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ENGAGEMENT OF STAKEHOLDERS IN CORPORATE SOCIAL RESPONSIBILITY IN THE MINING SECTOR: A LEGAL ANALYSIS

*Eliud Kitime**

Abstract

Stakeholder engagement is necessary to foster responsible mining practices that minimise negative environmental and social impacts. This study examined whether Tanzania's CSR legal framework is effective in promoting meaningful stakeholder engagement in the mining sector. Doctrinal and comparative legal analyses were employed to evaluate the framework's clarity, consistency and compliance with international standards. The findings highlight that Tanzania's CSR legal framework has significant gaps and limitations, such as a lack of direct consultation with local communities, monitoring and evaluation mechanisms, consequences for non-compliance, criteria for priority determination, and the presence of statutory bureaucratic processes. These deficiencies impair not only effective stakeholder engagement but also compliance with international standards in supporting sustainable mining practices. Therefore, it is argued that, despite commendable legislative efforts by Tanzania to foster CSR stakeholder engagement, strategic legislative reforms are needed to promote responsible mining practices.

Keywords: *Stakeholder Engagement, Corporate Social Responsibility, Mining Sector, Responsible Mining Practices, and Tanzania.*

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1. INTRODUCTION

The mining sector plays a significant role in Tanzania's economic growth and national development.¹ Recent data from the National Bureau of Statistics indicate a steady increase in the contribution of mining and quarrying to the country's Gross Domestic Product, rising from 4.0 per cent in 2018 to 5.0 per cent in 2022.² Beyond macroeconomic contributions, mining activities have generated localised benefits, including employment opportunities and improvements in infrastructure such as roads, schools, and water facilities.³ These contributions underscore the sector's importance to Tanzania's development agenda.

Notwithstanding these benefits, mining activities have been associated with profound social and environmental challenges. Empirical studies demonstrate that mining operations contribute to environmental degradation, pollution, community displacement, and adverse public health outcomes, including increased incidences of chronic diseases such as respiratory illnesses, cancer, and hypertension.⁴ Industrial mining, in particular, has been linked to livelihood disruption and social fragmentation

¹ The United Republic of Tanzania, Ministry of Minerals, 'Investment Opportunities in Mineral Sector' (2017), at pg 1, https://www.madini.go.tz/media/INVESTMENT-OPPORTUNITIES-IN-MINERAL-SECTOR_2017.pdf accessed 24 May 2024.

² Bank of Tanzania, 'Annual Report 2022/23' (2023) <https://www.bot.go.tz/Publications/Regular/Annual%20Report/en/2023123114565911.pdf>, accessed on 23rd May 2024, at page 10.

³ Kitula, A.G.N., 'The Environmental and Socio-Economic Impacts of Mining on Local Livelihoods in Tanzania: A Case Study of Geita District' (2006) 14 *Journal of Cleaner Production* 405.

⁴ Lyatuu I., et al, 'Associations between Natural Resource Extraction and Incidence of Acute and Chronic Health Conditions: Evidence from Tanzania' (2021) 18 *International Journal of Environmental Research and Public Health* 6052.

in host communities.⁵ These adverse impacts have subjected the mining sector to sustained public and regulatory scrutiny, especially in areas directly affected by extractive activities.⁶

In response to these challenges, Corporate Social Responsibility (CSR) has emerged as a central governance mechanism for mitigating the adverse social and environmental effects of mining while enhancing its developmental benefits.⁷ CSR, in the context of extractive industries, refers to the obligation of mining companies to conduct their operations in a manner that is socially accountable, environmentally sustainable, and respectful of the rights and interests of affected stakeholders.⁸ A critical component of CSR is stakeholder engagement, which enables affected communities to participate meaningfully in decisions that influence their livelihoods, environment, and well-being.⁹

In Tanzania, CSR in the mining sector is not merely voluntary but is legally mandated through instruments such as the Mining Act, the Tanzania Extractive Industries (Transparency and Accountability) Act, and the Mining (Corporate Social

⁵ Leuenberger A., et al, 'Health impacts of industrial mining on surrounding communities: Local perspectives from three sub-Saharan African countries' (2021) 16 PLOS ONE e0252433.

⁶ Hasan, I., et al., 'CSR initiatives and stakeholder engagement amidst COVID-19 pandemic: insights using content analysis and literature review' (2024) 20(3) Social Responsibility Journal 503-537.

⁷ Jenkins, H., and Obara, L., 'Corporate Social Responsibility (CSR) in the Mining Industry - The Risk of Community Dependency' (Corporate Responsibility Research Conference, Dublin, 2006).

⁸ Collier, P., *The Plundered Planet: Why We Must—and How We Can—Manage Nature for Global Prosperity* (Oxford University Press 2010).

⁹ Yousefian, M., et al., 'Corporate social responsibility and economic growth in the mining industry' (2023) 13 *The Extractive Industries and Society* 101226

Responsibility) Regulations. These laws seek to institutionalise responsible business conduct and promote sustainable mining practices. However, despite these legal obligations, evidence suggests that CSR practices within the mining sector remain inconsistent and, in many instances, inadequate. International assessments reveal that many mining companies perform poorly on core environmental, social, and governance indicators, particularly in community engagement, grievance handling, and environmental accountability.¹⁰ At the local level, persistent community complaints relating to environmental harm and social disruption further raise concerns about the effectiveness of existing CSR mechanisms.¹¹

These concerns raise the question of whether Tanzania's mining laws adequately promote responsible business practices through effective stakeholder engagement in CSR activities. Although previous studies have examined CSR and stakeholder engagement in the mining sector¹², they have not sufficiently assessed the extent to which Tanzania's CSR-related legal framework aligns with

¹⁰ The OECD, Stakeholder Engagement and Due Diligence in the Extractives Sector of the Global Forum on Responsible Business Conduct, taking place in Paris on 26-27 June 2014.

¹¹ Maliganya, W., et al., 'Corporate Social Responsibility and the Challenges of the Regulatory Environment in the Tanzanian Mining Sector' in Msosa, S.K., Mugova, S., Mlambo, C., (eds), *Corporate Social Responsibility in Developing Countries (CSR, Sustainability, Ethics & Governance*, Springer, Cham 2023) https://doi.org/10.1007/978-3-031-27512-8_10

¹² Mbirigenda, S.K., 'Stakeholders' Involvement in Corporate Social Responsibility: The Mining Sector in Tanzania' (2016-2017) 12(1/2) *UTAFITI*; Olawuyi, D.S., *Extractives industry law in Africa* (Springer International Publishing 2018); Yang, J., and Basile, K., 'Communicating Corporate Social Responsibility: External Stakeholder Involvement, Productivity and Firm Performance' (2022) 178 *J Bus Ethics* 501-517 <https://doi.org/10.1007/s13651-021-04812-5>;

internationally recognised CSR standards, nor have they clearly established whether the law facilitates meaningful and impactful stakeholder participation.

Against this backdrop, this study critically analyses the manner and extent to which Tanzania's legal framework for stakeholder engagement in CSR within the mining sector complies with international CSR frameworks. The analysis benchmarks Tanzania's legal instruments against selected international standards, including the ILO Tripartite Declaration, the OECD Guidelines for Multinational Enterprises, ISO 26000, the UN Guiding Principles on Business and Human Rights, the IRMA Guidance Standards, and the ICMM Mining Principles. By examining the Mining Act, the Tanzania Extractive Industries (Transparency and Accountability) Act, and the Mining (Corporate Social Responsibility) Regulations, the study seeks to identify legal gaps and areas for reform to strengthen stakeholder engagement. In doing so, the research contributes to the development of a more robust, coherent, and effective CSR legal framework capable of supporting sustainable and socially responsible mining in Tanzania.

2. METHODOLOGICAL APPROACH

This study focuses on answering two critical questions. First, whether existing laws adequately promote meaningful stakeholder engagement in Tanzania's mining sector to ensure responsible and sustainable mining practices. Second, how and to what extent does Tanzania's existing legal framework for stakeholder engagement in CSR in the mining sector comply with international standards? The purpose of answering the questions is to determine whether

Tanzania's legislative framework is effective in promoting CSR stakeholder engagement in the mining sector. Therefore, the purpose shall be achieved by critically analysing the manner and extent to which Tanzania's legal framework for stakeholder engagement in CSR in the mining sector complies with international CSR frameworks.

There are several reasons for selecting the mining sector. It is a major contributor to the national economy, and effective stakeholder engagement in CSR initiatives can have substantial economic impacts. The industry also attracts foreign direct investment, which boosts growth and development. Effective engagement and international alignment can enhance investor confidence and sustainability. Mining operations cause environmental impacts, so stakeholder engagement in CSR promotes environmental sustainability. Mineral resources are non-renewable, and responsible engagement impacts mining practices. Historically, conflicts between mining companies and local communities have occurred, so engagement is necessary to prevent or reduce them. Analysing Tanzanian legal frameworks against international standards can identify gaps and improve CSR practices.

To achieve the stated purpose, the research employed doctrinal legal research to examine the certainty and consistency of existing laws regarding CSR stakeholder engagement in the mining sector. This study involved systematic and rigorous content analysis of relevant laws, including the Mining Act¹³, the Environmental

¹³ Cap 123 R.E. 2023.

Management Act¹⁴, the Tanzania Extractive Industries (Transparency and Accountability) Act¹⁵, and the Mining Corporate Social Responsibility Regulations.¹⁶ The purpose of this study was to identify the strengths and weaknesses of the laws. Correspondingly, the study employed comparative legal research to determine how and to what extent Tanzania's legal frameworks for CSR stakeholder engagement comply with international standards in promoting responsible mining practices.

3. INTERNATIONAL CSR STANDARDS

For this study, there are two categories of international CSR frameworks regarding stakeholder engagement in the mining sector. First, general CSR frameworks. Second, specific CSR frameworks for the mining sector. The general international CSR frameworks include the United Nations Global Compact¹⁷, the OECD Guidelines for Multinational Enterprises¹⁸, the ISO 26000 Guidance on Social Responsibility¹⁹, the United Nations Guiding Principles on Business and Human Rights²⁰, and the AA1000

¹⁴ Cap 191 R.E. 2023.

¹⁵ Cap 447 R.E. 2023.

¹⁶ G. N. No. 409 of 2023

¹⁷ United Nations, United Nations Global Compact (UN, 2000) <https://www.unglobalcompact.org> accessed 24 May 2024.

¹⁸ Organisation for Economic Co-operation and Development, OECD Guidelines for Multinational Enterprises (OECD Publishing 2011, updated 2023). <https://mneguidelines.oecd.org> accessed 24 May 2024.

¹⁹ International Organisation for Standardisation, ISO 26000:2010 Guidance on Social Responsibility (ISO 2010). <https://www.iso.org/iso-26000-social-responsibility.html> accessed 24 May 2024.

²⁰ United Nations Human Rights Council, Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework UN Doc A/HRC/17/31 (2011).

Stakeholder Engagement Standards²¹. Specific CSR frameworks for the mining sector include the International Council on Mining and Metals (ICMM) Principles²² and the Initiative for Responsible Mining Assurance (IRMA) Standard.²³ All categories of international CSR frameworks address stakeholder engagement differently.

3.1 Definition of Stakeholder Engagement

International CSR frameworks explain what stakeholder engagement is all about. Clause 5.3.3 of the ISO 26000 states, ‘Stakeholder engagement involves dialogue between the organisation and one or more of its stakeholders’. This statement conveys an essential element of stakeholder engagement. This implies that stakeholder engagement is essentially about communication between organisations and stakeholders. The clause adds that informal or formal meetings can involve dialogue between the organisation and stakeholders. The dialogue can follow various formats such as individual meetings, conferences, workshops, public hearings, round-table discussions, advisory committees, regular and structured information and consultation procedures, collective bargaining, and web-based forums.

https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf accessed 24 May 2024.

- ²¹ Account Ability, AA1000 Stakeholder Engagement Standard (AA1000SES) (Account Ability 2015). <https://www.accountability.org/standards/aa1000ses/> accessed 24 May 2024.
- ²² International Council on Mining and Metals, ICMM 10 Principles (ICMM, 2003, revised 2022) <https://www.icmm.com/en-gb/about-us/member-requirements/icmm-10-principles> accessed 24 May 2024.
- ²³ Initiative for Responsible Mining Assurance, The IRMA Standard for Responsible Mining (IRMA, 2018, revised 2021) <https://responsiblemining.net/resources/irma-standard/> accessed 24 May 2024.

However, the statement does not indicate what this dialogue is all about, which may affect the whole intent of stakeholder engagement in CSR endeavours. The silence has been addressed by Principle 10.1 of the ICMM Principles, which requires mining enterprises to openly and transparently identify and engage with key corporate-level external stakeholders on sustainable development issues. Thus, the dialogue between organisations and stakeholders should focus on sustainable development issues related to the business operations they undertake, and in this case, on responsible and sustainable mining practices.

In addition, even though paragraph A14 does not define stakeholder engagement, commentary paragraph 25 of the OECD Guidelines indicates that stakeholder engagement is a process. It states that stakeholder engagement involves interactive processes with relevant stakeholders. Various modes of stakeholder engagement include meetings, hearings, and consultation proceedings. What makes stakeholder engagement effective is two-way communication between the organisation and stakeholders. However, the good faith of both parties is the key to effective stakeholder engagement. Conversely, neither paragraph A14 nor its commentary, paragraph 25, addresses the power imbalances between enterprises and stakeholders, especially during stakeholder engagement, which can affect the effectiveness of promoting responsible business practices.

Furthermore, Principle 18 (b) of the UNGPs asserts that business enterprises should engage in meaningful consultation with potentially affected groups and other relevant stakeholders, as appropriate to the size of the business enterprise and the nature

and context of the operation. This principle entails consultation. It lays the foundation for effective stakeholder engagement through the term ‘meaningful consultation’; nevertheless, the phrase is vague without clear criteria defining what constitutes meaningful consultation, making the engagement of stakeholders ineffective. This vagueness in the definition of meaningful stakeholder engagement has been addressed by Chapter 1.2 of the IRMA Standard, which outlines the criteria for meaningful stakeholder engagement. It states meaningful stakeholder engagement that is proactive, inclusive, accountable, and transparent. Hence, the meaningfulness of stakeholder engagement comes from proactivity, inclusivity, accountability, and transparency.

Generally, international frameworks establish stakeholder engagement as a process. Stakeholder engagement is a process focused on two-way communication and consultation between the organisation and stakeholders. These international CSR frameworks set out procedural requirements that businesses must comply with when engaging with relevant stakeholders in their CSR initiatives.

3.2 Significance of Stakeholder Engagement

The international CSR frameworks acknowledge the importance of stakeholder engagement in developing practical CSR activities. Paragraph A14 of the OECD Guidelines emphasises the importance of engaging with relevant stakeholders. It states that business enterprises engage with relevant stakeholders to provide meaningful opportunities for their views to be considered concerning planning and decision-making for projects or other

activities that may significantly impact local communities. Hence, stakeholder engagement offers an avenue for evaluating the relevant stakeholders' expectations, interests, and demands. It provides more detail on the timing of the consideration. It denotes that consideration of the views of the relevant stakeholders occurs during CSR planning and decision-making.

Moreover, clause 5.3.3 of the ISO 26000 states the reasons for engaging with relevant stakeholders. Through stakeholder engagement, business enterprises can better understand the effects of their choices, determine how to maximise positive effects, and evaluate the veracity of their claims to social responsibility. Stakeholder engagement supports ongoing learning, satisfies legal requirements, resolves conflicts, addresses conflicting interests, offers a variety of viewpoints, promotes transparency, reviews performance, addresses stakeholder interests and responsibilities, and forms partnerships for goals that benefit both parties.

In addition, the commentary on Principle 18 of the UNGPs reveals the essence of engaging with relevant stakeholders. To enable business enterprises to assess their human rights impacts accurately, they should seek to understand the concerns of potentially affected stakeholders by consulting them directly, considering language and other potential barriers to effective engagement. Hence, this commentary suggests that stakeholder engagement enables accurate human rights impact assessment by business enterprises.

Furthermore, Chapter 1.2 of the IRMA Standard indicates the essence of undertaking meaningful stakeholder engagement.

Meaningful stakeholder engagement is likely to result in optimal outcomes for both communities and mining companies. This is supported by Clause 5.3.3 of ISO 26000, which states that stakeholder engagement assists business enterprises in addressing social responsibility by providing an informed basis for decisions.

3.4 Principles of Stakeholder Engagement

Importantly, international CSR frameworks establish the principles that constitute meaningful stakeholder engagement.

The principle of *inclusivity* requires business enterprises to provide equal access to opportunities and resources for people who might otherwise be excluded or marginalised. This means that relevant stakeholders should be afforded equal access to opportunities and resources to engage in CSR projects effectively. The principle of inclusivity enshrines not only stakeholders but also diverse methods of engaging stakeholders. Principle 18 (b) of the UNGPs reflects the principle of inclusivity in the sense of stakeholders. It shows that the stakeholders to be engaged are relevant, including potentially affected groups and other relevant stakeholders. It also asserts that what determines the relevancy of stakeholders depends on the size of the business enterprise and the nature and context of the operation. To corroborate, Paragraph A14 of the OECD Guidelines demonstrates inclusivity in stakeholder relevance, and what determines it is whether a project or activity may have a significant impact on local communities. Clause 5.3.3 of the Iso 26000 supports inclusivity by stating that when engaging stakeholders, an organisation should not give preference to an organised group because it is more friendly or supports the organisation's objectives more than another group. The clause also

adds that business enterprises should not neglect engaging stakeholders merely because they are silent. This shows the whole intent of inclusivity of the relevant stakeholders.

Another principle is *materiality*. Materiality is about the adequacy of the issues to be engaged with to promote responsible business practices. This principle appears under Principle 10.1 of the ICMM Principles, which states that mining enterprises must identify and engage with key corporate-level external stakeholders on sustainable development issues. Since the subject matter of the engagement is responsible and sustainable business practices, relevant stakeholders should be adequately consulted on the problems. This means that sustainable concerns should be addressed as comprehensively as possible to promote responsible business practices. Principle 10 further states that mining companies should proactively engage key stakeholders on sustainable development challenges and opportunities.

Responsiveness is another principle of stakeholder engagement. This principle is about timely and positive engagement of stakeholders. Because stakeholder engagement is a process, it should be quick, responsive, and positive to have a practical impact. Paragraph A14 of the OECD Guidelines demonstrates responsiveness regarding when engagement should occur. This signifies that engagement must happen in CSR planning and decision-making. This means engagement should be considered initially when CSR is planned and decided by organisations. However, the Commentary on Principle 18 of the UNGPs clarifies when engagement should be conducted, indicating that stakeholder engagement should be undertaken at regular intervals. The reason for this is the dynamic

nature of the stakeholders' concerns, interests and expectations. Hence, this principle requires stakeholder engagement before a new activity or relationship, major decisions or changes in the operation, in response to or anticipation of changes in the operating environment, and periodically throughout the life of an activity or relationship.

Moreover, *communication* is an essential principle for effective stakeholder engagement. This involves the exchange of information between parties involved in stakeholder engagement. The principle of communication requires business enterprises to have regular discussions with relevant stakeholders, typically before, during, and after undertaking a CSR project. Principle 18 of the UNGP describes the principle of communication through meaningful consultation. However, Chapter 1.2 of the ICMM Principles qualifies it by establishing criteria such as proactive, inclusive, accountable, and transparent. Paragraph A14 corroborate this by emphasising that meaningful consultation denotes providing meaningful opportunities for their views to be considered. This shows that the principle of communication requires consideration of the stakeholders' expectations and interests in CSR planning and execution. Moreover, Principle 10 of the ICMM Principles underscores the importance of communication by requiring that stakeholder engagement be open and transparent.

Therefore, according to international CSR frameworks, stakeholder engagement is more likely to be meaningful when principles are adhered to. First, a clear purpose for engagement is understood through effective communication between business

enterprises and relevant stakeholders. Second, the principle of inclusivity enables businesses to identify stakeholder interests. Third, the principle of materiality ensures that the relationship that these interests establish between the organisation and the stakeholder is direct or essential and that the interests of stakeholders are relevant and significant to sustainable development. Fourth, stakeholders have the necessary information and understanding to make their decisions through the principle of responsiveness.

4. TANZANIA'S CSR LEGISLATIVE FRAMEWORK AND ITS ADEQUACY FOR STAKEHOLDER ENGAGEMENT IN THE MINING SECTOR

The laws governing the mining sector in Tanzania are numerous; however, they can be categorised into primary and secondary legislation. The primary legislation and subjects of analysis of this study include the Constitution of the United Republic of Tanzania of 1977 as amended (from now on referred to as the Constitution), the Mining Act²⁴, the Tanzania Extractive Industries (Transparency and Accountability) Act (TEITA Act)²⁵, and the Environmental Management Act (EMA)²⁶. The secondary legislation consists of the Mining (Corporate Social Responsibility) Regulations (the Mining (CSR) Regulations).²⁷

²⁴ Cap 123 R.E. 2023

²⁵ Cap 447 R.E. 2023.

²⁶ Cap 191 R.E. 2023.

²⁷ G.N. No. 409 of 2023

This study examines the Constitution's role in establishing legal supremacy and the validity of laws, including mining and related statutes that address CSR stakeholder engagement. It examines the Mining Act to assess how well it supports stakeholder engagement and aligns with international standards. The study also reviews the Tanzania Extractive Industries (Transparency and Accountability) Act to check its support for stakeholder engagement and compliance with international norms. Additionally, it analyses the Environmental Management Act to see if it applies to mining, addresses stakeholder engagement in environmental issues, and promotes sustainable practices. Lastly, it assesses the Mining (Corporate Social Responsibility) Regulations for their adequacy and alignment with global CSR standards to foster responsible mining.

Henceforth, the study examines the Constitution²⁸ first. The Constitution provides a general, relevant framework applicable to stakeholder engagement. Article 21(2) states, 'Every citizen has the right and the freedom to participate fully in the process leading to the decision on matters affecting him, his well-being, or the nation.' Stakeholder engagement is about the participation of relevant stakeholders in matters that affect them. This provision indicates that participation is a process, and so is stakeholder engagement. The constitutional provision enshrines the aspects of participation that people must engage in. It describes matters affecting them, their well-being, or their nation. This shows that even stakeholder engagement is essentially focusing on involving CSR matters because they affect stakeholders, their well-being, or their nation.

²⁸ Cap 2 R.E. 2002.

Therefore, the constitutional provision lays down the principle of inclusivity regarding who must be engaged—every citizen. It moreover prescribes the principle of materiality—what essential issues should be engaged with stakeholders—matters affecting people, their well-being, or their nation. Inversely, the term ‘every citizen’ is challenging in two senses. Firstly, it is too broad to establish relevant stakeholders and makes stakeholder engagement complex. Secondly, the use of ‘every citizen’ may deprive non-citizens residing in the country of their rights when affected by mining operations.

Besides, the Mining Act²⁹, through Section 136(1), establishes who to engage when making a CSR plan. It establishes that the mineral rights holder must consult the local government authority, the minister for local government, and the minister for finance. However, the provision excludes the local communities as relevant stakeholders at the time of the CSR plan. This goes against the principle of inclusivity, as it may eventually affect the effectiveness of CSR stakeholder engagement in promoting responsible mining practices.

Another provision is Section 136(2) of the Mining Act. On the one hand, this section outlines what to consider when developing the CSR plan. It requires the mineral rights holder to consider social, economic, environmental, and cultural aspects. This aligns with the principle of materiality in CSR stakeholder engagement because it lays the groundwork for evaluating the local government authority’s priorities for the host community. On the other hand,

²⁹ Cap 123 R.E. 2023.

Section 136(2) vitiates the establishment of the priorities as truly per the host communities, because the basis on which it is laid is the priorities of the local government authorities, which may differ from the priorities of the host communities.

Additionally, Section 136(3) of the Mining Act sets out who is responsible for considering and approving the CSR plan. This section empowers the local government authority to consider and approve the CSR plan. This power is vital in two ways. One, it enables local government authorities to assess the seriousness of the commitment that mining companies intend to make through their CSR plan. Two, the power allows for the local government authority to check and verify that the CSR plan accommodates the priorities of the host communities, as per the essence of CSR stakeholder engagement. Nonetheless, under Section 136(3) of the Mining Act, the intended goal of accommodating the priorities of the host communities may be undermined because the approval is not from them. This is because what the local government considers a priority might differ from what the host communities consider a priority.

Section 136(5) of the Mining Act is relevant to stakeholder engagement because it defines the term “host communities”. It states that ‘host communities’ means inhabitants of the local area where mining operations occur. This definition accommodates the residents where the mining activities are taking place. However, this definition does not accommodate inhabitants of areas outside mining areas, even though they may be affected by mining activities. This is essentially degrading the essence of stakeholder engagement because victims of mining operations do not

necessarily need to be inhabitants of the area where mining operations occur. Hence, the section narrows the scope of relevant stakeholders for stakeholder engagement by excluding victims of mining operations outside the mining areas.

The other relevant statute for CSR stakeholder engagement is the Tanzania Extractive Industries (Transparency and Accountability) Act.³⁰ Its relevance to stakeholder engagement is in different ways. First, the law deals with the extractive industry. The mining aspect is a subsector within the extractive sector. Second, it has a provision that may apply to stakeholder engagement in CSR in the mining sector. Section 15(1) vests an obligation on the extractive company to submit an annual CSR report to the Committee. This section ensures transparency. Transparency is a crucial component of the communication principle for CSR stakeholder engagement. However, the section does not accommodate the right to information of the stakeholders who were engaged. This section places the obligation to report to the committee, but it is silent on stakeholders. This impairs the effectiveness of stakeholder engagement in promoting responsible mining practices.

The Environmental Management Act³¹ is a crucial legal instrument in this study because it enshrines public participation as a principle of engagement. It defines what public participation is all about. Section 7(3) of the Environmental Management Act states ‘involvement of the people in the development of policies, plans, and processes for the management of the environment’. This is

³⁰ Cap 447 R.E. 2023.

³¹ Cap 191 R.E. 2023.

relevant to stakeholder engagement because it highlights crucial components, such as people's involvement in the development and process stages. This requires mining companies to engage the public when developing the CSR plan and when executing it. Still, the term “public” is too broad to be defined with precision, as neither the section nor other sections of the Environmental Management Act specify what constitutes the public. Hence, it deviates from the concept of ‘relevant stakeholder’ because it does not specify where the public commences and ends for the sake of stakeholder engagement.

Section 81(1) of the Environmental Management Act creates an obligation to undertake an environmental impact assessment (EIA) for any person, whether a proponent or a developer of a project. This is relevant to the mining sector because, based on Item 6 of the Third Schedule to the EMA, mining, including quarrying and open-cast extraction, constitutes a project that requires an EIA. In addition, Section 89 of the Environmental Management Act requires public participation in the EIA. It requires the National Environmental Management Council (NEMC) to adopt guidelines for public participation. It specifies which section of the public may be involved in the review of the EIA. It states, ‘especially those likely to be affected by the project’. This illustrates the relevance of the stakeholder to engage with. Section 89(2) of the Environmental Management Act sets out different ways to review the EIA, such as oral solicitation and written comments. The oral solicitation may be conducted through public hearings as per Section 90(1) of the Environmental Management Act.

Importantly, Section 178(1) of the Environmental Management Act recognises the public's right to participate in environmental decision-making. It states, 'The public shall have the right to be timely informed of the intention of public authorities to make executive or legislative decisions affecting the environment and of available opportunities to participate in such decisions.' CSR development involves decisions about the environmental sustainability of the projects that companies plan to undertake. Hence, the right to participate in environmental decision-making constitutes the right to participate in CSR decision-making. It enshrines the principle of responsiveness in the engagement because the right to participate must be timely. Yet, the section can degrade its application to the mining companies because it denotes the relevance to the public authorities and not private companies. This may affect the effectiveness of efforts to encourage the public to participate in CSR issues, as mining companies can use the silence of the laws regarding them to avoid engaging the public.

Finally, the Mining (Corporate Social Responsibility) Regulations³² enshrine essential tools for the application of stakeholder engagement in CSR. The relevant regulations here are Regulations 4 and 10. Regulation 4(1) of the Mining (Corporate Social Responsibility) Regulations indicates who must be engaged during CSR development. It requires the mineral rights holder to engage with the village or street government authorities where the mining operations are taking place. Unsurprisingly, this regulation does not include local communities as relevant stakeholders to be engaged

³² G.N. No. 409 of 2023.

in the preparation of the CSR plan. It is crucial to involve local government authorities; however, it is even more important to involve local communities themselves in CSR preparation.

Likewise, Regulation 4(2) of the Mining (Corporate Social Responsibility) Regulations states who determines the CSR priorities. It indicates that the village or street government authorities determine the CSR priorities. The regulation is silent on whether to involve local communities in the determination of CSR priorities. This may affect the effectiveness of the CSR because the priorities of the local government authority may differ from those of the local communities.

Regulation 4(4) of the Mining (Corporate Social Responsibility) Regulations is also crucial for the benefit ratio of CSR projects. It indicates that the street or village shall get 40 per cent of the CSR benefits, while the other 60 per cent goes to the district, town, municipal, or city councils of the area where the mining activities are taking place. Nevertheless, the regulation does not include criteria for such distribution, because one may question the lower percentage of those who have direct impacts on the mining operations, that is, the street or village where mining operations are taking place.

Furthermore, Regulation 4(6) of the Mining (Corporate Social Responsibility) Regulations establishes who comprises the CSR Expert Committee. This is a substantial body, as far as the effectiveness of CSR in the mining sector is concerned, because of its responsibilities prescribed under Regulation 4(7) of the Mining (Corporate Social Responsibility) Regulations. Yet, the local

community is not a member of the committee. This is a serious omission that may degrade the whole essence of the CSR Expert Committee. At least one member of the street or villager could have been incorporated to ensure the priorities of the local communities are considered during CSR preparation and execution.

Lastly, Regulation 10 of the Mining (Corporate Social Responsibility) Regulations is essential because it outlines the issues to be considered in developing the CSR plan. It states that the CSR plan should incorporate economic, social, cultural, and environmental priorities as per the local communities. Regulation 10 summarises the CSR plan's practicality and its measurability through benefits and achievements.

5. GAPS, LIMITATIONS, AND CHALLENGES FROM TANZANIA'S CSR LEGAL FRAMEWORKS FOR STAKEHOLDER ENGAGEMENT IN THE MINING SECTOR

This study aims to analyse Tanzania's CSR laws for stakeholder engagement, examining laws like the Mining Act, the Tanzania Extractive Industries (Transparency and Accountability) Act, the Environmental Management Act, and the Mining (Corporate Social Responsibility) Regulations. It finds that, despite their contributions, these frameworks have gaps, limitations, and challenges that hinder effective stakeholder engagement. These issues are organised into four categories: legal clarity, decision-making criteria, accountability, and enforcement.

5.1 Legal Clarity

The subject of this study was Tanzania's legal frameworks for stakeholder engagement in the mining sector. One of the premises of the adequacy of the legal frameworks is their clarity. Hence, the clarity of the laws matters in establishing their adequacy in regulating a particular issue. Accordingly, several clarity-based gaps, limitations, and challenges in Tanzania's legal frameworks affect the effectiveness of stakeholder engagement in promoting responsible and sustainable mining practices.

5.1.1 Narrow definition of the host communities

Section 136(5) of the Mining Act defines host communities. It states that host communities are inhabitants of the local area where mining operations occur. This definition is narrow in two dimensions. First, the host communities focus on the inhabitants. However, the purpose of stakeholder engagement in the mining sector is to prevent and address the negative impacts the mining operations may have on people and the environment. This definition excludes non-residents as relevant stakeholders that may be directly or indirectly affected by the mining operations. Hence, it overlooks the impact of mining operations on people, rendering CSR planning and execution ineffective. Second, the definition captures only where mining operations take place. This means neighbouring communities are not included, even if they may be affected by the mining operations. This definition overlooks the broader regional impacts that mining operations activities may bring.

5.1.2 Absence of clarity on the nature and extent of stakeholder engagement

Section 136(1) of the Mining Act imposes an obligation on mineral rights holders to ensure consultation with the Minister responsible for local government authorities and the Minister responsible for Finance when developing a CSR plan. However, the nature and extent of consultation by these ministers are unclear, as this section does not specify them with clarity. This leaves room for interpretation when executing consultations. Eventually, this section encourages tokenistic engagement, which does not make stakeholder engagement effective.

Also, Regulation 4(1) of the Mining (CSR) Regulations requires mineral rights holders to involve the street or village government, especially where mining operations take place, in developing a CSR plan. Nevertheless, this regulation is unclear about how this involvement should be and the extent of such involvement. This absence of clarity leaves the executioners in limbo, where they sometimes do not produce the intended results.

5.1.3 No Clarity on What Constitutes a Credible CSR Plan

Section 136(1) of the Mining Act and Regulation 4(1) of the Mining (CSR) Regulations impose a responsibility on the mineral rights holder to prepare a 'credible CSR plan.' However, the word credible is too subjective to carry objective implications when applied to factual circumstances. Neither provision has sought to define or qualify what it means to be credible. This makes these laws lack the clarity needed to support stakeholder engagement in developing a CSR plan, because the term credible is subject to open interpretation.

5.2 Criteria for Decision-Making

CSR and stakeholder engagement both involve decision-making. Organisations plan and execute CSR initiatives, while regulators oversee them. Effective decisions need clear criteria to avoid arbitrariness, which can harm stakeholder engagement and responsible mining. Analysing Tanzania's CSR legal frameworks reveals gaps, limitations, and challenges due to the absence of decision-making criteria in the mining sector.

5.2.1 Lack of Criteria for Consideration and Approval of the CSR Plan

Section 136(3) of the Mining Act obligates the mineral rights holder to submit a CSR plan to the local government authority for consideration and approval. This section empowers the local government authority to consider and approve the CSR plan before its implementation.

However, this section does not establish clear criteria to guide local government authorities in making their consideration and approval. The absence of the criteria may impair decision-making on the consideration and approval of the CSR plan.

As a result, this might lead to inconsistent decision-making in similar circumstances and to arbitrary decisions by local government authorities. Also, the absence of criteria may pave the way for unlawful solicitation and corrupt undertakings to secure approval, even if the CSR plan does not meet the expectations of the relevant stakeholders.

5.2.2 Non-Existence of Criteria for Priority Determination

Section 136(2) of the Mining Act and Regulation 4(2) of the Mining (CSR) Regulations impose an obligation on the mineral rights holder to involve local government authorities to determine the priorities of the host communities. These two provisions give local government authorities the authority to establish the priorities of the host communities. Nonetheless, the two provisions do not set out the criteria that may guide the process of establishing the host communities' priorities when developing a CSR plan. Consequently, the absence of criteria may lead to confusion that may trigger debate without success in establishing the priorities of the host communities, as indicated in a Speech made by the Minister before the parliament of the United Republic of Tanzania on page 53³³, that 'there are also conflicts between authorities in overseeing the said projects.'

Moreover, the absence of criteria for priority determination may lead to setting out priorities that, to the host communities, are not priorities at all. Minister for Minerals in Tanzania heightened the effect in a Speech made before the parliament of the United Republic of Tanzania on page 53,³⁴ to the effect that 'Alongside, some of the corporate social responsibility projects do not have the quality desired despite their completion. There is no value for money in the implemented projects.'

³³ Biteko, D., Ministry Budget Speech for 2020/2021. Available at <https://www.parliament.go.tz/uploads/documents/whatsons/en/1619683617-HOTUBA%20YA%20BAJETI%20WIZARA%20YA%20MADINI.pdf> (accessed on 4th October 2023)

³⁴ Biteko, D., *supra*

5.2.3 No Criteria for Deciding Whether to Convene a Public Hearing

Section 90(2) of the Environmental Management Act gives the NEMC the power to decide whether to convene a public hearing to collect submissions or comments on the proposed project or undertaking. Yet this section does not prescribe criteria to guide the NEMC in deciding whether to convene a public hearing.

The lack of criteria in this case undermines the effectiveness of stakeholder engagement, especially when reviewing the environmental impact statements of mining companies, because a public hearing is a form of stakeholder engagement. The absence of criteria may lead to arbitrary decisions that do not favour stakeholder engagement to promote responsible mining practices in the country.

5.2.4 Lack of Publication Criteria

Section 16(1)(c) of the Tanzania Extractive Industries (Transparency and Accountability) Act empowers the extractive committee to cause the minister to publish the implementation of environmental management plans of the extractive companies to ensure transparency and accountability.

Nonetheless, this section does not specify the criteria for publication modes, timing, and frequencies. Hence, the minister responsible for the publication is not guided by the law on when, how, and how often to publish the implementation of the environmental management plans of the extractive companies. This hinders the stakeholder from having information on CSR matters as part of stakeholder engagement. Moreover, the lack of publication criteria paves the way for corruption between

extractive companies and the minister responsible for publishing CSR information.

5.3 Accountability

Effective stakeholder engagement depends on understanding the roles and responsibilities of each party to make them accountable for their roles and responsibilities. This study reveals several gaps, limitations, and challenges through a critical examination of Tanzania's CSR legal frameworks for stakeholder engagement in the mining sector. These are –

5.3.1 No Obligation for Mineral Rights Holders to Consult Directly with the Host Communities

Section 136(1) of the Mining Act requires the mineral rights holder to seek consultations from the minister for local government, the minister for finance, and local government authorities in developing a CSR plan. The obligation imposed here is directed at specified ministers and local government authorities.

Hence, the mineral rights holders have no obligation to seek consultation directly from the host communities. This undermines the mining company's accountability to host communities, which may eventually limit the effectiveness of stakeholder engagement and CSR in the mining sector.

5.3.2 No Obligation for Mineral Rights Holders to Provide Public Awareness of the CSR Project

Section 136(4)(c) of the Mining Act gives the obligation to the local government authorities to provide CSR awareness to the public in their local areas. This means that mineral rights holders

are not required by law to sensitise the CSR project from when the plan is made to when it is executed.

This section prevents host communities from holding mineral rights holders accountable for providing awareness. Consequently, the absence of such an obligation creates no accountability, which leads to ineffective stakeholder engagement in the mining sector.

5.3.3 No Role for the Host Communities

Section 136 of the Mining Act and Regulation 4 of the Mining (CSR) Regulations create significant stakeholder engagement between mineral rights holders and the government. These provisions leave the host communities with no role to play in promoting responsible and sustainable mining practices in their local areas.

The provisions do not address the role that host communities can play in developing, overseeing, or implementing the CSR plan in their local areas. This limits their accountability towards making sustainable and responsible mining practices in Tanzania.

A clear indication of poor CSR projects is a Speech made by the Minister before the Parliament of the United Republic of Tanzania on page 53³⁵. The Minister observed that, alongside, some corporate social responsibility projects do not meet the desired quality despite their completion. There is no value for money in

³⁵ Biteko, D., Ministry Budget Speech for 2020/2021. Available at <https://www.parliament.go.tz/uploads/documents/whatsons/en/1619683617-HOTUBA%20YA%20BAJETI%20WIZARA%20YA%20MADINI.pdf> (accessed on 4th October 2023)

the implemented projects. There are also conflicts among the authorities overseeing the said projects.

5.3.4 No Obligation for Extractive Companies to Report to the Local Communities

Section 15(1) of the Tanzania Extractive Industries (Transparency and Accountability) Act, inter alia, states that an extractive industry company shall submit to the Committee annual reports containing information on corporate social responsibility, thereby creating an obligation to report CSR to the Committee. This means there is no obligation for extractive companies to report to local communities on CSR initiatives.

This lack of obligation limits the accountability of the extractive companies to the local communities. The lack also impairs public access to CSR information, which is part of the principle of communication and stakeholder engagement. The South African case of *Duduzile Baleni and Others v. Regional Manager: Eastern Cape Department of Mineral Resources and Others*³⁶ emphasises that the failure of local communities to have access to information limits their meaningful consultation.

In this case, TEM applied for a mining right in March 2015, and the applicant sought confirmation of the application and requested a copy. An Environmental Assessment Practitioner confirmed the application was filed and advised the applicants to consult with representatives of TEM or their EAP. The applicants' attorneys

³⁶ *Duduzile Baleni and Others v. Regional Manager: Eastern Cape Department of Mineral Resources and Others*, CASE NO: 96628/2015

repeatedly requested a copy of the application, but the request was refused. They raised objections to the proposed mining activities, citing disruption to their way of life and the failure to provide notice of the mining right application under section 10 of the MPRDA. The Regional Manager confirmed the notice had been posted and advised the applicants to contact TEM for a copy. The applicants filed a formal objection to the mining right application and forwarded a copy to Ms Ntombela, but she refused to provide the requested document. They demanded a copy by 21 August 2015. A community meeting was held on 19 November 2015 to decide on the way forward. TEM forwarded a copy of the application to the applicants' attorneys, but filed an answering affidavit on 19 February 2016, arguing that the relief sought had been rendered moot and disputed the applicant's entitlement to interdictory relief in prayer. In July 2016, the applicants became aware of TEM's majority shareholder, Mineral Resources Limited, entering a Memorandum of Understanding, divesting its 56% share in TEM and transferring it to its BEE partner, Keysha. They sought an undertaking from TEM to provide a copy of the amendment, but TEM declined.

The High Court held that the regional manager of the Department of Mineral Resources must provide a community that will be affected by proposed mining operations with the information contained in a mining proper application if the community requests it. The rationale for such holding was given by Judge Makhubele, whose observation is essential for the right of local communities to access CSR information. Judge Makhubele observed and agreed that a community cannot engage in meaningful consultations or make informed objections to

proposed mining activities if the information contained in a mining right application is not provided to it.

5.3.5 No Consequence for Non-Compliance

Both Section 136 of the Mining Act and Regulation 4 of the Mining (CSR) Regulations recognise stakeholder engagement as an essential component of effective CSR initiatives in the mining sector. Both provisions impose an obligation to carry out stakeholder engagement. However, no provisions have been made for the consequences of non-compliance. The absence of a sanction for non-compliance degrades the accountability of the respective stakeholders to ensure responsible mining practices.

Evidence from the South African case of *Baleni and Others v. Minister of Mineral Resources and Others*³⁷ can stress the need for consequences for non-compliance with stakeholder engagement. The High Court has ruled that the Minister of Mineral Resources lacks the authority to grant a mining right to Transworld Energy and Mineral Resources (SA) Proprietary Limited (TEM) over land in Umgungundlovu, an area within Xolobeni. The applicants, who are informal land rights holders, argue that the mining area is central to their livelihoods and that the proposed activities will lead to social, economic, and ecological consequences. The applicants also claim that TEM has not made a proposal to the community on how to mitigate the adverse effects of the mining operations. The High Court has declared that the Minister of Mineral Resources lacks the lawful authority to grant a mining right unless

³⁷ *Baleni and Others v. Minister of Mineral Resources and Others* (73768/2016) [2018] ZAGPPHC 829

the provisions of IPILRA have been complied with. The applicants argue that TEM's interpretation fails to appreciate the vulnerability of communities and their way of life and that without free, prior, and informed consent, communities risk losing their rights to their land and way of being.

The effect of the judgment is that where an application for a mining right is made over land where a community has informal land rights, the Minister will be required to obtain the prior informed consent of the informal land right holders before granting the mining right. Therefore, the Minister of Mineral Resources does not have the authority to grant a mining right if the full and informed consent of the informal land rights holders has not been obtained in accordance with the prescripts of IPILRA. In effect, the judgment empowers communities to refuse mining on their land. This power also extends to other communities under customary law. This is not the case in Tanzania because the Mining Act and its regulations have not provided consequences for non-compliance in stakeholder engagement.

5.4 Enforcement

This study, through a critical analysis of CSR legal frameworks for stakeholder engagement in Tanzania's mining sector, identifies various gaps, limitations, and challenges that hinder the enforcement of stakeholder engagement, rendering it ineffective in promoting responsible and sustainable mining practices.

5.4.1 No Guidance for Providing CSR Public Awareness

Section 136(4)(c) of the Mining Act obligates the local government authorities to provide awareness to the public about the CSR

projects in their local areas. However, the section does not guide local government authorities on when, how, and how often to raise public awareness of CSR in their local areas. This enforcement challenge creates a burden on local government authorities in executing the obligation, and, as a result, the public may be hindered from acquiring CSR awareness in their localities.

5.4.2 No Guidance on Preparing CSR Guidelines

Section 136(4)(a) of the Mining Act states that every local government authority shall prepare guidelines for corporate social responsibility within its localities. This obligation is on local government authorities to prepare CSR guidelines, including stakeholder engagement. However, this section does not specify guidance on scope, contents, timelines, formats, or other related issues. The absence of guidance on preparing CSR guidelines may hinder the effectiveness of stakeholder engagement, as the section is inconsistently applied.

Mr Charles Nywagi, a PURA staff member, observed that some companies have undertaken corporate social responsibility projects without consulting the host communities. Consequently, companies end up undertaking corporate social responsibility projects that are not priorities for the host communities. Having guidelines for corporate social responsibility facilitates the practical consideration of host communities' priorities.³⁸

³⁸ Matukio Daima, <https://www.matukiodaimamedia.co.tz/2022/09/pura-kilwa-dc-wajadili-maandalizi-ya.html> (accessed on 30th May 2024).

5.4.3 Bureaucracy

Section 136 of the Mining Act and Regulation 4 of the Mining (CSR) Regulations create multiple administrative layers and processes through which the CSR plan passes before implementation. The mineral rights holder must consult with the ministers, seek consideration and approval from the local government authorities, discuss the CSR projects with the Ward Development Committee, and scrutinise and verify the CSR plan. These processes are too numerous to be accommodated within an annual cycle, given that most of the stakeholders involved are governmental officers or personnel.

Consequently, this leads to coordination complexities, overlapping responsibilities, and the politicisation of CSR initiatives, which undermines stakeholder engagement in the mining sector. In the case of *Reni International Company Ltd v. Geita Gold Mining Ltd*³⁹, the parties entered into a contract for the supply and installation of solar streetlights in Geita township. This contract was for the defendant's fulfilment of its obligations under section 136 of the Mining Act (Cap 123), as amended by Act No. 7 of 2017, as evidenced by the contract's title, which indicates that the contract was for a corporate social responsibility project in Geita. The court held that section 136 of the Mining Act explicitly states that the Local Government Authority is responsible for overseeing the implementation of the Corporate Social Responsibility action plan. Further, the court held that the Regional Commissioner and Local Authorities officers, in their capacity as overseers of the Corporate

³⁹ *Reni International Company Ltd v Geita Gold Mining Ltd* Commercial Case No 168 of 2018 (High Court of Tanzania, Commercial Division, Dar es Salaam) (Judgment).

Social Responsibility project, were not justified in interfering with the contract between the defendant and the plaintiff.

5.4.4 No Monitoring and Evaluation

Although Tanzania's CSR legislative frameworks for stakeholder engagement in the mining sector recognise the need to ensure CSR effectiveness, none of these laws has established a precise mechanism for monitoring and evaluation. This creates difficulties in tracking progress, identifying areas for improvement, and ensuring accountability, which are essential components of effective stakeholder engagement in the mining sector.

6. CONCLUSION

Stakeholder engagement is vital for effective CSR in the mining sector because the effectiveness of CSR depends on the effectiveness of stakeholder engagement in planning, deciding and implementing CSR plans. CSR in Tanzania's mining sector is a statutory creature, and so is stakeholder engagement. Tanzania has several legal frameworks which govern CSR and stakeholder engagement in the mining sector.

CSR has been implemented in the mining sector in Tanzania; however, there are concerns over such implementation. The concerns are across different aspects, including that the CSR projects executed are not priorities for local communities, and a lack of meaningful voice for local communities in developing and implementing CSR plans in their localities. These concerns are grounded in the legal frameworks governing CSR and stakeholder engagement in the mining sector, as they raise the question of whether these laws are effective enough to ensure that local

communities have a clear legal voice in CSR initiatives. This prompted a study of the effectiveness of Tanzania's legal frameworks for stakeholder engagement in the mining sector. Henceforth, this study aimed to establish the efficacy of the legal framework for stakeholder engagement in CSR in Tanzania's mining sector. To achieve this aim, this study had two questions to answer. First, whether existing laws adequately promote meaningful stakeholder engagement in Tanzania's mining sector to ensure responsible and sustainable mining practices. Second, how and to what extent does Tanzania's existing legal framework for stakeholder engagement in CSR in the mining sector comply with international standards?

In response to the first question, a critical analysis of Tanzania's CSR legal frameworks for stakeholder engagement in the mining sector has revealed several significant gaps, limitations, and challenges. They are categorised into four groups. First, clarity-based gaps, limitations and challenges, such as a narrow definition of the host communities, an absence of clarity on the nature and extent of stakeholder engagement, and ambiguity on what constitutes a credible CSR plan. Second, the absence of criteria in decision-making, which includes a lack of criteria for consideration and approval of the CSR plan, the non-existence of criteria for priority determination, the absence of criteria for deciding whether to convene a public hearing, and the lack of publication criteria. Third, accountability-related gaps, limitations and challenges such as the absence of obligations for mineral rights holders to consult directly with the host communities, to provide public awareness of the CSR project, to report to the local communities, a lack of consequence for stakeholder engagement non-compliance, and no

role for the host communities. The fourth is about enforcement gaps, limitations and challenges, which include the absence of guidance for local government authorities to provide CSR public awareness, prepare CSR guidelines, and bureaucratic provisions, and the absence of CSR and stakeholder engagement monitoring and evaluation mechanisms.

Secondly, Tanzania has achieved partial compliance with international CSR standards through its CSR legal frameworks that promote stakeholder engagement in the mining sector. Partial compliance stems from the manner and extent to which Tanzania's legal frameworks for stakeholder engagement have addressed the principles applicable to the mining sector. Areas of compliance in this study include stakeholder engagement, the necessity of stakeholder engagement, stakeholder engagement formalities, the rights and duties of parties in stakeholder engagement, and stakeholder engagement principles. There are areas in Tanzania's CSR legal frameworks for stakeholder engagement in the mining sector that fall short of the international standards. These areas include the lack of explicit provisions for local communities to determine their priorities in CSR plan development, the absence of stakeholders' rights to access CSR information and reports, and the discretionary power to decide on public hearings. These hinder the effectiveness of stakeholder engagement in promoting responsible and sustainable mining practices.

Henceforth, this study emphasises the importance of Tanzania revising and strengthening its CSR legislative frameworks to enhance stakeholder involvement and better comply with international CSR norms. Thorough legal reforms, clear guidelines,

and strong implementation mechanisms can accomplish this. This is vital for maintaining meaningful stakeholder involvement, responsible mining practices, and equitable transfer of benefits to host communities. Furthermore, the study emphasises the need not only to establish legislative rules but also to guarantee their efficient execution. Tanzania must establish effective monitoring and enforcement procedures to ensure that mining firms comply with legal requirements for stakeholder involvement and that stakeholders' rights are upheld.

Therefore, despite Tanzania's efforts to integrate stakeholder engagement into its CSR legislative frameworks for the mining industry, there remains room for improvement. Tanzania can strengthen its legal frameworks and foster more effective stakeholder engagement by remedying the identified gaps, limitations, and challenges. Eventually, the remedied CSR legal frameworks will facilitate responsible and sustainable mining practices that yield advantages for both mining companies and the communities affected by their operations.

7. RECOMMENDATIONS

This study proposes strategic legal and non-legal reforms to the existing laws governing stakeholder engagement and CSR in the mining sector to foster sustainable and responsible mining practices in the country.

7.1 Specific Legal Reforms to the Mining Act and the Mining (Corporate Social Responsibility) Regulations

Since Section 136 of the Mining Act and Regulation 4 of the Mining (Corporate Social Responsibility) Regulations do not

require direct consultation with local communities in developing CSR plans, they must be amended to include local communities as relevant stakeholders to be consulted and involved in the development of CSR plans. The purpose here is to include relevant stakeholders in the development of CSR plans.

Additionally, it is necessary to amend Section 136(2) of the Mining Act and Regulation 4(2) of the Mining (Corporate Social Responsibility) Regulations to vest the power to determine priorities for CSR plan development in the local communities themselves, rather than solely in local government authorities. The reason here is that what appears to be a priority to local government authorities does not necessarily appear to be a priority to the local communities.

Third, a new provision to the Mining Act and the Mining (Corporate Social Responsibility) Regulations is recommended to introduce penalties for non-compliance with stakeholder engagement requirements, such as fines or suspension of mining licenses. The purpose of such a new statutory provision is to incentivise adherence to the legal obligation to engage stakeholders in CSR in the mining sector.

7.2 Specific Legal Reforms to the Tanzania Extractive Industries (Transparency and Accountability) Act

Sections 15 and 16 of the Tanzania Extractive Industries (Transparency and Accountability) Act are recommended for amendment for three purposes. One is to grant stakeholders the right to access CSR information and reports submitted by extractive companies to the Extractive Committee. Two is to mandate the publication of comprehensive CSR reports to provide the public with CSR information. Three is to broaden the scope

of CSR information to be published, not just environmental management plans.

7.3 Specific Legal Reforms to the Environmental Management Act

Section 90(2) of the Environmental Management Act needs to be amended for two reasons. First, making public hearings mandatory for EIA reviews is a form of stakeholder engagement. Second, to either remove the discretionary power of the NEMC to decide whether to convene such hearings or to establish criteria that can guide the NEMC in deciding whether to convene public hearings.

7.4 Establishment of an Independent Oversight Body

Since there is no statutory mechanism to track CSR progress from the plan stage to execution, an independent oversight body needs to be established. The key role of such a body shall be to monitor the implementation of CSR legal requirements by mining companies and ensure compliance with stakeholder engagement provisions.

7.5 CSR Public Awareness

The existing Mining Act and the Mining Corporate Social Responsibility Regulations require local government authorities to provide public awareness of CSR. This task can be carried out effectively if training and capacity-building programs are provided to local government authorities, mining companies, and local communities on the importance of stakeholder engagement, their rights and duties, and the mechanisms available for effective participation. Hence, the study recommends conducting awareness-raising campaigns not only with local government authorities but also with stakeholders, particularly local communities, to inform them of their rights to participate in

decision-making processes related to mining projects and to access CSR information and reports.

7.6 Regular CSR Policies and Laws Review

As the mining sector evolves, the study proposes a periodic review of CSR policies and laws to promote stakeholder engagement and alignment with international CSR standards. The reason is that the review will update the legal frameworks as necessary based on the findings and evolving global best practices in stakeholder engagement.