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INFORMATION ABOUT NAMIBIA'S LAW

**SUSTAINABLE MINING & ENVIRONMENTAL, SOCIAL, GOVERNANCE (ESG)
PRACTISES (PART 2)**

The role of the mining industry in meeting economic development while also meeting the obligation of environmental and community protection

Sustainability efforts overlook community's understanding of sustainability

While the world benefits from mineral products essential for fuel and raw materials for industrialization, the associated adverse environmental and social problems falls largely on indigenous people and local communities or constrains the achievement of other sustainable development goals. Typical problems involve health problems linked to air pollution, displacement of communities due to tailings and lasting degradation of soils, pollution of underground and surface water systems with negative impacts downstream and lasting degradation of soils, biomass and ecosystems. The inherent instability in mine employment create social and health related problems that may be complex to resolve. The recent controversy around the announcement by B2Gold of the phased downscaling of its operations after realizing N\$25b bring to mind how affected communities may be excluded from the benefit stream generated by mining (jobs, social investment, royalties) while feeling the brunt of social and environmental impacts.

Despite the protections offered to communities by human rights agreements (eg United Declaration on the Rights of Indigenous Peoples (UNDRIP), the African Charter), mining governance largely relies on Namibian national institutions and Namibian legal frameworks. The biggest challenge may be inadequate laws, the sluggish implementation of regulations, inadequate penalties or the lack of enforcement of penalties. Developing countries are often much

slower in accepting community consultation and engagement principles. In Namibia's Environmental Management Act 7 of 2007 (EMA) the practice is enshrined as a core principle for environmental management but proper implementation thereof may be problematic.

In respect of stakeholder engagement, compared with government, employees, unions, and regulators, the local community is the most voiceless group. This despite the fact that this group has the most diverse preference and demands, especially considered from the viewpoint that mine sites may be earmarked for land belonging to indigenous peoples or communities with low income and vulnerable status. Some communities might want to stop mining altogether. Others might want to ensure that the community benefits from mining or that mining won't damage the environment or cause the community harm. On the other hand, community-related risks in the form of delays, from the perspective of mining companies, may result in additional costs or even shut downs.

So which best practices can Namibian companies adopt to lessen the negative environmental and social impacts on communities?

➤ **Consent, Consultation, Demographics of Communities & Grievance**

Community members should have the right to consent or withhold consent to mining activities and consultations should be ongoing throughout the life of the mine. The community's perspective on sustainability is often overlooked, whereas in mining companies it may be one-dimensional, as it may not appropriately consider differences amongst people. Women and men possess different perceptions, responsibilities, and knowledge towards natural resources. Gender divisions of labour relate substantially with race, age, ethnicity, and income standard. Women's plight only is exposed at mine closure or with job losses. In areas governed by traditional leaders, broader consultation is required. In considering diversity at the outset of a mining project, mining companies avoid unnecessary contradiction in mining operation and management. Mining companies have to develop internal grievance mechanisms accessible to communities and that are informal and do not require legal representation.

➤ **Transparency**

Mine governance is a significant aspect in community engagement. In this regard the mechanism for making permit/licence decisions, including the amendment of conditions and the accessibility of transparent information that includes both positive and negative aspects, need to be made available in the languages prevalent in affected communities. The information should be

independent, as well as facilitate the local community's engagement with the decision-making process and, finally, be beneficial to community development.

➤ **Corporate Social Responsibility (CSR)**

CSR should not be misused by companies to increase publicity and boost their reputations, but rather to improve the quality of life of surrounding communities especially in areas where unemployment is prevalent.

➤ **Relocation & Mine Closure**

Communities should have the right to refuse relocation to sites and relocation sites should take account of livestock, sources of income, availability of basic services (education, healthcare, water, electricity). Compensation should be negotiated prior to relocation. Communities should be timeously informed of mine closure and mine closure plans should account for environmental and retrenchment of mine workers.

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