

# **A Critical Analysis of Zimbabwe's Mines and Minerals Bill in Relation to Strategic Minerals**

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## **Abstract**

*This paper critically analyses Zimbabwe's Mines and Minerals Amendment Bill (MMAB), which seeks to reform the outdated Mines and Minerals Act [Chapter 21:05] of 1961. While the Bill introduces progressive elements, particularly through the formal designation of strategic minerals vital to the country's economic, industrial, social, and security interests, it falls short in several key areas. The MMAB identifies minerals such as lithium, uranium, rare earth elements, and copper as strategic, and mandates that both the State and local communities hold defined stakes in their exploitation. However, the exclusion of critical minerals like gold, iron, chromium, and platinum group metals raises concerns about inconsistencies in mineral prioritisation. The paper highlights deficiencies in the Bill's failure to clearly define the "special and unique conditions" applied to strategic minerals, as well as its lack of transparent guidelines for their designation—both of which undermine investor confidence and violate international best practices. Furthermore, the MMAB centralises decision-making power within the Ministry of Mines and the Presidency, creating excessive bureaucratic overlap and enabling potential political interference. The Bill also lacks clear frameworks for contract transparency, parliamentary oversight, community benefit-sharing, competitive bidding, and decentralisation of mining governance. To address these shortcomings, the paper recommends that the MMAB be reformed to align with Zimbabwe's Constitution and international standards such as the Africa Mining Vision and Extractive Industries Transparency Initiative (EITI). A decentralised, inclusive, and*



*transparent legal framework is essential for transforming Zimbabwe's mining sector into an engine of broad-based economic growth and social development.*

**KEYWORDS:** *Strategic; Mines; Minerals; Zimbabwe; Bill*

## Introduction

Mining legislation is of great importance as they play the crucial role of defining the system of management, preservation, exploration, exploitation and the processing of minerals for their use, be it locally or for the purposes of export. Therefore, having mining legislation in place ensures that there is a common interest in terms of utilising a country's mineral resources for the purposes of attaining maximum benefit from them. Mining legislation has thus become an important aspect of a country's mining activities, more so where strategic minerals are concerned. Strategic minerals are those minerals that are regarded as being important for socio-economic development. This paper, therefore, analyses Zimbabwe's Mines and Minerals Bill in relation to strategic minerals.

The mining sector makes a considerable contribution to development. In addition to providing ample resource rents needed to finance budget deficits and infrastructure upgrades, it also provides the essential raw materials for industrial expansion. It has been noted that the mining sector within the African continent is a critical driver of employment creation, economic growth and development. In addition, the mining sector contributes significantly in terms of foreign exchange earnings and government revenues. If mining resource rents are handled appropriately, they may encourage the long-term expansion of economies. But this is contingent upon having appropriate and adequate mining laws in place.

In Zimbabwe, mining is a significant contributor to the Gross Domestic Product (GDP) and a significant source of foreign exchange earnings. It has been noted that about 50% of the country's foreign exchange revenues come

from this industry, which normally contributes 11% of GDP.<sup>1</sup> This clearly shows the mining industry's importance to the country since resource rents have been a cornerstone of every post-independence economic plan to stimulate growth.

Zimbabwe has more than 40 different kinds of minerals.<sup>2</sup> According to Schedule 2 of the Mines and Minerals Amendment Bill, nine minerals have been expressly identified as strategic. These include nuclear energy source materials as well as coal, nickel, mineral oils, rare earth minerals, lithium, copper, and uranium. However, despite their considerable economic and social advantages to our nation, gold, chromium, iron, and the platinum group metals have been omitted from the list of strategic minerals. According to its overall contribution to the USD12 billion mining sector plan, gold comes in first position, with a set portion of USD4 billion and the platinum group of metals (PGMS), which is anticipated to provide USD 3 billion.<sup>3</sup> A target of one billion was set for chrome, iron, and steel. As a result, it has been noted that these minerals alone made a significant contribution of more than USD \$8 billion in 2023 as Zimbabwe attempts to reach the US\$12 billion mining industry.

The Mines and Minerals Act (sometimes referred to as "the MMA") is the main law controlling mining operations in Zimbabwe.<sup>4</sup> The Mines and Minerals Act was created in 1983 and is both notoriously out-of-date and out-of-sync with recent changes in both local and international mining law.<sup>5</sup> The MMA is characterised by unconstrained ministerial discretion, and

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<sup>1</sup> P A Jonhera, *Comparative Analysis of the Security of Mineral Tenure Under the Mines and Minerals Act (Chapter 21:05) and the Mines and Minerals Amendment Bill 2015 In Zimbabwe*, (2018) Pretoria: University of Pretoria Unpublished Thesis.

<sup>2</sup> B A Mutingwende, *Mining Law Changes Expected from Mines and Minerals Amendment Bill*, (2023). Available at: <https://spikedmedia.co.zw/mining-law-changes-expected-from-mines-and-minerals-amendment-bill/>. (Accessed 29 September 2023).

<sup>3</sup> Mutingwende (n 2 above p 5)

<sup>4</sup> Mines and Minerals Act [Chapter 21:05].

<sup>5</sup> Mawere-Sibanda Commercial Lawyers, (2023), Available at: <https://www.maweresibanda.co.zw/changes-to-expect-if-the-mines-and-minerals-amendment-bill-of-2022-becomes-law/>. (Accessed 28 September 2023).

drafted in a prolix way; as a result, it completely fails to ensure the stability of mineral rights necessary to attract risk capital into the business. For a number of reasons, the Mines and Minerals Act also ran afoul of other laws, most notably those that dealt with land use.<sup>6</sup> Given the industry's importance to the national economy, a comparison of the factors affecting the security of mineral tenure under the MMA and the reforms suggested in the Bill has long been warranted. As a result, lawmakers intervened with the Mines and Minerals Amendment Bill H.B. 10, 2022. Due to the shortfalls of the MMA, the new Mines and Minerals Amendment Bill, which has been in the works since 2012, seeks to implement several changes to the outdated mining laws.

Of note is the fact that the Bill is progressive in that it designates strategic minerals and thus defines strategic minerals as minerals that are declared or designated as strategic in terms of this section on account of their importance to the economic, social, industrial, and security development of the country.<sup>7</sup> More so, the Bill goes further to state that special and unique conditions will apply to the exploration, ownership, exploitation, beneficiation, marketing, and development of these strategic minerals.<sup>8</sup> In addition, the proposed Bill is anticipated to make an effort to balance the interests of miners with those of all other land users, including those in communal areas, on urban grounds, or in recently relocated places, among others. Furthermore, the Bill intends to optimise mineral output, protect the security of mineral tenure, and boost the competitiveness of the mining industry. By establishing a computerised system for documenting mineral rights, referring to mineral rights as "real rights," and expediting the procedure for awarding mining rights, the Bill aims to achieve its objectives.<sup>9</sup> The Bill therefore intends to change the country's mining

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<sup>6</sup> T Gonzi, *The need to develop mining law in Zimbabwe*, (2023). London: Canon Collins Trust. Available at: <https://canoncollins.org/news/mining-law-in-zimbabwe/>. (Accessed 27 September 2023).

<sup>7</sup> Section 5 of the Mines and Minerals Amendment Bill

<sup>8</sup> The Mining Act [No 12 of 2016].

<sup>9</sup> Mutingwende (n 2 above P 3)

legislation and seeks to repeal the current parent mining Act in light of nearly 10 years of new national and international changes and issues affecting the sector and its relationships throughout the value chain.

Although the Mines and Minerals Bill (MMAB) is a progressive piece of legislation in terms of governing Zimbabwe's mining sector, particularly through its designation of strategic minerals, it is not without its own challenges.<sup>10</sup> While the designation of strategic minerals is good, the problem is that the MMAB goes further to state that special and unique conditions will apply to their exploration, ownership, exploitation, and beneficiation, marketing, and development, but these special and unique conditions are not spelled out, a scenario that contradicts international best practices.<sup>11</sup> In addition, the MMAB fails to set up clear and transparent guidelines on how strategic minerals are designated, and such a failure potentially inhibits Foreign Direct Investment (FDI) due to the lack of clarity on the special conditions and their implications.<sup>12</sup> In addition, there is too much discretionary power that is placed in one person to issue or decline the issuance of the licence, especially if both the Board and the Minister would have made recommendations after carrying out the necessary due diligence. More so, the inclusion of the State President is difficult to justify and adds unnecessary red tape and sophistication in the application process. This centralizes the application process, exposes it to political indiscretions and executive decision-making processes that might respect other considerations not connected to transparency, effectiveness, accountability, or good governance. There are, therefore, too many players involved in the licensing regime, that is, the MAB, the Minister, and the President are all involved. Apart from being time-consuming, this split licensing regime, as proposed by the MMAB, presents administrative

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<sup>10</sup> Section 5.

<sup>11</sup> The Mining Act [No 12 of 2016].

<sup>12</sup> Zimbabwe Environmental Law Association (2016) *An analysis of the Mines and Minerals Bill*.

challenges and loopholes for manipulation, corruption, and ineffective use of already scarce resources.<sup>13</sup> Based on the above arguments, this dissertation therefore seeks to provide an analysis of Zimbabwe's Mines and Minerals Bill in relation to strategic minerals.

### *Novel Contributions*

This paper contributes to the existing literature on mining law reform and resource governance in Zimbabwe in the following novel ways:

#### *1. Normative Novelty in Strategic Mineral Classification*

Unlike prior studies that generally discuss strategic minerals at a policy or economic level, this paper provides a legal–normative critique of the MMAB's selective designation of strategic minerals, interrogating the exclusion of gold, iron, chromium, and platinum group metals despite their demonstrable economic and geopolitical significance. This comparative prioritisation analysis has not been systematically undertaken in existing Zimbabwean mining law scholarship.

#### *2. Doctrinal Analysis of Undefined Legal Standards*

The paper is novel in its doctrinal examination of the MMAB's failure to define “special and unique conditions” applicable to strategic minerals, demonstrating how this legislative ambiguity undermines legal certainty, investor confidence, and constitutional principles of legality and administrative justice—an aspect largely overlooked in earlier commentaries on the Bill.

#### *3. Governance and Institutional Novelty*

Whereas previous research tends to focus on ownership, indigenisation, or investment impacts, this paper uniquely analyses the centralisation of discretionary power within the Ministry of Mines and the Presidency, highlighting bureaucratic overlap, weak checks and balances,

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<sup>13</sup> Zimbabwe Environmental Law Association 6.

and heightened risks of political interference from a constitutional governance perspective.

#### *4. Community and Parliamentary Oversight Gap Analysis*

This study advances existing literature by offering a systematic critique of the MMAB's silence on community benefit-sharing mechanisms, parliamentary oversight, and competitive licensing, linking these omissions to deviations from international best practices rather than treating them as isolated policy gaps.

#### *5. International Standards Alignment Framework*

The paper contributes a structured compliance assessment of the MMAB against international frameworks such as the Africa Mining Vision and the Extractive Industries Transparency Initiative (EITI), proposing concrete legal reforms for harmonisation, moving beyond descriptive alignment discussions found in earlier works.

## **Method**

This paper adopts and makes use of the interdisciplinary or socio-legal approach as its methodological approach. This approach allows the researcher to have an understanding of the law within a much wider social and political context through the use of numerous methods utilised in other disciplines within the social sciences field. Moreover, its research methodologies can generate empirical evidence to answer research questions.<sup>14</sup> This paper, therefore, adopts a qualitative case study design to provide a critical analysis of Zimbabwe's Mines and Minerals Bill in relation to strategic minerals. The paper is thus influenced by the interpretivist approach as it aims to have a critical and in-depth understanding of the

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<sup>14</sup> M McConville and WH Chui, 'Research Methods for law' (2017) at 3.

phenomenon under study. Data will be analysed through the use of thematic and content analyses.

## Result and Discussions

### *Zimbabwe's Current Mines and Mineral Legislation Overview*

The current Mines and Minerals Act [Chapter 21:05], which was passed in 1983, provides a framework for mining that is out of date and does not take into account recent advances in national and international mining law. The Mines and Minerals Amendment Bill H.B. 10, 2022, is a legislative intervention aimed at addressing the numerous problems in the Act, which are expected to be remedied in a new Act.<sup>15</sup>

The bill has been pending since 2012 and aims to amend various mining laws in light of the current issues plaguing the mining sector, including the failure to adequately resolve disputes involving mining titles, non-recognition of artisanal and small-scale farmers, and a lack of local mineral beneficiation. Since its enactment in 1961, the Mines and Minerals Act has undergone several revisions. The President is the owner of all minerals, and to access mineral deposits, one must apply to the Mining Commissioners for permission.<sup>16</sup> Both domestic and foreign people and businesses are welcome to engage in mining activities. The main goals of Zimbabwe's mining policy are to maintain the growth of the nation's natural resources and provide jobs. Minerals are not given preference when it comes to exploration and development.<sup>17</sup>

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<sup>15</sup> M Sibanda & G Makore, *Tracking the Trends: An Assessment of Diamond Mining sector Tax Contributions to Treasury with Particular reference to Marange Diamonds Fields* (2013) Harare: Zimbabwe Environmental Law Association (ZELA).

<sup>16</sup> Zimbabwe Mines & Minerals Act 1996 (Revised Edition), Chapter 21:05, Mines and Minerals Amendment Bill, 2007

<sup>17</sup> Muzoroza, T. (2010). *Mining Law and Policy: A comparative analysis of South Africa and Zimbabwe's mining laws and policy regimes*. Pretoria: Univeristy of Pretoria, Unpublished LLM Dissertation.

### ***Legislation Governing Mineral and Tenure Rights in Zimbabwe***

In Zimbabwe, all mining activities come under the Mines and Minerals Act,<sup>18</sup> amendments, and associated Regulations. The Ministry of Mines is responsible for the mining sector. This law is considered to be liberal and one of the most rational pieces of legislation in Africa.<sup>19</sup> Zimbabwe has been heavily dependent on the mining industry since colonial times, yet it lacks a comprehensive mineral strategy. While the Act attempts to address certain policy thrusts, it is long overdue for a truly formulated policy statement that addresses key concerns and charts the course of mineral development. These policies will help promote the nation since they will outline the sector's development goals, long-term strategy, and intent.<sup>20</sup>

### ***Rationale of the Mines and Minerals Amendment Bill in Relation to Strategic Minerals***

The following section presents the rationale for the Mines and Minerals Amendment Bill.

### ***Designation of Strategic Minerals***

The proposed legislation aims to incorporate strategic minerals, which it defines as any minerals that are important to Zimbabwe's industrial, social, economic, or security interests. Examples of such minerals include diamonds, rare earth minerals, lithium, copper, and uranium, which is used as a nuclear energy source. Other minerals include mineral oils, gaseous hydrocarbons, coal, and nickel. This is a progressive provision, the designation of strategic minerals.<sup>21</sup> "Minerals that are declared or designated as strategic in terms of this section on account of their

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<sup>18</sup> Chapter 21:05 (1996)

<sup>19</sup> P Jourdan, State intervention in the mineral sector: maximising the development impact of the people's minerals assets, (2012) Paper presented at the 3rd IESE's Conference, 4-5 September, Maputo.

<sup>20</sup> Madya, N. and Muzaza, M. 2023. *Mining Laws and Regulations Zimbabwe*. Wintertons Legal Practitioners. Available at: <https://iclg.com/practice-areas/mining-laws-and-regulations/zimbabwe>

<sup>21</sup> Section 5

importance to the economic, social, industrial, and security development of the country" is how the MMAB defines strategic minerals. "Minerals for which the risk of disruption in supply is relatively high and for which supply disruptions will be associated with large economic disruptions" is a more traditional definition of strategically important minerals.<sup>22</sup> Minerals classified as critical or strategic are mostly chosen by established economies whose economic growth is largely reliant on raw materials from developing markets or economies. The supply chain in these developing economies is seriously threatened by political instability. Natural gas, coal bed or coking coal are designated by the MMAB. To add just a few, there is methane, iron ore, manganese, antimony, tungsten, lithium, tantalite, uranium, iron ore, and natural graphite.

It should be noted that the designation of some "strategic minerals," which are essential feedstocks for other economic sectors, will be governed by explicit and transparent rules established under the new Minerals Development Act. These parameters will include:

- Iron/steel (ferrous ores), polymers (fossil fuels), and base metals are used in manufacturing;
- Fertilisers (NPK) and conditioners are used in agriculture;
- Steel, copper, and cement are used in infrastructure; fossil fuels are used in power.<sup>23</sup>

To guarantee the long-term availability of key strategic minerals for domestic supply, the State will, where appropriate, restrict the extraction rates of these minerals and, if necessary, regulate the pricing of these minerals into the domestic economy.<sup>24</sup> Such pricing will give private

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<sup>22</sup> R.Coulombo, S. Dietz, M. Godunova and T.B Nielsen (2015). *Critical Minerals today and in 2030: An analysis of OECD countries* (2015). OECD Working Papers.

<sup>23</sup> Ministry of Mines and Minerals (2013)

<sup>24</sup> Mawere-Sibanda Commercial Lawyers, (2023), Available at: <https://www.maweresibanda.co.zw/changes-to-expect-if-the-mines-and-minerals-amendment-bill-of-2022-becomes-law/>. (Accessed 28 September 2023).

investors a fair rate of return. Furthermore, in order to support economic activity downstream, the ZMDC will be entrusted with creating vital mineral feedstocks that may be provided into the domestic market at developmental prices or utility returns.

An inclusive Minerals Development Board will evaluate the designation of "strategic minerals," justifying any such designation in a transparent, impartial, and law-abiding way, all while adhering to the new Minerals Development Law's legal requirements.

Zimbabwe is not the only country to designate some minerals as strategic minerals. This is a widespread tendency as nations attempt to maintain a competitive advantage over their adversaries in the areas of technology, military might, and economy.<sup>25</sup> For instance, the National Strategic and Critical Minerals Production Act of 2015 was passed in the United States of America. Because these minerals are essential as feedstocks for other economic sectors, including industry, agriculture, infrastructure, and power generation, emerging nations are increasingly designating them as strategic minerals.<sup>26</sup>

The Bill further sets out conditions for investors who seek to exploit strategic minerals. Part of the conditions is that the State and affected communities should have a defined interest or stake in the exploitation of these minerals. This is clearly set out in Clause 6(4)(b) of the Bill, and this resonates well with section 13 (4) of the Constitution, which says: "*The State must ensure that local communities benefit from the resources in their areas*". On the same note, the Ministry of Mines officials are excluded from mining, a development that breeds corruption in the sector.

The Bill places restrictions on investors looking to exploit strategic minerals, including the requirement that the State and impacted

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<sup>25</sup> R.G Eggert. *Critical Mineral and Emerging Technologies* (2010) Volume XXVI, Issue 4. See also R. Coulombo *opcit.*

<sup>26</sup> Section 16 of The Mining Act [No 12 of 2016].(Kenya)

communities have a clear interest in the exploitation of these minerals in order to benefit the local economies and social well-being. The MMAB goes so far as to declare that special and unique conditions will apply to their exploration, ownership, exploitation and beneficiation, marketing, and development, which is problematic even though the designation of strategic minerals is a desirable thing.<sup>27</sup> There is no clarification of the unusual and unique conditions. Given that they are the most valuable minerals in the nation, these "unique and special conditions" ought to be specified or covered under the MMAB in accordance with global best practices for accountability and transparency. The MMAB ought to establish transparent and unambiguous rules for the designation of strategic minerals. Failing to do so could prevent Foreign Direct Investment (FDI) since the special circumstances and their consequences are unclear.<sup>28</sup> Before an investor commits, these have to be made clear.

#### ***Concerns Regarding the Mines and Minerals Amendment Bill***

The CNRG raises a number of concerns with regard to the Bill. They argue that, after years of campaigning and activism for mining sector reform, some may wonder why the Ministry of Mines developed such a regressive amendment. The deficiency in consultation holds the solution. Throughout the bill's formulation, the Ministry of Mines did not once ask for feedback from industry participants. The proposed amendments, which eliminate any checks and balances from related government ministries and departments like the Environmental Management Agency, are not a coincidence. They promote secrecy and "sweetheart" appointments in the ministry. The content of the bill is solely the opinion of senior ministry officials.<sup>29</sup>

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<sup>27</sup> Section 5(3).

<sup>28</sup> Zimbabwe Environmental Law Association (2016) *An analysis of the Mines and Minerals Amendment Bill*.

<sup>29</sup> Centre For Natural Resource Governance (CNRG), *Analysis of the Mines and Minerals Amendment Bill*. (undated) Harare: CNRG

### ***Exploration, Quantification and Valuation of Minerals***

The topics of mineral exploration, measurement, and valuation are not adequately covered by the Mines and Minerals Bill. To truly reap the benefits of Zimbabwe's mineral endowment, a commercial strategy is needed. The CNRG, suggests that, before contract negotiations start, the unmined asset should be explored and quantified. Minerals have worth, and before any contracts are negotiated, this value should be established scientifically. This will assist the government in recognising the mineral's worth as an equity capital contribution of its own. In contrast to working capital, equity capital requires initial contributions from companies. The government will be protected by contributions to equity capital during periods of market volatility. The government is effectively giving away minerals for free, but mining corporations tend to raise billions of dollars on the stock market by simply gambling on the worth of the unmined asset. When they choose to sell their concessions to another company, they make significant profits.<sup>30</sup> After quantification, strategic minerals must be put up for auction on stock exchanges. As competitors vie for the mining rights, this will compel potential bidders to disclose the true value of the unmined asset. Professor Arthur Mutambara, a former deputy prime minister of Zimbabwe, made a compelling case for this during the GNU.<sup>31</sup>

### ***Oversight Role of Parliament***

The amendment eliminates the parliament's oversight function in contract negotiations, licensing, and the whole mining value chain. This is unusual since parliament should be carrying out its oversight duties and making sure that contracts are drafted and carried out with honesty and transparency.<sup>32</sup> Without stronger internal and external checks and balances inside the Ministry of Mines, Zimbabwe's mining industry is doomed. The

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<sup>30</sup> AFRODAD (n 17 above) p 6.

<sup>31</sup> Gonzi T, *The need to develop mining law in Zimbabwe*, (2023). London: Canon Collins Trust. Available at: <https://canoncollins.org/news/mining-law-in-zimbabwe/>. (Accessed 27 September 2023).

<sup>32</sup> AFRODAD (n 17 above) p 7.

only way to combat corruption in the awarding of mining contracts and the marketing of Zimbabwe's minerals is to make sure state institutions like the Auditor General, Zimbabwe Revenue Authority, Ministry of Finance, Environmental Management Agency, and Parliament hold the Ministry of Mines, particularly the Secretary and the Minister, accountable. We worry that the Ministry of Mines has too much power and encourages corruption since it is too independent to answer to anyone.

### ***Competitive Bidding***

Regarding competitive bidding for recognised mineral resources, the bill is silent. According to the amendment's Part III, Section 19, if two applications are submitted on the same business day, the first application received on that day will be considered to have priority over any subsequent applications.<sup>33</sup> This does not encourage competitive bidding in any manner. The government needs a more reliable and advanced system for locating investors, particularly in the case of strategic minerals.

### ***Access to Information***

Regarding the disclosure of mining contracts, the bill says nothing. Regarding the beneficial ownership of mining businesses, it remains mute as well. For the public's benefit, all mining contracts should be required to be published in both private and mainstream state media. Lack of disclosure translates into silence. Since minerals are public resources that belong to all people, nothing should be kept secret from them as long as actions are taken in the public interest. The real mining licence, which is more important to the public than the exploration licence, does not contain the same clause as section 93, which requires the Minister to publish an Exclusive Prospecting Licence in a Gazette at the licensee's expense.<sup>34</sup> Contract transparency can assist citizens in comprehending the terms of agreements that their government is entering into on their behalf, even while it is not a cure-all for

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<sup>33</sup> Part III Section 19 Mines and Minerals Bill

<sup>34</sup> Section 19, Mines and Minerals Amendment Bill

corruption in the extractive industry. Denying citizens this right is equivalent to denying them their basic right to know how their country's resources are managed by the government.

### ***Decentralization of Decision Making***

Centralised decision-making in Harare, sometimes by individuals unqualified to understand the goals and values of the community where the mining project would be located, is one of the main problems facing Zimbabwe's mining industry.<sup>35</sup> As a result, it is the powerful who are accused of profiting off Zimbabwe's natural resources at the expense of the people and the country as a whole. Since local authorities are directly accountable to the communities and are in a better position to negotiate agreements that support local development, the Bill should have decentralised and democratised the governance of the mining sector and given them more authority to negotiate mining contracts. Local governments are being disempowered by the concentration of decision-making at the Ministry of Mines Head Office, as they will have to deal with the consequences of mining long after the project is completed.

### ***Benefit Sharing***

It is a common misconception that while communities pay the costs of mining, they receive none of the rewards.<sup>36</sup> This is all too clear in Zimbabwe's mining villages. Nevertheless, despite a great deal of agitation on this issue, the amendment fails to address the key concern of how extractive enterprises will help nearby communities. The fact that mining communities have lower economic standing than communities without access to natural resources, as demonstrated by Marange, Mutoko, Hwange,

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<sup>35</sup> Madya N and Muzaza M, *Mining Laws and Regulations Zimbabwe 2024*, (2023). Available at: <https://iclg.com/practice-areas/mining-laws-and-regulations/zimbabwe>. (Accessed 28 September 2023).

<sup>36</sup> B Zikiti, *How Can Zimbabwe Leverage Its Mineral Resources for Economic Recovery and Sustainable Growth*, (2015), Johannesburg: Unpublished Law Degree Dissertation, University of the Witwatersrand.

and other cases was not taken into consideration. Rather than highlighting the rights and advantages of communities over their natural resources, the amendment aims to give the miner more control. The Bill is vague about how businesses should contribute to local content development, which is crucial for the growth of local businesses, and to make sure that mining does not continue to be an enclave industry.

### ***Transparency & Accountability***

The amendment does not provide any new rules or procedures for accountability and transparency. A local initiative for accountability and transparency is required, as is a just distribution of benefits and mining revenue.<sup>37</sup> Corporate accountability, which is the ability of people impacted by a corporation (in this case, a mining entity) to hold it accountable for its operations, is replacing corporate social responsibility around the world. Corporate accountability posits that a company's primary objective should not be financial performance, and that its stakeholders, including demands for accountability on matters such as social responsibility and environmental performance by employees and community members. The idea, which has to be valued by the mining industry, necessitates significant modifications to the legal framework that mining corporations operate under in order for the aforementioned to occur. In light of this, the Mines and Minerals Bill makes no mention of how mining corporations report on non-financial matters, such as ESG reporting, which uses instruments to encourage accountability and transparency.

### ***Dispute Resolution and Advisory Capacity***

The current Act's Mining Affairs Board will be expanded upon by the proposed Minerals Development Law to include a Minerals Development Board made up of government, labour, industry, and university

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<sup>37</sup> Mutingwende B A, *Mining Law Changes Expected from Mines and Minerals Amendment Bill*, (2023). Available at: <https://spikedmedia.co.zw/mining-law-changes-expected-from-mines-and-minerals-amendment-bill/>. (Accessed 29 September 2023).

representatives, in addition to a few chosen specialists. The planned Minerals Development Board's primary responsibilities would be to advise the minister on the issuance of exploration and mining licences and leases as well as realistic value addition, local content, talent development, and technological development targets (milestones):

- Offering advice to the Minister regarding the designation of specific "strategic minerals"; figuring out the right extraction rates and domestic pricing for these minerals; and advising the Minister regarding the suspension or cancellation of mineral rights that don't adhere to the terms of their licences or leases or the national minerals regime;
- Developing medium-to-long-term national strategies for the development of minerals; resolving disputes involving conflicting mineral property rights and domestic mineral pricing; advising the Minister on ways to strengthen the Mineral Regime, including changes to the existing laws.<sup>38</sup>

The national budget and/or a prudent mining levy will provide the Minerals Development Board with the necessary resources to carry out its obligations with the least possible negative impact on production costs. In order to make this mandate a vital state agency for supporting the development of strategic minerals and the vital economic links between minerals, the government commits to reviewing it in light of the Minerals Policy. The government will also evaluate whether it is effective to grant the ZMDC a three-month window of first sight on all newly financed geological data, including geo-survey maps and data, so that it can reserve possible reserves of strategically classified minerals.

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<sup>38</sup> Mawere-Sibanda Commercial Lawyers, (2023), Available at: <https://www.maweresibanda.co.zw/changes-to-expect-if-the-mines-and-minerals-amendment-bill-of-2022-becomes-law/>. (Accessed 28 September 2023).

### ***Comparative Literature Review: Zimbabwe and Indonesia on Strategic Minerals Governance***

Scholarly literature on Zimbabwe's mining law reform consistently highlights persistent structural and governance weaknesses in the regulation of strategic minerals. Commentators argue that while the Mines and Minerals Amendment Bill represents a symbolic departure from the colonial Mines and Minerals Act of 1961, it fails to establish clear legal criteria for the designation and regulation of strategic minerals, thereby undermining predictability, transparency, and investor confidence.<sup>39</sup> Studies further note that the Bill centralises discretionary authority in the executive, particularly the Minister of Mines and the Presidency, without sufficient parliamentary oversight or community participation, a feature viewed as incompatible with constitutional principles of accountability and inclusive resource governance.<sup>40</sup> In contrast, literature on Indonesia's Mineral and Coal Mining Law (Law No. 4 of 2009 as amended by Law No. 3 of 2020) reflects a more adaptive and policy-driven approach to strategic and critical minerals, particularly in response to global energy transition demands.<sup>41</sup> Indonesian scholarship emphasises that the legal framework explicitly links strategic mineral exploitation, such as nickel and other battery minerals to domestic value addition, downstream beneficiation, and industrialisation, supported by clearer licensing regimes and periodic legislative revision.<sup>42</sup> Although Indonesia's model has attracted criticism for environmental and labour concerns, scholars generally acknowledge that its

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<sup>39</sup> Mupfumi J and Masiya T, *An Analysis of Zimbabwe's Mines & Minerals Amendment Bill* (2015), (2016), *Policy Analysis* Vol 1. No. 1, Available at: <https://www.crdzim.org.zw/CRD%20Policy%20Analysis%20Vol%201.No.%201.pdf> (Accessed 20 December 2025)

<sup>40</sup> AFRODAD, *State of Mineral Resources Governance in Southern African Development Community*, (2022) Harare: AFRODAD

<sup>41</sup> Indonesia's Mineral and Coal Mining Law (Law No. 4 of 2009 as amended by Law No. 3 of 2020)

<sup>42</sup> AfDB, *Advancing from Nickel Mining to Downstream Processing Lessons Learned from the Indonesian Experience*, (2025). Available at: [https://www.afdb.org/sites/default/files/documents/publications/case\\_study\\_nickel\\_value\\_addition\\_indonesia.pdf](https://www.afdb.org/sites/default/files/documents/publications/case_study_nickel_value_addition_indonesia.pdf). (Accessed 21 December 2025)

mining law provides greater regulatory clarity and strategic coherence than Zimbabwe's proposed framework, especially in defining state control, investment obligations, and mineral prioritisation.<sup>43</sup> This comparative literature underscores the need for Zimbabwe's MMAB to move beyond declaratory reform and adopt clearer legal standards, decentralised governance mechanisms, and internationally aligned strategic mineral policies.

## Conclusion

The Mines and Minerals Amendment Bill (MMAB) represents an important step toward modernising Zimbabwe's mining legislation. Its recognition and formal designation of strategic minerals, such as lithium, uranium, rare earths, and copper, acknowledge the sector's critical role in driving national economic, industrial, and security development. However, while the Bill introduces progressive provisions, it also exposes significant legislative and policy weaknesses that could limit its intended impact. One of the most notable strengths of the MMAB is its explicit recognition that the exploitation of strategic minerals must benefit both the State and local communities. This aligns well with constitutional mandates for equitable benefit sharing and local development. Nonetheless, the failure to designate key revenue-generating minerals such as gold, chromium, iron, and the platinum group metals as strategic is a major oversight. These omissions risk undermining the economic value of the "strategic" designation and should be rectified in future revisions of the Bill. Furthermore, the MMAB's promise of "special and unique conditions" governing the exploration, ownership, and marketing of strategic minerals is undermined by its failure to clearly define what these conditions entail. This lack of transparency contradicts international best practices and creates uncertainty for potential

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<sup>43</sup> AfDB (n 43)

investors, potentially discouraging much-needed Foreign Direct Investment (FDI). The proposed licensing framework also presents governance challenges. The involvement of multiple actors, the Mining Affairs Board, the Minister, and even the President, introduces administrative complexity, fosters opportunities for political interference, and creates delays. Concentrating decision-making authority within the Ministry of Mines and the Presidency risks politicising mineral management and eroding accountability. The Bill's shortcomings are further compounded by the absence of clearly articulated frameworks for transparency, parliamentary oversight, decentralisation, contract disclosure, and public participation. Without these, Zimbabwe's mining sector will continue to suffer from elite capture, limited local empowerment, and corruption vulnerabilities. Accordingly, this analysis demonstrates that while the Mines and Minerals Amendment Bill represents a progressive attempt to regulate strategic minerals, it does not, in its current form, establish a coherent, transparent, and constitutionally compliant legal framework capable of effectively governing the exploitation of such minerals for national and community benefit. To fulfil its potential, the MMAB must undergo significant reform. Future iterations should:

- Include all economically and socially critical minerals within the strategic list;
- Establish transparent criteria and publicly available processes for the designation of strategic minerals;
- Reduce over-centralisation and bureaucratic red tape in the licensing process;
- Democratisise governance by empowering local authorities and communities; and

- Align with international best practices such as the Extractive Industries Transparency Initiative (EITI), Africa Mining Vision, and Natural Resource Governance frameworks.

Ultimately, if Zimbabwe is to harness its vast mineral wealth for broad-based development, the MMAB must evolve from a top-down bureaucratic framework into an inclusive, transparent, and equitable legal regime. Only then can the country transform its mining sector into a true driver of economic growth and social equity. To guarantee that the mining industry's potential is fulfilled, extensive MMAB reforms are still necessary. The authorities should ensure that, before extending the reach of the MMAB, all interested parties in the mining sector are widely consulted. The proposed expansion of the MMAB should be grounded in best regional and global practices, such as the Extractive Industries Transparency Initiative, the Natural Resources Charter, and the Africa Mining Vision, and it should be in line with the Constitution, which contains some very progressive provisions. The transformational and developmental potential of the mining industry, together with the mining laws, can only be completely realised through this process. The governance of the mining industry must be democratised and decentralised by the MMAB. It is not desirable to centralise decision-making at the Ministry of Mines Head Office. The following suggestions for managing national mineral assets should be taken into account since the existing “free-mining” (FIFA) colonial mineral regime is unsuitable for employing mineral assets to support larger development and industrialization.

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Environmental law must evolve to ensure that natural resources are used sustainably and equitably, taking into account both present and future generations. This requires a balanced approach that integrates environmental, economic, and social considerations into the decision-making process.

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