyo 'Guide to Mining in Zimbabwe', accessed on 25 March 2021.

²¹ *Ibid.*

For the granite mining sector, the most relevant laws are illustrated in the table below:

Table 3: Laws regulating the granite mining sector in Zimbabwe

Legislation	Purpose
Constitution of Zimbabwe, 2013.	Human rights obligations of State institutions and private persons
Mines and Minerals Act	Regulates the mining sector
Environmental Management Act	Regulates the environmental impacts of mining
Forest Act	Obligations related to clearing of forests for mining
Water Act	Abstraction of water for mining
Zimbabwe National Water Authority Act	Licensing process for water abstraction
Companies & other Business Entities Act	Regulates registration of companies and conditions thereto
Explosives Regulations	Use and disposal of explosives
Mining (General) Regulations	Technical issues related to mining
Environmental Regulations	Technical environmental regulation
Mining (Management & Safety) Regulations	Regulates safety and health in mining
Mining (Health & Sanitation) Regulations	Regulates sanitation and health in mining operations

Apart from mining laws, Zimbabwe has, on paper, a comprehensive legal framework for human rights protection. The 2013 Constitution has a progressive and comprehensive Declaration of Fundamental Rights and Freedoms. In addition to other laws, there is an institutional system to respond to human rights risks and violations in all economic sectors, including the mining sector. However, these laws have very few complaint mechanisms. Consequently, human rights institutions have not been able to comprehensively respond to human rights risks in the natural stone sector.

It must further be stated that the Constitution is the supreme law and all laws, practices and conduct inconsistent with it are invalid.²² Indeed, the constitutional framework justifies the management and application of natural resources for local community development, hence contributing to national development. Chapter 14 of the Constitution establishes a framework for devolution of governmental powers and responsibilities.

The preamble to the Chapter acknowledges the necessity of equitable allocation of national resources and the participation of local communities in the determination of development priorities within their areas. In this Chapter, one of the objectives of devolution is stated as the recognition of the right of communities to manage their own affairs and to further their development. Further, another important objective is to ensure equitable sharing of local and national resources. In terms of section 270 of the Constitution, some of the functions of provincial and metropolitan councils include the planning and implementation of social and economic development activities in provinces and the monitoring and evaluation of the use of resources in such provinces.²³

Section 315 of the Constitution is central to the award of mineral concessions such as granite mining claims. See annex 3.

²² Section 3 of the Constitution.

²³ Section 270 (1) (a) and (e) of the Constitution.

3.2.1 Regulatory flaws and weaknesses

It was clear from the research that the granite mining companies are fully aware of the weaknesses of the regulatory regime and derive maximum benefits by exploiting these weaknesses. Government institutions at district, provincial and national levels have not provided lasting solutions to the human rights risks to which communities are exposed by granite mining activities. Accordingly, the granite mining operations of companies in Mutoko and Mt Darwin cause, contribute and are linked to massive human rights risks that affect host communities in these two districts. The risks are severe enough to justify the drafting of plans of action on how to address such risks as a matter of urgency.

4. Human rights risks

Respondents indicated a very basic understanding of the constitutional and institutional system that can be relied upon by communities to address human rights risks. Most respondents showed a lack of appreciation of important constitutional provisions on rights enforcement and domestic institutions that have a mandate to resolve human rights risks arising from granite mining. See also annex 4. However, there was a general understanding of what government agencies and parliament need to do to assist communities. Most respondents illustrated their hope in members of parliament, district administrative officials and provincial political offices. Respondents also showed lack of appreciation of judicial platforms and decried their expensive processes and practises. In general, communities indicated awareness of the problem and human rights risks, but failed to identify institutions with the relevant mandate to resolve human rights risks from granite mining.

The research identified the following human rights risks: corruption, those related to the environment, land grab and labour rights.

4.1 Corruption

The findings on corruption in granite mining in Mutoko and Mt Darwin must be understood within the context of the provisions in the Constitution on natural resources, good governance and corruption. Indeed, the Constitution provides several guarantees of 'good governance' and is also underpinned by the principles of transparency and accountability. Although several legislative instruments detail the governance of resource extraction and related processes, they are inadequate to meet the constitutional guarantees of good governance, transparency and accountability.

The most common corruption risks are in the awarding of mining licences and in the inspections and monitoring by inspectorate bodies. State institutions are complicit in the corruption; the research found that senior government administrators, licensing authorities, governing political party functionaries and law enforcement agencies create a network of corruption. This network benefits in the awarding of mining claims and are not subject to serious monitoring and inspections by regulatory bodies. The consequence, as the research observed, is that as a human rights risk, corruption is not being dealt with.

It appears from the research that corrupt activities in the sector are exacerbated by the government's political slogan 'Zimbabwe is open for Business'. Under this programme, local authorities, traditional leaders and community leaders are urged by the government to support investment, and not be obstacles. These persons are thus central to spreading the message of investment for development, and implicitly urge consultative processes to support establishing of operations, in lieu of submission of objections.

Zimbabwe ranks 157 (out of 180 countries) in the Transparency International Corruption Perception Index of 2020 and gets a score of 24 (out of 100).²⁴

No strict anti-corruption policy specific to the granite mining sector

There is no specific anti-corruption policy in the granite mining sector. What exists are general policies against corruption with most initiatives targeting gold, diamonds and other easily transportable mineral resources. This is despite massive reports of patterns of corruption in the granite mining sector. If it existed, the policy would have taken into account possible conflicts of interest and provided mechanisms for reporting corruption and protecting whistle-blowers. A specific anti-corruption policy that is strictly enforced against granite mining companies, agents and international buyers can plug the gaps and loopholes for corruption in the sector.

Corruption is rampant in the mining sector generally, and the granite mining sector is not spared. A key feature of mining sector corruption is the involvement of top-level political leaders, senior government administrators and regulatory agencies, law enforcement agencies and taxation institutions. In Zimbabwe, corruption converges the private and the public sector, and cascades through the three tiers of government. The most critical issue in mining sector corruption is that it reflects government inefficiencies in contracting processes, in distribution and redistribution of mining title, in the award of mining claims and in the regulation of extractive practises with a massive bearing on human rights.

In the granite mining sector, corruption means that the government has not utilised mining development to develop local community areas hosting mining activities. There is no doubt that eliminating corruption in the mining sector facilitates the awarding of mining claims to the most competitive applicants rather than those preferred for ulterior reasons.

The process of issuing claims is laid out in the Mines and Minerals Act, and regulations to this Act. This Act was passed in 1961, and contains complicated technical procedures and requirements. Most of the procedures are incomprehensible, yet they have not been revised or updated. To assist stakeholders and applicants, the Ministry of Mines and Mining Development ('the Ministry of Mines') has drafted a Procedure booklet that lays out the current process for obtaining claims. The booklet is often amended²⁵ and the current laid out procedure and actual practice of issuing claims is easier to comprehend under the booklet. What this simply means is that an administrative procedure booklet provides the much-needed information and guide, and not the Act. The implementation of the booklet varies from one provincial mining office to another, and this creates inconsistencies.

The sources of information for this section include the Mines and Minerals Act, the Ministry of Mines procedure booklet and three separate interviews with three Ministry of Mines officials. It is stated that the awarding of mining claims differs in law and practise, as follows:

- The Provincial Mining Director (PMD) is a single authority or individual who has broad discretion or decision-making power with little scrutiny. His powers are massive, and not always based on the law or reason. He is also very exposed to politics and is unable to resist the pressure brought about by senior politicians and government administrators fighting for claims in Mutoko.
- In relation to Mutoko district, the award of mining claims is also affected by politics in the province. Senior party politicians have benefitted from the award of mining claims through the office of the Provincial Mining Director. However, in relation to granite, the extensive nature of the equipment needed, the huge capital outlay and other requirements means politicians have just facilitated acquisition of granite mining claims by established companies. In a few instances, politicians have been

²⁴ See: <https://www.transparency.org/en/news/cpi-2020-global-highlights>.

²⁵ Interview with a Ministry of Mines official, Harare.

given posts or directorships in these companies; or have had their relatives employed in the granite mining companies. The relationship created through this corrupt networking leaves the possibility of granite mining companies regularly paying senior politicians in Mutoko in gratitude for their role, or in order to remain in good books with the government.

- Chinese companies have benefitted from bilateral agreements signed between the Zimbabwean government and the Chinese government. In general, these agreements are to the effect that the Zimbabwean government shall take up Chinese investors in the mining sector, including the granite sector. Applications for granite claims by these investors are fast-tracked, and seldom denied. Once they commence operations, there are no, or very limited regular inspections, monitoring and supervision by regulatory bodies as required by the law. These Chinese companies have strong political backing, and their human rights abuses are not acted upon with haste, if at all. Law enforcement agents and other enforcement mechanisms have failed to institute concrete legal actions against these companies.
- Another form of corruption exists in the lack of documentation by granite mining companies. There is no clear procedure that allows access to documentation held by the PMD for communities to use in engaging the granite mining companies. There is also no requirement for the PMD office to keep a record of reasons why applications were rejected or accepted.
- The lack of documentation, records and proper information packaging is exacerbated by the absence of computerized or digital systems. There are several points where manual input of information takes place, creating an opportunity for corruption, and human error generally. It also creates the opportunity for double allocations of claims, reallocations and modification of terms on certificates.
- Currently, the government is toying with a digital system called the Mining Cadastre. The cadastre system will computerise mining title allocations, license applications and distribution of mining claims. Currently there is serious resistance by powerful actors in granite mining to the cadastre system finding its way into the law. A significant development is the creation of the office of the Cadastre Registrar which will fully function once the Computerized Cadastre Mining Title Management System has been fully commissioned. Currently, the Cadastre system is being piloted in Zimbabwe, and the full national roll-out is expected once the pilot project is completed.
- The Provincial Mining Director does not have a term of office; s/he can be in office for as long as they remain fit, capable and healthy. The longer s/he is in office, the higher possibilities of corruption. Respondents raised a genuine fear that this office need to be rotated every three years, and a full audit be done. Government is in the practice of rotating these PMDs regularly to limit the chances of corruption,²⁶ but this has not worked. Some PMDs are not rotated at all, and the decision to rotate is highly political and sensitive.
- Mining claims are rarely audited. This means that there is limited accountability on how many mining claims have been issued per each period, to whom, and who is hoarding the claims.
- There are few visits to the PMD's office by the Zimbabwe Anti-Corruption Commission. The visits do not however involve local citizens in any way.

²⁶ Interview with an officer in the Office of the PMD, Marondera, Mashonaland East.

4.2 Environment



Picture shows mining activities happening in the backyard of a community member's residence (silver roof is resident's house, blue is mining company's shelter).

The environmental impact of granite mining is physically evident in most parts of Mutoko and Mt Darwin. Mountains and hills have been cut, huge swathes of forest and bush have been cleared, temporary pathways have been created in the forests for movement of heavy vehicles, and boulders of waste rock, or unsuitable rock lie scattered in the foot of the mountains, fields, forests and grazing lands in these two districts. Gaping holes are also evident, with few, if any granite mining interested in rehabilitation. Human rights risks from environmental violations by granite mining companies

Extensive Environmental Damage and Degradation caused by granite mining

The nature of granite mining has caused massive environmental degradation and damage in Mutoko and Mt Darwin. Apart from physical degradation of the natural environment, destruction of forests, hills and mountains, granite mining has led to siltation and diversion of rivers; decrease in the water table; exposure of soil and land to erosion; increased amounts of dust; boulders scattered over land and fields and huge pits and open surfaces on land previously undisturbed. Those interviewed decried the massive water abstraction and use by mining companies which led to decrease in the water table. Some members pointed to massive air pollution caused by dust from mining as well as increased soil erosion.

Road infrastructural damage and pollution

Heavy vehicles used in granite mining have destroyed roads in Mutoko and Mt Darwin. Communities complain that the road damage is not compensated for. Further, mine vehicles require flat roads, and not the hunchback roads we have in Zimbabwe. The movement of these vehicles gradually flatten these roads, leaving gaping potholes, and making roads unsuitable for motor traffic movement. When companies leave the place, the dust roads they would have created end up as temporary streams that develops into huge gullies for run off. The end result is destruction of fields, flooding of silted rivers, temporary flooding, increased erosion and removal of the fertile topsoil.

Inadequate Environmental Regulation

The Environmental Management Agency (EMA) is the environmental regulator. It undertakes biennial inspection visits, and environmental audits on granite mining companies. However, through a legal loophole, granite mining companies are not required to conduct Environmental Impact Assessments (EIAs); they can only undertake environmental management plans, that are laxer and less strict as compared to EIAs. EMA claims to be open to receive complaints from communities about environmental violations, but communities are not aware of that. The remedies open to EMA include ticketing/fine up to level 14, the highest level of fine in Zimbabwe and legal orders, which are basically directives for companies to comply in a certain way.

EMA is unable to insist on rehabilitation of the huge open pits when a company states that it will return to mine again in the same spot in the near future. EMA however admits that only one company seem to have re-explored its old sites, namely Natural Stone Export Company. This means the huge environmental degradation and destruction is not rehabilitated, even in terms of the EMP that would have been binding on companies.

No environmental certification system to guide international buyers

EMA does not seem to have or to keep comprehensive files and records pertaining to the environmental performance of granite mining companies over a period of time. This is strange since EMA undertakes environmental audits that look at all environmental aspects, and also ordinary inspections that are issue specific. The lack of adequate and strong record keeping means EMA is unable to certify companies that are compliant with environmental obligations, and those that are not. This certification system does not exist in Zimbabwe, although several countries have adopted it up under 'green economy' policy approaches. In the event that EMA adopts this approach, international buyers can peruse the environmental footprint, and the environmental compliance report card before purchasing.

No regulatory interface between EMA and international buyers

International buyers of granite have no interface with EMA. They thus deal with the granite mining companies directly, and also with the Mineral Marketing Corporation of Zimbabwe (MMCZ). Interviews with MMCZ indicated that its interface with international buyers do not relate to the operational activities, or compliance report cards of granite mining supplier companies. This means there is a disconnect between granite mining activities, environmental regulation of granite mining and the international marketing and export of granite from Zimbabwe. Pertinently, there seems to be no plans by the minerals marketing agency to establish a formalised framework whereby they advise international buyers of the environmental compliance report card of local granite mining companies.

No community grievance redress mechanism under environmental legislation

Interviews with EMA indicated that there are no provisions under the Environmental Management Act for EMA to facilitate the creation of community grievance mechanisms. These mechanisms can go a long way in addressing conflict, disputes and misunderstanding between communities and granite mining companies. There is also no such framework provided by the Mines and Minerals Act. Discussions with host communities in Murehwa and Mutoko about community grievance mechanisms indicated that these frameworks are practically relevant, and communities are likely to use them instead of the formal litigation route. Without the Grievance Redressal Mechanism (GRM), communities have few avenues to complain and air their grievances and have them resolved amicably.

No cooperative governance regime for environmental accountability

Environmental legislation has not been streamlined to create a cooperative governance framework where institutions such as the police, local authorities' environmental departments, the Zimbabwe Anti-Corruption Commission (ZACC) and forestry and agricultural departments work together to safeguard the interests of communities. Further, there is no legal relationship between EMA and other key institu-

tions such as civil society organisations and the Zimbabwe Human Rights Commission. Interviews with EMA officials pointed to this flaw in the regulatory system, indicating that this affects the capacity of environmental authorities to inspect and regulate all granite mines, with some located in very remote areas.

Negative perceptions of communities of granite mining companies in Mutoko and Mt Darwin

There is a general perception by communities in Mutoko and Mt Darwin against granite mining companies. The negative perceptions are on the following basis:

- Granite mining companies are looting resources without paying back for community development.
- Granite mining companies are foreign, cause environmental degradation and human rights violations without any responses from law enforcement agencies and regulatory bodies.
- Granite mining companies are evicting members of the community, taking community land and disturbing livelihoods that are mainly based on subsistence agriculture, cattle ranching and reliance on the natural environment like forests and rivers.

Lack of environmental and human rights compliance by Chinese companies

The influx of Chinese companies in the granite mining sector has not been well received by communities. Communities indicated that Chinese companies deliberately ignore environmental standards, lack safety and health standards; pay the lowest wages, give monthly contracts, ignore the orders of regulatory bodies such as EMA and rely on political support to renew their licences. Chinese companies are also accused of 'bribing' members of the community to show them old granite mining sites with the hope of reviving them; bribing traditional leaders with money to sign papers indicating the community has agreed to their granite mining investments; ignoring labour laws, human rights obligations of companies and associating with powerful local politicians.

Lack of key information and data on granite mining companies

Despite the open nature of their activities, granite mining companies do not publicly disclose their financial status. They do not present general company information as other companies do. Few regulatory bodies have records and files relating to these companies, and communities and individuals cannot access this information easily. Information on shareholding; information on environmental management plans; the environmental footprint of granite mining companies; the record of environmental compliance; the identity of international buyers; financial data on operating costs, profits, prices of granite being sold, relationship with local traditional leaders and political administrators is difficult, if not impossible to access.

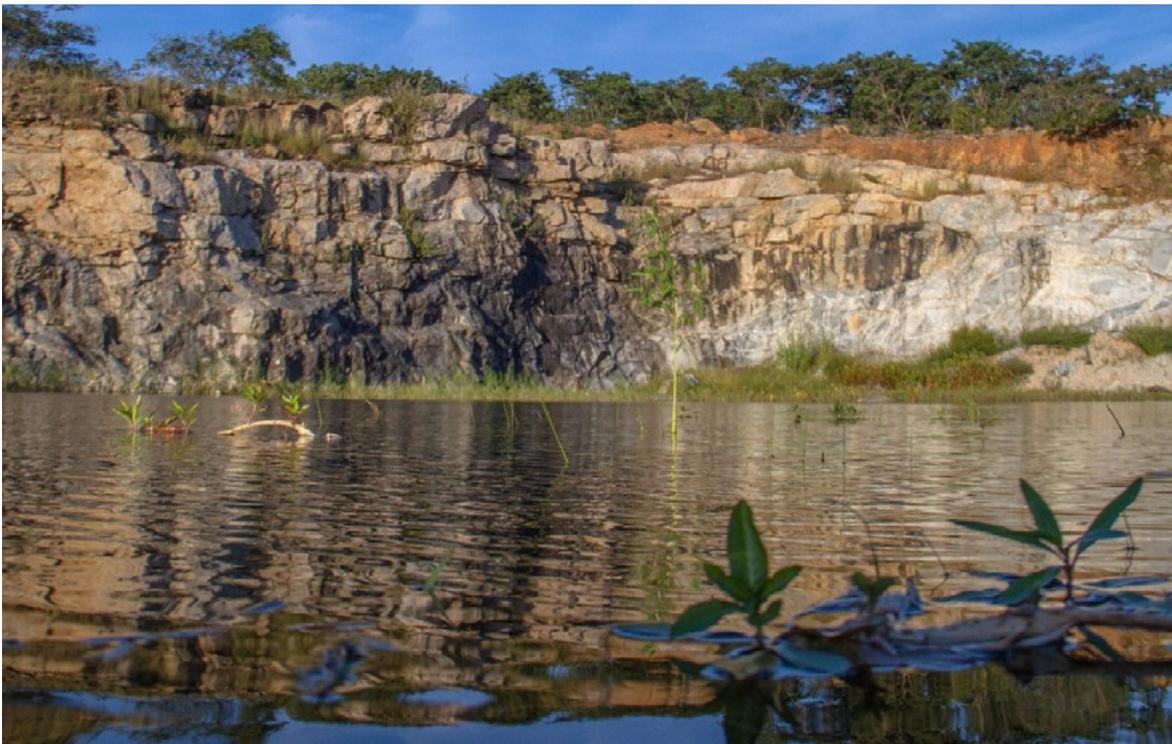
To exacerbate this general opacity and non-disclosure, relevant state institutions do not disclose the information to anyone easily. Officials are not willing to present certain information or be quoted as the source of even general information or data or statistics. The degree of opacity in this industry is curious and increases as one goes up the value chain.

Limited Resources for Law Enforcement Agencies

The Zimbabwe Republic Police has a Minerals, Flora and Fauna Unit that deals with all mineral crime, but as part of environmental crime. This Unit works with EMA, department of Mines, wildlife authorities, forestry authorities and water management agencies. Despite covering granite as one of the minerals under its jurisdiction, this department is heavily under-resourced and thus lack full capacity. This department is seen manning roadblocks and requesting certain documentation from vehicles transporting minerals. Some of the information they request include sources of minerals, authenticity of official documents; type of mineral being transported and compliance with all laws relating to transportation, transit and movement of minerals. It must be said that whilst this Unit has been very active and visible in districts mining gold, diamonds and platinum, it has been virtually invisible in checking the transportation of granite in Mutoko and Mt Darwin.



A boy taking a bath in the dry season in one of the open pits left by a mining company is Mutoko.



The same open pit as above in the rainy season filled with rain water now a threat to human and livestock lives.

4.3 Land rights

Large pieces of land required

Granite mining operations consume large pieces of land, and this land is usually occupied by communities. Respondents in both Mutoko and Mt Darwin confirmed this. A general physical survey testifies to the large area of land that is required in granite mining. It was pointed out that for a granite mining licence, the minimum area that must be pegged under the law is 50 hectares. On most occasions, this land is communal land that is used by communities for subsistence agriculture, residential settlement, firewood and pasture lands, movement, water abstraction, grave sites and other community rituals.



A picture illustrating the vastness of land required for just one black granite mining operation.

Mining companies provide stronger rights than land rights held by communities

Most villagers interviewed lamented the ease at which they can be evicted, forcibly relocated and given alternative lands elsewhere by mining companies, with government authorities supporting such forcible evictions and relocations. The research observed that mining licences and certificates granted to granite mining companies provide stronger rights than land rights held by communities. Almost all community members interviewed through FGDs and KIIs do not have free-hold ownership of the lands they occupy; they occupy and use their lands at the mercy of the state or local governing authorities. This means that in the conflict over land uses, communities lose as their rights are weak, less protected by legislation and have very few remedies as compared to rights held by mining companies. Annex 5 gives an overview of mining rights versus customary rights.

Inadequate mechanisms to protect communal land rights

There are very few informal safeguards to protect the land rights of communities before commencement of mining operations. The regime for environmental impact assessments is very unclear in granite mining.

Respondents interviewed, including mining companies and the EMA stated that there are no environmental impact assessments before granite mining operations commence. Granite mining companies are allowed to submit an Environmental Management Plan (EMP), which is more relaxed than requirements for an Environmental Impact Assessment (EIA) See annex 6 for a comparison between the EMP and the EIA.

Under an EMP, there are very limited spaces for effective consultations and participation of communities before mining operations commence. In particular, there are no clear channels in the EMP process to challenge the award of mining licences, or to stop on-going mining operations on the basis of actual or potential violations to land rights of communities.

To exacerbate this, communities were not aware of grievance redress mechanisms against granite mining companies that impinge on their land rights. Neither were the communities able to identify other platforms to resolve conflicts between them and granite mining companies.

Community interests not taken into account

Due to the growing mantra for devolution in Zimbabwe, communities expected a lot of assistance from local authorities to intervene on their side in cases of disputes and conflicts. Alternatively, communities seemed to appreciate the lack of power by traditional leadership to seek peaceful resolution of disputes and conflicts. The major observation was that communities perceived all institutions of power as allying with granite mining companies at the expense of their interests. Thus, apart from being exposed to several environmental rights violations and other human rights risks, communities hosting mining activities strongly feel that they are denied effective institutions to resolve disputes and conflicts in a manner that strikes a balance between competing interests.

Mining and rural livelihoods – a difficult co-existence

Since huge tracts of land are involved, the livelihoods of most of communities in Mutoko and Mt Darwin that are based on land uses are greatly disturbed. The research observed that these livelihoods are dependent on small scale agriculture, livestock ranching, hunting and gathering forest products, grazing pastures, ritual ceremonies and practises, firewood sourcing, setting up homes and small businesses. Massive disturbances are occasioned on community lands by granite mining companies. The extreme noise from blasting disturbs both humans and livestock. Extreme levels of dust make habitation in the vicinity of these companies impossible. The vibrations from the trucks transporting tonnes of granite cause cracking on the houses located by the roadside. Mining activities are therefore difficult to co-exist with other community activities. These other community activities include social activities and ceremonies, gatherings, religious activities, and entertainment.

A female FGD participant from Mutoko stated that;

“The mining companies destroy our fields without compensation. They simply come and dump their rubbles in our fields and convert them into loading bays without our consent and we lose our farming land. Since we rely on farming for a living, affected households end up being plunged into food insecurity because they have no other land to do their farming.”



Rubbles dumped in a villager's field by a mining company in Mutoko.

The clash of mining with other established rural land uses often results in forcible eviction of persons residing in the vicinity of mining operations. These evictions greatly affect the relationship between granite mining companies and local communities. Eviction implies the forcible movement of whole households that are forced to search for new settlements, enforced livelihoods, and new social amenities. However, in terms of numbers, cases of actual evictions were less than ten (10) in Mutoko, and no such cases in Mt Darwin. The fear for such evictions was palpable, as was the despondency due to lack of protection from government agencies and authorities.

“In Ward 5, two families are facing relocation after Jintings mining company vowed to establish black granite polishing factory at the mine. The company arrived in 2014, and always promises this factory, but has not done anything. It only exports all its granite. The challenge so far is on quality of land for relocation. The traditional leaders had chosen a site which is not suitable for habitation for these families. The amount of compensation agreed was US\$ 4000,00 and US\$ 50,00 for groceries every month for six months and US\$ 500,00 for grave exhumation?”

Councillor for a Mutoko District Ward.



A mining site fast approaching a community member's home in Mutoko. The owner of the house has long been asked to leave.

All respondents pointed that the disturbance in the use of land, or forcible evictions must attract compensation.

No clear compensation regimes established under the law

Communities in Mutoko decried and bemoaned the lack of guidelines for assessment of compensation. They pointed that they were at the mercy of mining companies and government departments at district or provincial level were unable to assist. There were few cases of compensation for relocation from interviews with community members. According to one councillor, the highest amount of compensation paid was US\$ 5000,00 and the councillor was involved in the negotiations. In a case that occurred in 2021 involving the Chinese company called Jinding, an amount of US\$ 3500,00 was agreed, with the family given 3 months' notice to relocate. The community members indicated that Natural Stone Export Company pays better compensation than most compensation and assists in the relocation by transporting affected families. These negotiations are not based on professional valuations of households done by independent companies.

Free and Prior Informed Consent principles (FPIC) not applied

Communities stated that they had never been consulted by granite mining companies under an Free, Prior and Informed Consent (FPIC) framework. These actions of granite mining companies illustrates that granite mining companies do not apply the FPIC principles. FPIC simply denotes the engagement of communities in large scale projects to seek their consent prior to onset of mining in a manner that is voluntary. Further, communities must give their consent with full knowledge of the proposed mining operations and their probable consequences. See box.

FPIC

The Office of the High Commissioner for Human Rights explains FPIC as constituting the following key elements:

- Free, as implying that there is no coercion, intimidation or manipulation.
- Prior, as implying that consent is to be sought sufficiently in advance of any authorisation or commencement of activities and respect is shown to time requirements of indigenous consultation/consensus processes.
- Informed, as implying that information is provided that covers a range of aspects, including the nature, size, pace, reversibility and scope of any proposed project or activity; the purpose of the project as well as its duration; locality and areas affected; a preliminary assessment of the likely economic, social, cultural and environmental impact, including potential risks; personnel likely to be involved in the execution of the project; and procedures the project may entail.
- This process may include the option of withholding consent. Consultation and participation are crucial components of a consent process.

The International Labour Organisation (ILO) convention no 169, contextualises FPIC in mining development, by stating as follows:

“In cases in which the State retains the ownership of mineral or sub-surface resources or rights to other resources pertaining to lands, governments shall establish or maintain procedures through which they shall consult these peoples, with a view to ascertaining whether and to what degree their interests would be prejudiced, before undertaking or permitting any programmes for the exploration or exploitation of such resources pertaining to their lands. The peoples concerned shall wherever possible participate in the benefits of such activities, and shall receive fair compensation for any damages which they may sustain as a result of such activities.”

This understanding was adopted by the researchers in the case studies of Mutoko and Mt Darwin communities. Most pertinently, the researchers set out to determine whether various engagements between communities and mining companies were conducted in an environment without coercion, intimidation, misrepresentation or manipulation. Further, the researchers sought to investigate whether any form of consent was granted at all, and if so, whether such consent was granted prior to commencement of mining activities. The nature of information provided to the communities by mining companies was also analysed, particularly such information related to impending mining investments, consequences, impacts, procedural aspects, substantive requirements, among other issues.

Armed with this understanding of FPIC, the following findings were made:

- Granite mining companies conducted minimal consultations with affected communities. In most instances, especially in Mutoko, granite mining companies only engaged the traditional leaders and promised them fuel, money and other necessities if they could sign consent to development forms.
- Communities perceived the approach by granite mining companies to traditional chiefs as unethical and unfair since it did not guarantee their participation. In fact, on several occasions, communities attacked their traditional leaders for being ‘cheaply bought’ to betray their own people.
- Prior to the commencement of mining, communities felt that they were not presented with all the facts, information and data. They felt that if all the information was presented, they would have been able to object or raise their voice against the commencement of granite mining.
- In virtually all engagements with traditional leaders and some community members, there was no regard for minority social groups such as school children; persons with disabilities; women and young girls; ethnic minorities or child-headed families. A few respondents criticised mining companies for this failure to recognise the special needs of these social groups. All civil society organisations that were interviewed also castigated the reckless conduct of granite mining companies in this regard.

4.4 Labour rights

Granite mining is labour intensive, it involves a large number of workers, ranging from technicians, management, manual labourers, drivers and support staff involved in cleaning and cooking. The research was unable to establish the actual number of workers in the granite mining sector.

Table 4: Granite companies mining in Mutoko and Mt Darwin and approximate no. of workers

Company name	Approx. number of workers	Workers interviewed	% of workers on short-term contracts
Natural Stone Export Co.	220 (8 women)	6	60-70% on short term contracts (3 months contract)
Ilford Services Mining Company Operations - Nyamuganhu and Mtawatawa (Mutoko & Murewa.	90 (less than 10 women)	5	70 workers on one-month contracts; 20 are permanent. Predominantly one month contracts
Quarrying Enterprises They also operate in Mt Darwin.	Approx. 130 (less than 10 women)	4	About 98% workers on Contract; (3 months contract most common)
Zimbabwe International Quarries (ZIQ) (Mutoko only)	85 (less than 5 women)	4	Contracts. 40% permanent 60% contracts
CRG Quarries	70 (less than 5)	3	Approx. 98%

Table 4a: Chinese companies mining granite in Mutoko and Mt Darwin

Company name	Approx. number of workers	Workers interviewed	% of workers on short-term contracts
Surewin	90 (1 woman)	3	Approx. 98% on contracts
Longlui (no Mt Darwin sites)	85 (1 woman)	3	Approx. 99 % contracts
Dingmao	Less than 50	1	
Jindings (Operating in Nyamuganhu Ward 5.)	25	3	No permanent contracts. 3 months contract longest. One month contract shortest

Source: data from FGDs and Interviews

Wages

Workers are graded, with wages being different across grades. Wages are set in terms of Statutory Instrument 15 of 1990, which is amended from time to time.

The wages for granite mining workers are set by the National Employment Council for the Mining Sector (NEC)²⁷. The NEC is a body consisting of representatives of both workers and employers. It is important in collective bargaining agreements and in setting wages for the sector. Workers are usually represented by their workers union representatives, with the mining sector trade union called Associated Mine Workers Union of Zimbabwe. The Black Granite Workers Union is represented in this national level trade union.

Wages are reviewed by this body after every three months. On 19 May, a new wage structure was adopted with effect from 01 April to 30 June 2021. The NEC may delay its review procedures, leading to employers having to pay back-dated wages. This has been criticised by workers, rightly so, since inflationary conditions would have wiped out the value of the money when it is paid long after becoming due.

For purposes of this research, the NEC reviewed wages in May 2021. See annex 7 Circular to mines. A wage review in March meant that as of 1 April 2021, the lowest Grade 1 worker was paid ZW\$ 24,500 whilst the highest earner was paid ZW\$ 56,824.12. There is an agreement at NEC level for companies to pay about half the wages in foreign currency since these companies earn forex from exporting granite stone. Companies claim that of their export receipts, they are given only 60% in forex by the central bank and 40% in local Zimbabwean dollar. For this reason, they cannot pay 100% wages in forex. Companies have always shirked their obligation to pay half the wages in forex using the fluctuating exchange rates. As of the 1st of April 2021 companies were obliged to pay US\$ 145 to the lowest earner in Grade 1 as a portion to his/her wage, whilst they were obliged to pay the highest Grade 13 earner US\$ 335. The forex component amounted to 52% of the total wage earned. See annex 7.

Job insecurity – one month contracts

Interviews with a representative of the Black Granite Workers Union indicated that there is high job insecurity in the sector. Further, the Union's estimation of workers on three months or shorter contracts was more than 80%. Chinese companies remained the worst in terms of contracts; they also pay the lowest wage.

The use of short-term contracts for an unlimited number of times is clearly illegal under Zimbabwe's labour law. The relevant provision is section 12 (3) (a) of the Labour Act. In terms of this provision, a fixed contract can only be renewed two times. Any renewal or granting of a short-term contract for a third time means the contracted worker is now a permanent employee. Accordingly, mining companies are in violation of section 12 (3) (a) of LA.

Workers do not receive contracts when they are contracted for a month – they just sign in their details in a company register.

Section 65 of the Zimbabwean Constitution recognises and protects several rights of workers. These include the right to fair and safe labour practises; the right to a fair and reasonable wage, the right to form and join and participate a trade union; the right to participate in collective job action such as a sit in or a strike. Workers have a general idea about strikes, but several illegal measures by companies intimidate workers from doing so. For instance, workers are aware of their right to strike, but the one-month contract means that their contracts will not be renewed. Their lack of expert or professional qualifications makes their case even more difficult – they can be easily replaced.

²⁷ <https://miningzimbabwe.com/wp-content/uploads/2021/06/NEC-for-Mining-Industry-April-to-June-2021.pdf?x80988>

From the interviews and general surveys, it was clear that most of the workers are hired from the local communities of Mutoko and Mt Darwin where the actual mining is done. Granite companies also recruit artisans and skilled personnel from other provinces or other districts. It was observed that granite mining companies comply with government policy where host communities provide the non-skilled labour in the lowest grades, whilst skilled technicians are sourced from beyond the communities.

The import of this is that, when the mining companies are done and need to leave or to wind up, they usually terminate the employment contracts of the laborers in the communities. This allows them to hire labourers from each community that host their operations.

Male dominated sector

From the research in both Mutoko and Mt Darwin, it was observed that the granite mining industry is dominated by male workers. Of the thirteen grades, females are found in less than three grades generally. There are very few female workers in the granite mining industry and where these are found, they are in the lowest grades as cooks and general hands. The discussions indicated that this is because work in granite mining is considered a hard, manual kind of work, and as a result males feel it inappropriate to allow their female spouses, other female relations, siblings or children to look for work in the male environs of the granite mining industry. Females were also not very keen in looking for work in granite companies.

Companies prefer males to females, also for menial jobs and there are very few opportunities or very few spaces of the participation of females. Males dominate all the grades as artisans, technicians, general laborers and experts up the rungs of the ladder. The managerial framework level, which is grade 13 is also dominated by males. Female respondents pointed to possible insensitivity of managers to female needs at the high level because of the disproportionate gender distribution.

No persons with disabilities were encountered in the research. Current employees feel that granite companies reserve no opportunities or spaces for the employment of persons with disabilities. The reason that is often given is that the nature of granite mining itself might make this quite difficult. Office clerical work is usually located at the main offices in the capital city (Harare). Another fact is that there is a lot of movement by workers within the operational perimeters of the mine, and this involves climbing mountains.

In addition, the working environment is dangerous as blasting is the main activity. The mining site has deep open pits, scattered boulders, and dangerous equipment all over, militating against hiring persons with disabilities at mining sites. It seemed that there was no policy implemented by granite companies on persons with disabilities.

Migrant labour and forced labour

There are no foreign migrant labourers in the areas under research; all workers are Zimbabwean citizens, and above 90 % are labourers from the local areas. Historically, migrant labour used to originate from countries such as Mozambique, Malawi and Zambia, but most of these have now been naturalized and are now part of the communities they reside in. There was also no issue of forced labour at all, and no complaints were raised in relation to forced labour.

Long working hours

A few representatives of the workers committee raised the issue of long working hours. The gazette working time is 208 hours per month, translating to 48 hours per week, for 26 – 27 working days per month. A complaint was that some mining companies were going above this. Further, to induce long working hours, some selected workers were being promised unspecified incentives, and these included supervisors, workshop foremen and operators of earthmoving equipment. Companies pay overtime, but workers are generally unhappy with the rates for this overtime, which are fixed by the employer without consultation.

Child labour

Workers have workplace identification with their details and grade. The age details of workers are usually identifiable on the national identification cards of workers, which are recorded in company records. No reports or claims of child labour were made. Accordingly, there were no patterns of child labour observed or encountered in both Mutoko and Mt Darwin. The only report made bordering on child labour related to

desperate school children who had gone out of school since schools were closed during COVID 19 pandemic related lockdowns. Due to the pandemic, schools were closed, and students were roaming in granite mines looking for work. Whilst the ages for these few students were not ascertainable, it could be estimated that they fell between the ages of 16 and 18 years. As soon as schools reopened, these pupils would return to school again.

It must be asserted that the school children would look for work to get much-needed wages, especially in Chinese companies. They were not forced to look for work, or to work. There are no serious trends in relation to this and it was decided to regard this as opportunistic behaviour that has not crystallized into a clear pattern or human rights risk. No such school children were found for interviews.

Health and safety

Granite companies are required under the Pneumoconiosis Act²⁸ to undertake regular medical checks and examination for their workers and at the companies' expense. Granite companies are thus expected to have medical or health facilities on all sites. The medical examination results in a fitness certificate, and no worker must undertake work without such certificate.

The National Social Security Authority (NSSA) has to make at least one inspection visit to granite mining site, and demand to see fitness certificates from companies. It is an offence under the law for granite mining companies to make workers bear the costs of the medical examination. Apart from this annual visit, NSSA can undertake risks assessments based on accidents that would have taken place at the mine or based on invitation by workers. NSSA collects a percentage of workers' wages as Workmen Compensation Insurance Fund. This fund is for accidents and other illness related to work that affects workers during and after the period of employment in granite mines.

Interviews with NSSA indicated that these visits are being made. However, workers disputed this, and said the visits had become less frequent as required. The senior NSSA official indicated that visits are determined by the provincial NSSA inspector. An important issue pointed by the NSSA official related to companies requiring workers to meet the costs of these visits, which is illegal since the cost must be met by the company.

It appeared that most workers were unaware that they can invite NSSA to undertake specific visits or investigations.

Workers stated that they were always exposed to the environmental hazards that come with granite mining. Common human risks include exposure to unhealthy conditions caused by excessive dust and noise. Physical activities such as blasting of rocks are inherently dangerous and workers accepted these as occupational hazards. Workers complained that most companies do not undertake regular medical and health checks for their workers and wait for the national bodies to do so.

From the interviews, however, no cases of silicosis or pneumoconiosis was reported. Workers admitted to the frequent occurrence of accidents, from minor accidents to major accidents. From interviews, most accidents were minor, and involved minor damage or injury to less than three persons in all. PPEs are provided in form of work suits, safety shoes, safety helmets and gloves to all workers, particularly in non-Chinese companies. Apart from the Chinese companies, the other companies largely complied with PPE requirements, and actually had safety and health drills regularly.

Health facilities are lacking at most mining sites. This means that apart from basic preventative measures such as drills, there are no site clinics. Companies rely on medical facilities away from site, and these are located as far as fifteen kilometres away. This means that workers are unable to be given emergency health responses at the site.

²⁸ Chapter 15:08

5. Recommendations

This research has unveiled a number of key human rights risks in the natural stone sector in Zimbabwe. More research will need to be done to be able to establish details within various operations. In this chapter recommendations are provided for the different relevant stakeholders.

5.1 For companies sourcing from Zimbabwe

- In view of flaws and gaps in Zimbabwean laws, companies sourcing granite and other natural stone products from Mutoko and Mt Darwin must develop and implement human rights due diligence processes in line with the UNGPs. Human rights due diligence must ensure that potential and actual human rights risks pointed in this research are identified, prevented and mitigated throughout the granite mining supply chain.
- Companies sourcing granite from Zimbabwe must come into an agreement to adopt an action plan that responds to identified human rights risks and violations in the granite mining supply chain. The action plans must identify specific human rights risks, communities affected by the risks, costs of remediation or mitigation, time-line for implementing response measures and means and methods of engaging suppliers and affected communities.
- Companies must develop a portal for the submission of grievances and complaints by persons and communities from the sourcing areas. In essence, the portal must enable submission of complaints and grievances and feedback from the sourcing companies on the complaints raised.
- Companies must use the complaints and grievance procedure to determine common disputes between mining companies and communities, and the frequency and severity of human rights harm to communities. Companies to consider strategies to facilitate the establishment of access to remedy frameworks, including other mechanisms such as whistle blowing mechanisms. These mechanisms must ensure that redress may be obtained through international pressure mechanisms and actions or through international human rights bodies, labour tribunals or other judicial or non-judicial mechanisms.
- Companies must coalesce and set up a multi-stakeholder platform that considers human rights risks in the granite mining sector. This platform enables sourcing companies to work together with granite mining companies, engage and consult with workers and their labour unions, as well as with knowledgeable NGOs to improve prevent, mitigate and remedy human rights risks in host communities. The engagement platform must be informed by the principles in the UNGP and the OECD Guidelines for Multinational Enterprises.
- Share guidelines on Responsible Business Conduct with suppliers and host governments. The guidelines may persuade host governments to review their law and institutional systems, whilst also putting pressure on suppliers to adhere to human rights and prevent, remedy or mitigate practises with an actual impact on human rights.
- Companies sourcing granite from Zimbabwe's districts of Mutoko and Mt Darwin should increase the traceability and transparency of their supply chains all the way to the granite mining companies. They need to reconsider and improve their risk management process so that such processes can sufficiently address human rights risks in the supply chain. In addition, sourcing companies must determine whether their existing processes are consistent with the UNGP and the OECD Guidelines, especially where local laws have gaps and flaws.

Specifically for TruStone members:

- Share the main findings in this report with your supplier and enter into a dialogue about it.
- Discuss the recommendations given below with your supplier.
- Conduct a human rights risk assessment within your own supply chain.
- Get in touch with the researchers through Arisa for more information and or contacts with relevant civil society organisations (see also those listed in the report).

5.2 For mining companies operating in Zimbabwe

- Companies must ensure job security by providing written contracts that specify employment benefits and terms of contracts as required by the law.
- Companies must comply with general standards in the domestic employment laws of Zimbabwe.
- Companies must regularly publish and disclose their adherence to prescribed wages; to health and safety conditions prescribed by law, and compliance with ILO decent work principles generally applicable in the mining context.
- Companies must promote employees right to freedom of association, right to join, form and participate in trade unions and the right to collective job actions.
- Companies must undertake extensive and comprehensive consultative processes before establishing mining sites on land belonging to communities. Where the law has obvious gaps, companies must be guided by the principle of Free, Prior and Informed Consent (FPIC) in engaging communities hosting granite mining activities.
- Companies must ensure full and adequate compensation for unavoidable relocations, and the nature, level of compensation must be informed by international guidelines. Where current laws do not provide guidelines, companies must involve several stakeholders in designing compensation frameworks that adequately meet the needs of relocated families. Stakeholders may include traditional leaders, district administrators, ward councillors, provincial and district mining authorities and affected families.
- Companies must prevent, mitigate and remedy violations of land and property rights of local communities. In the context of this research, these rights relate to customary and communal use and occupation of land; tenure insecurity; state expropriation of land and inadequate compensation.
- Companies must not disturb, interfere with, alter or stop livelihoods based on communities use and occupation of land. Where such disturbance is unavoidable, adequate consultation, compensation, and grievance mechanism need to be followed
- Companies must adopt comprehensive grievance redress mechanisms and complaint procedures for the resolution of human rights violations-related disputes and conflicts with communities. The design, procedures and mode of operation of these mechanisms must be developed in consultation with communities. Companies must ensure that the grievance redress and complaint procedures are freely available to communities without cost, and do not preclude resort to other formal and informal justice procedures.
- Companies must strive to keep, publish and disclose information relating to company operations, engagement with communities, licensing, compliance with environmental commitments and EIAs, import and export data, taxation obligations, adherence to safety and health regulations and employment contracts. This information must be available in easily accessible format, and accessible to communities, regulatory bodies, research institutes and organisations and other important stakeholders at reasonable cost.
- Companies must designate an Information officer, or operate an information portal that interface with the public. Such an approach must be designed to enable access to information by citizens, communities, and affected persons.
- Companies must conduct human rights due diligence as required by the UNGP to identify, prevent and mitigate potential and actual human rights violations in their supply chain.

5.3 For the Government of Zimbabwe

- The Government must review its labour and employment laws to strengthen workers' rights in relation to written contracts; safety, health and environmental obligations of companies to their workers; enforcement of the minimum wage; equal opportunity for both sexes and gender; decent work and rights to trade unionism.
- Labour inspectorates must be established at district level and must operate within a framework of simplified rules. The inspectorates must also use simple, accessible procedures; undertake regular inspections of conditions at mining sites and attend to invitations by workers and workers committees.

- Government must develop clear guidelines and rules for relocation of families, persons and communities to give way to granite mining. The guidelines must be based on FPIC and take into account the representations and submissions of affected families, community leaders and district administrative officials.
- Government must adopt a clear framework for fair compensation in cases of relocations. The nature and level of compensation must be informed by best practises, international norms and the personal circumstances of affected families. The compensation framework must also ensure that procedures in the compensation guideline ensure adequate notice is given; transportation is facilitated; timeous payment of money is done; post-settlement financial support is guaranteed; and that families are relocated to alternative areas with similar or near similar environmental and climatic conditions.
- Government must review its laws on tenure security, customary and communal land rights to enhance the recognition and strength of communal rights to land. The law must clearly set out the protections in communal land rights; the remedies upon arbitrary eviction or in cases of conflict with mining rights and related guarantees. Finally, the same laws must ensure that government departments and granite companies prevent, mitigate and remedy violations to land rights and disturbance to occupation and use of land.
- Government must develop a certification framework for suppliers, such that only certified suppliers are able to export granite to international buyers. Such certification must have a score card for environmental compliance, human rights compliance, labour and employment conditions compliance and safety and health compliance.
- Government must capacitate the Auditor-General Office to work with the Zimbabwe Anti-Corruption Commission to address corruption in the production and export of granite. These agencies must also scrutinise the claim allocation system, the transportation of granite, the taxation of granite, payment of royalties and the abuse of power in favour of granite companies.
- The Government must consider joining international transparency initiatives such as the Extractive Industries Transparency Initiative (EITI). This will be a firm foundation to promote transparency and accountability in the mining sector which is currently strewn in secrecy on many aspects. Implementation of EITI would mean that all mining companies operating in Zimbabwe would be obliged to disclose all their mineral resource payments that are made to government and the Government would in turn disclose the amounts received from such companies thereby making this information publicly available.

5.4 For countries in the European Union sourcing granite from Zimbabwe

- The European Union must tighten legal, policy and institutional measures to ensure that companies from member states import granite sourced in a responsible way that respect for human and labour rights. This approach is comparable to the legal framework established under the Kimberly Process Certification Scheme or the Clean Diamond Act of the USA. Under this framework, the importation of uncertified black granite is prohibited.
- In the same vein, the European Union frameworks for international trade must engage the Zimbabwean government representatives and encourage them to certify their granite prior to its sale. Such certification will be granted to producers that have complied with environmental commitments, labour and employment conditions, human rights obligations and safety and health commitments under the law.
- The EU member states must fund research, advocacy and other initiatives in the natural resource governance sphere. For Zimbabwe, CSOs have conducted research that have been published. Some of the research has ultimately led to the development of model Guidelines, model laws and regulations and model policy frameworks for government departments to consider.

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List of Legislation

- Constitution of Zimbabwe, 2013.
- Mines and Minerals Act Chapter 21:05
- Explosives Regulations
- Mining (General) Regulations
- Mining (Managements and Safety) Regulations
- Mining (Health and Sanitation) Regulations
- Mines and Minerals (Custom Milling Plants) Regulations
- Gold Trade Act
- Labour Act
- Precious Stones Trade Act
- Environmental Management Act
- Environmental Regulations
- Forestry Act
- Water Act
- Zimbabwe National Water Authority Act

Annex 1: People interviewed

Stakeholder	Specific persons/ officials	Disaggregation	Data collection tool
Natural Stone Companies Natural Stone Export Company Z.I. Quarries CRG Quarries Ilford Mining Services	Financial Director n/a n/a Administrator	One male and one female	Telephone interview and short questionnaire
Rural District Councils Mutoko RDC Mt Darwin RDC	Council CEO Council CEO	Two male chairpersons	Face to face interviews
Community Members Ward A & B (Mutoko) Ward C (Mt Darwin)	2 Councillors 1 Councillor	Two males One male	Face to face interviews
Quarry Employees Natural Stone EC Z.I. Quarries CRG Quarries Ilford Mining Services	Foremen/supervisors (senior employees) General employees Security Cooks	One senior supervisor Nine employees Mutoko Five employees Mt Darwin.	Questionnaires and FGDs
Community Members & Leaders Traditional Leaders: Mutoko & Mt Darwin Community Members	Two traditional leaders from Mutoko One traditional leader Mt Darwin 40 members from different affected wards	males only 35 members from Mutoko and 5 from Mt Darwin	Face to face interviews Focus Group Discussions
Regulatory Bodies Department of Mining Department of Labour Department of Environmental Affairs Chamber of Mines Zimbabwe Investment Development Agency Law enforcement: police Anti-Corruption Commission	Provincial Mining Director District Labour Officers District Environmental Officers General Secretary Company Secretary CID: Minerals, Flora and Fauna Unit Chairperson	70% males and 30% females	Questionnaires (Telephone interviews) Telephone interviews using structured and unstructured questions
Civil Society Trade Unions & Human Rights NGOs	Zimbabwe Congress of Trade Union Granite Mining Workers Union Mutoko Residents Associations Mutoko Granite Development Association Mutoko Association for Socioeconomic Transformation	One representative Two representatives Two representatives from Residents Associations\ Two representatives from Granite Development Association	Face to face interviews WhatsApp conversations and telephone calls Face to face interview

Annex 2: Location of mining companies in Mutoko

Mining Company	Ward	Villages of Ward
Jintings CRG ZIQ Ilford Red	Nyamuganu Ward 5	Katiyo-Chakumbidza Gurure Chisakuwana Chisango Nyamakope 1 & 2 Kativhu
Natural Stone	Chindenga Ward 2	Chisango Makokoro Kativhu
Surewin Longlui	Nyamutsahuni Ward 10	Gwenambira Mabvuta Zisengwe
	Nyamukapa Ward 11	Chawasarira
Natural Stone Ilford Red	Kabasa A Ward 7	Makochera Mungaze
Natural Stone Ilford	Kabasa B Ward 6	Chiutsi

Annex 3: Section 315 of the Constitution and the award process in law

This section of the constitution is central to the award of mineral concessions such as granite mining claims to ensure transparency, honesty, cost-effectiveness and competitiveness.

315 Procurement and other governmental contracts

- (1) An Act of Parliament must prescribe procedures for the procurement of goods and services by the State and all institutions and agencies of government at every level, so that procurement is effected in a manner that is transparent, fair, honest, cost-effective and competitive.
- (2) An Act of Parliament must provide for the negotiation and performance of the following State contracts—
 - (a) joint-venture contracts;
 - (b) contracts for the construction and operation of infrastructure and facilities; and
 - (c) concessions of mineral and other rights;

The Mines and Minerals Act lays out the official award process for claims. All applicants for a claim are required to first obtain the Prospecting License (PL).²⁹ In law, the issuance of a PL should be a rigorous exercise where the Mining Commissioner and Permanent Secretary consider every application before issuing it. An applicant must obtain one PL per each claim they intend to peg.

By law, once an applicant has a PL, they hire an Approved Prospector (AP) to prospect and peg a claim on their behalf. An AP is a Zimbabwean individual over the age of 18 who is registered by the Ministry of Mines as per the Mines and Minerals Act. The key issue in the award process is in the applicant's choice of land to peg for a claim. The Act classifies land into two groups: (i) land that is open to prospecting and (ii) land that is closed to prospecting. While some land types such as National Parks, schools and orchards are by default, closed to prospecting, the Ministry of Mines retains the power to classify land as open or closed to prospecting.

By law, if an applicant chooses open land, the approved prospector notifies the owner or occupant of the land of the intention to prospect. It is important to note that mining takes precedence over all other uses of land and therefore the approved prospector only must notify owners and occupants of land. Once notification has been made, the approved prospector proceeds to peg one claim per each prospecting licence. Upon completion of pegging, the AP applies for a registration of the claim.³⁰ The mining commissioner then assesses the application as per the criteria laid out in the Act. If the Mining Commissioner (MC) approves the application, a registration certificate for the block of granite claims is then issued. If the MC rejects the application, the applicant can make necessary adjustments and resubmit the application until the registration certificate is issued.

If the applicant chooses land that is closed to prospecting, they have the option of either (i) applying to the Ministry for the land to be opened to prospecting or (ii) requesting the Mining Affairs Board (MAB) to challenge the closed status of the land in the Administration Court. If the applicant chooses to apply to the Ministry, the MAB considers the application and upon consultation with the owner or occupant of the land, decide whether to open the land to prospecting or not. If the land is opened to prospecting, the approved prospector proceeds to peg a claim per each prospecting license as outlined in the preceding paragraph. If the applicant chooses to request to challenge the status of the land in court, the Mining Affairs Board first considers the request and either approves it or rejects. If it is approved, the applicant can then

²⁹ By design, the prospecting license was a prerequisite as all applicants were expected to explore for minerals first before pegging a claim however in reality, applicants often have confirmation of a deposit before they apply for a license and thus this is a formality.

³⁰ Or block of claims if they are up to ten claims, or blocks of claims if there are over ten claims pegged.

make their case before the Administration Court which decides whether to open the land to prospecting or keep it closed. If it is opened to prospecting the approved prospector proceeds to peg a claim per each prospecting license as outlined in the preceding paragraph.

A registration certificate for a block of granite claims entitles the holder to mine the area for as long as the deposit can be mined, granted the holder pays annual fees for the license, pays royalties and submits the required returns.³¹ The State however retains the right to cancel the certificate if the holder fails to honour their obligations.

As stated earlier, the actual awards process is conducted as per the Ministry of Mines' Procedure Booklet. The procedure booklet attempts to simplify what is in the Act. Under the booklet, a prospecting license must be obtained as the first step of obtaining a claim. However, in Ministry procedure, this step is simplified whereby the PL is issued over the counter to any Zimbabwean over the age of 18 or to a registered company which applies for it. However, in some cases, the issuance of the prospecting license may take up to two weeks.³² In practice, all applicants meeting the preceding criteria are issued with a prospecting license by the Mining Administration Officer, who is usually a junior official.

Once an applicant has a prospecting license, they hire an Approved Prospector to prospect and peg a claim on their behalf following the procedure contained in the Act. The divergence from what is in the Act arises when an applicant chooses to prospect on open land, they should first check if the land falls under a farm. If it falls under a farm of more than 100 hectares or any other land open to prospecting, the approved prospector notifies the owner or occupant of the land of the intention to prospect. If the land is part of a farm of less than 100 hectares³³, the applicant must negotiate with the farmer for permission to mine. This key difference with the process in the Act is the result of a decision to protect farmers and avoid miner-farmer conflicts. A refusal by the farmer cannot be challenged. If notification has been made or negotiations are successful in the case of small farms, the approved prospector proceeds to peg one claim per each prospecting license.

The approved prospector then produces a map which is submitted to a Ministry of Mines surveyor who conducts a site visit to verify the accuracy of the map and verify that the land is open to prospecting. If dissatisfied with the accuracy, the approved prospector is asked to resubmit an amended map. If the surveyor is satisfied with the accuracy, the application is forwarded to the Mining Administration Officer who assesses it and decides to either ask the approved prospector to amend the application or if satisfied, forwards it to the Principal Mining Director³⁴ for approval of the claim.

³¹ Records of production, safety and labour statistics.

³² Interview with an official from Provincial Mining Director, Mashonaland East, June 2021.

³³ The vast majority of farmers in Zimbabwe have far less than 100 hectare.

³⁴ A new position created to take up the powers of the now defunct Mining Commissioner position. It however does not exist in law.

Annex 4: The Constitution and awareness of constitutional rights

The Constitution of Zimbabwe is the supreme law of the land. Its preamble underscores desire for freedom, justice and equality and recognises the need for the rule of law, democracy and transparent political governance. It further reaffirms a commitment to “upholding and defending fundamental human rights and freedoms”. In addition, the preamble acknowledges ‘the richness of our natural resources’ and reaffirms ‘commitments to upholding and defending fundamental rights and freedoms’. In addition, section 11 creates an obligation on the state “to take all practical measures to protect the fundamental rights and freedoms” in the Constitution and to promote their realisation and fulfilment.

The Table below provides an examination of human rights risks associated with granite mining in communities hosting such mining activities in Zimbabwe in relation to the Constitution.

Constitutional Subject Matter	Constitution	Inquiry	Appreciation by communities
Founding values and principles	Chapter 1 & 2	Founding values relate to granite mining and the rights of communities in Zimbabwe.	Very limited appreciation
Form and nature of government	Chapter 5	Government institutions involved in the licensing process, monitoring and enforcement of laws related to the human rights obligations of mining companies?	Limited appreciation
Bill of Rights and Freedoms	Chapter 4	Fundamental rights and freedoms are impacted by granite mining activities in Zimbabwean communities.	Reasonable appreciation
Enforcement of Rights and Freedoms	Chapter 4	Domestic institutions concerned with enforcement of the human rights of communities and of employees that face some risks from granite mining companies.	Very limited appreciation
International enforcement mechanisms	Chapter 6	Regional or international human rights institutions concerned with enforcement of the human rights of communities and employees facing human risks from granite mining companies.	No appreciation
Parliamentary system	Chapter 6	Measures that can be taken by the national Parliament to appreciate and address human risks arising in the context of granite mining in Zimbabwe.	Reasonable appreciation
Law making process	Chapter 6	Use of the law-making process to address the human rights risks of communities affected by certain laws and practices in the context of granite mining.	Limited appreciation
Judicial system	Chapter 8	Measures that judicial bodies can take to be accessible to ordinary communities seeking redress against human rights risks of granite mining activities.	Limited appreciation
Independent Commissions	Chapter 12	Measures and mechanisms that can be taken by independent commissions to respond to human rights risks and violations in the granite mining sector.	Reasonable appreciation

Annex 5: Mining licence rights and customary rights

Mining licence rights	Communal/customary land rights
Stronger, more certain and individualistic.	Weak, difficult to ascertain and only accrues to a community, a family or a clan.
Well protected and strongly guarded by legislation. Several remedies available.	Protected by customary rules and community practices that are difficult to ascertain. Very few remedies available.
Enforcement mechanisms are clear under the law in case of arbitrary spoliation.	No clear enforcement mechanisms in cases of relocation, resettlement or displacement.
Rights compatible with commercial and industrial and economic development	Rights not compatible with industrialisation, commercial development or economic production.
Difficult to revoke, terminate, re-distribute, reallocate or reverse.	Easy to revoke, terminate, reallocate or reverse.
Given support, recognition and protection in national economic investment policies. Identified as key to government's economic investment policies.	Not given adequate recognition or protection under national land policies. Often regarded as an obstacle to developmental agenda.

Annex 6: Differences between EIA and EMP framework

Environmental Impact Assessment	Environmental Management Programme
<p>EIA process profiles social impacts according to the type of developmental projects being undertaken. For Mining Projects, the following are scrutinised:</p> <ul style="list-style-type: none"> • Disturbance of both humans and wildlife by noise from blasting. • Competition with local cultures, traditions and life-styles. • Increased demands on services and facilities in local communities. • Social and cultural conflicts affect community stability. • Secondary population growth. • Displacement of local communities. • Health problems associated with dust. • Development of schools, hospitals and recreational facilities. • Standard of living. 	<p>Is a site-specific plan developed to ensure that all contractors and subcontractors comply with the environmental conditions of approval for the project and that the environmental risks are properly managed:</p> <ul style="list-style-type: none"> • Establishes agreed performance criteria & objectives as well as the following: • Detailed prevention, minimisation and mitigation strategies or action programs. • Details of the proposed monitoring of the effectiveness of remedial measures. • Details of implementation responsibilities for environmental management. • Reporting requirements and auditing.