

Evaluation of policies/regulations at each stage in the value chain by taking case of India, Tanzania and Namibia

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Why we do Evaluation of policies/regulations

- To build understanding for Audit/inspection/compliance
- Gap assessment and give recommendation to government
- Amendment in existing laws/policy intervention

Example - Evaluation of policies/regulations
(India, Tanzania, and Namibia)

Indicators	India	Tanzania	Namibia
Classification of mines	<p>Categorization based on: Types of minerals, namely metallic, non-metallic, fuel minerals and atomic minerals</p> <p>Basis of mechanization— Category A (mechanized mines), and Category B (non-mechanized mine)</p> <p>For conducting environmental impact assessment (EIA), the mines are categorized on the basis of size (category A and category B)</p>	<p>Categorization is based on investment: Large-, medium- and small-scale mines</p>	<p>Categorization is based on the size</p> <p>Small-scale mines and minerals deposits are only available to the Namibian citizens. An individual or company can have a maximum of 10 claims (size of claims 600 x 300 m)</p>

Indicators	India	Tanzania	Namibia
Permit system	<p>Well-defined, specified time-limit, and disqualification and penalty in case of violation</p> <p>Both state and Central governments are empowered to issue exploration and exploitation licenses</p> <p>Online Auctioning of mine lease has been introduced to promote transparency and accountability</p>	<p>Commission issues all exploration and exploitation licences</p> <p>No process of online auctioning</p>	<p>Minister of Mines and Energy issues all the licences</p> <p>No process of online auctioning</p>

Indicators	India	Tanzania	Namibia
Mine Safety and hygiene	Rules and regulations are properly laid down with proper benchmarks	Safety and hygiene are adequately addressed under acts and regulations	Safety and hygiene are adequately addressed under acts and regulations
Child labour	Child Labour Act prohibits the employment of children	Prohibited under the law; however, child labour is still prevalent, particularly in small-scale mines	Prohibited under the law
Groundwater	In case of groundwater intersection, a no objection certificate needs to be obtained from the concerned authority (Central Groundwater Board). Clearance is given subject to use of mine seepage	No such provision for effective use of mine seepage water	Prohibition on wastage of groundwater in boreholes, wells, shafts, mines or other excavations. A requirement of a licence to dispose of groundwater

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Groundwater	<p>In case of groundwater intersection, no objection certificate needs to be obtained from the concerned authority (Central Groundwater Board).</p> <p>Clearance is given subject to use of mine seepage water for agriculture and other public purposes</p>	No such provision for effective use of mine seepage water	<p>Prohibition on wastage of groundwater in boreholes, wells, shafts, mines or other excavations.</p> <p>License requirement to dispose groundwater extracted from a mine or during any underground work</p>

Indicators	India	Tanzania	Namibia
Land acquisition	People's consent is mandatory	No consent is required	People's consent is mandatory in case of private land
	Social impact assessment is mandatory	No such provision	No such provision
	No irrigated multi-crop area can be acquired for mining unless as a last resort	No such provision	No such provision
	Both title and non-title holders are eligible for compensation	Only titleholder are compensated	Only titleholder are compensated
	Method of compensation and R&R package is mentioned in act	Compensation is calculated as per market value	Compensation depends on negotiation No rehabilitation and resettlement is mandated by law

Indicators	India	Tanzania	Namibia
Land acquisition	In tribal areas - five-year plan for socio-economic development	No such provision	No such provision
	No declaration of land acquisition is made unless the developer or project proponent deposits the cost of acquisition with the government	No such provision	No such provision
	Construction of resettlement colonies having defined amenities in case of relocation	Provisions exist, but require strengthening	No such provision

Indicators	India	Tanzania	Namibia
CSR	CSR is mandatory and capped at 2 per cent profit (i.e., net profit before taxes for CSR corpus)	CSR is mandatory, but no financial provision defined on annual CSR expenditure	Voluntarily done by large mine only
	It is mandatory for companies to file annual return on CSR expenditure	No such provision	--
Benefit-sharing	<p>Mining Act mandates the formation of District Mineral Foundations.</p> <p>Funds are to be used for socio-economic development of the area around the mine.</p>	No such provision	No such provision

Country	Policy measures
Botswana	<ul style="list-style-type: none"> Establishment of Tribal Land Boards
Democratic Republic of Congo	<ul style="list-style-type: none"> 10 per cent of the total royalty to the Mining Fund for future generations Establishment of an entity or committee which includes representatives from local communities—0.3 per cent of the total turnover allocated to the entity for development of affected communities Mining rights holder to develop a concrete framework of social responsibility towards affected communities
Ghana	<ul style="list-style-type: none"> Mineral Development Fund: Provisioning of 20 per cent of mineral royalty in the fund to provide financial resources for the benefit of a mining community Establishment of the Mining Development Scheme for each mining community Establishment of local management committees with representation of traditional community members, representatives from women's group and youth groups

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South Africa	<ul style="list-style-type: none"> • Affirmative action: At least 26 per cent of the units of production of prospecting or mining projects should be held by historically disadvantaged South Africans • Existence of a Mining Charter (2018, draft) under the act for entrance of historically disadvantaged South Africans in the minerals and mining industry (amended in 2010)
Uganda	<ul style="list-style-type: none"> • 3 per cent royalty to lawful occupiers of land

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Environmental clearance	EIA is mandatory	EIA is mandatory	EIA is mandatory
	Cluster approach is used for small-scale mines and EIA is done for clusters.	No such provision	No such provision
	Accreditation of consultants	Registration of consultants, not exhaustive	Registration of consultants, not exhaustive

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	Bank do but not stipulated in act	Environment clearance is pre-requisite for project financing, stipulated in act	No legal mandate

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Insurance against damage	Covered in Land Act	Insurance coverage against losses, injuries, and damage to environment, communities, individual and properties due to mining operations	No such provisions
Mineral conservation	Mandatory for every lease holder to complete the exploration of the whole area at G1 level within a period of five years from the start of the lease period	No such provision	The Mining Act has provided for mineral conservation, but it doesn't have any legal mandate for G1 level exploration
	Online daily record on production	No such online system for filing daily production	No such online system for filing daily production

Indicators	India	Tanzania	Namibia
	<p>Mineral Exploration Trust</p> <p>Fund is generated by levying a cess of 2 per cent on the royalty.</p> <p>This is in addition to mineral royalty paid to the government</p>	No such provision	No such provision
	Clean energy cess - \$7 per tonne of coal for development of renewable energy	No such provision	No such provision

Indicators	India	Tanzania	Namibia
Acid mine drainage	No specific provision for controlling acid mine drainage. It is covered separately under water pollution laws	Mining regulations clearly define the procedure for placing the overburden dump so as to reduce chances of acid mine drainage	No specific provisions for acid mine drainage and heavy metals
Performance security	For mines granted lease through auction, performance security is 0.5 per cent estimated value of the reserve deposited in the bank. The security is required against any non-compliance of environmental, social, mine closure and other provisions	Rehabilitation bonds for mine closure	No such provisions

Indicators	India	Tanzania	Namibia
Mine closure	<p>Rehabilitation cost</p> <p>Coal</p> <p>Open cast - 9 lakh/ha (12328 USD/ha)</p> <p>Underground - 1.5 lakh/ha (2054 USD/ha)</p> <p>Non-Coal</p> <p>US \$4,800 per hectare in case of mechanized mines, and US \$3,200 per hectare in case of manual mines.</p>	<p>Rehabilitation bonds is deposited in banks for mine closure.</p> <p>Value of the bond is calculated by a mine closure committee</p>	<p>Section 128 (3) of the Mining Act stipulates that failure to rehabilitate a mined area properly is an offence carrying a penalty of N\$100,000 (US \$8,400) or five years imprisonment</p>
	<p>Mining companies have to submit progressive (submitted after every five year) and final closure plans</p>	<p>No such provision</p>	<p>No such provision</p>

Indicators	India	Tanzania	Namibia
Compliance and monitoring	Mandated under Mining and Environment Act	Commission and NEMC is the nodal agencies to ensure mine compliance.	Ministry of Mines and Energy and Ministry of Environment and Tourism is the nodal agencies for compliance and monitoring.
	Adequate framework/guidelines for compliance assurance, mandated under different acts	Lack of guidelines	Lack of guidelines

Indicators	India	Tanzania	Namibia
Separate judiciary	Separate environmental courts called National Green Tribunal look into environment-related complaints	No such provision	No such provision
	The Mining Act also establishes special courts for dealing with non-compliance with provisions of the Mining Act	No such provision	No such provision
	Separate courts to address grievances related to land acquisition, compensation and R&R package	No such provision	Land Tribunal has been constituted to deal with matters related to compensation and R&R issues

Indicators	India	Tanzania	Namibia
Audits	Every year, companies have to disclose production and environmental compliance in the form of an environmental statement.	Environmental control audits are done every five years. Provision for conducting self-audit, every year. An audit petition is made whenever the public complains about the project	Audit is done annually under EMA Act 2007 (section 26)
	Six monthly compliance report under EIA notification 2006		
	Star rating (non-coal mine) - The rating is based on an assessment of four area - mine management, Env & social impacts, mine closure, Mandatory to achieve four-star rating, otherwise their licence might be cancelled	No such rating exercise	No such rating exercise

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Local content plan	No such provision	The Act provides for local content to boost the Tanzanian economy and provide training and employment to the host communities	Mining Act provides for the employment and training of the host communities. But broader concept of local content plan is missing.