



**COMPLIANCE TO ENVIRONMENTAL IMPACT
ASSESSMENT REGULATIONS BY A GOLD MINING COMPANY
IN ZAKA DISTRICT, ZIMBABWE - A TRAVESTY OR TRIBUTE
TO ENVIRONMENTAL DEMOCRACY AND JUSTICE**

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Abstract:

Zimbabwe's Environmental Management Act has provisions promoting the conduct of environmental impact assessment (EIA) prior to project implementation to protect the environment and environmental rights. Using data collection methods inspired by phenomenological study, this paper discusses if EIA processes by a gold mining company had mainstreamed or marooned 'access rights' which are the cornerstone of environmental democracy. While the Zimbabwe's EIA policy is applauded for covertly mainstreaming environmental democracy, research findings suggest that there exist gaps in the policy framework, policy and practice in promoting comprehensive environmental democracy. EIA processes are done to fulfil legal obligations but with little motivation to protect community interests as participation is symbolic. It is recommended to redesign EIA policy and embed broader attributes of environmental democracy such as locals' participation in all EIA stages and inclusion of experts on community issues in the EIA review panel to promote fairness, inclusivity, transparency during EIA.

Keywords: environmental democracy, access rights, meaningful participation, environmental impact assessment, Zimbabwe, mining

1. Introduction

All countries desire to develop but the desire to develop is very high in the least developed countries thereby turning every 'stone' to bring about the much needed

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development (Janka 2012). One economic ‘stone’ that has been turned in the natural resources sector is mining. Global and regional mining companies have been heavily investing in the mining of precious minerals in some of the developing countries such as Zimbabwe in the face of the country’s fragile economic recovery after a decade long recession (Zimbabwe Environmental Law Association (ZELA) 2010; Mathende and Nhapi 2017). Mining production rose from 4.9% in 2009 to 65% of the GDP in 2010 (ZELA 2010). However, the environmental image of mining has been controversial worldwide leading to considerable public suspicion on the mining industry’s commitment towards environmental protection (Taruvunga, Mushunje and Gumpo 2016). While mining is believed to bring about the much needed development, it is not environmentally benign unless some sort of precautionary measures are taken (Janka 2012). In some cases, extraction of minerals has caused environmental burdens thereby causing social destabilization and instigating conflicts in mining regions, hence the ‘resource curse’ adage (ZELA 2010). Antoci, Russu and Ticci (2019) argues further that there has been a positive correlation between growth in mining activities and increase in mining-related conflicts globally. The mining sector has a known history of poor environmental protection though with a few “flagship” mining projects where resource extraction has proceeded in harmony with the environment (Taruvunga et al. 2016). Mining by its nature is known to be environmentally destructive which then translates to negative social and economic impacts on local communities (ZELA 2010). Many mining activities have flagrant disregard of the country’s environmental laws greatly exposing the rural poor to ecological and livelihoods security risks (Mathende and Nhapi 2017). The environmental footprint of mining is increasing in rural areas where poor communities interact with mining operations thereby making mining’s environmental consequences a cause of concern (Antoci et al. 2019). The consideration of environmental issues when implementing development policies such as mining is justifiable not only from the perspective of making development sustainable but also enforcing a human right (such as the right to live in healthy environment) (Janka 2012). The Aarhus Convention on Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters of 1998 articulates that for citizens to assert this right, they must be informed and actively participate in decision-making and have access to justice in environmental matters (Toxopeus and Kotze 2017). According to Aryee (2014), environmental democracy and governance are systems of government deeply embedded in multi-stakeholder and community participation in environmental decision-making because environmental problems do affect almost everyone. ZELA (2010) describes some of the elements of community participation as partaking in decision making processes, access to information and access to justice. Therefore, community participation in environmental decision making can be made a reality if ‘access rights’ or civil based instruments (CBIs) (participation in decision making, access to information and justice) are mainstreamed in environmental management tools like EIA.

Access rights have gained prominence in international and national environmental policies such as EIA as their use influence achievement of sustainable development as well as environmental democracy and justice. However, Taruvinga et al (2016) observes that EIA does not automatically translate into ‘these’ as many mining companies violate EIA commitments. Though access rights are now part of many national constitutions, environmental legislation and conditions attached for project owners to access EIA licenses (Toxopeüs and Kotze (2017), many Zimbabwean communities’ interests as well as procedural environmental rights are being marginalised through half-hearted use of CBIs, limited community consultations, symbolic participation in decision making and limited access to environmental information (Gapu 2010). This poses a threat not only to environmental protection and sustainable development but also environmental democracy and justice since procedural environmental rights are a constitutional foundation of the two. Toxopeus and Kotze (2017) further reports that the substantive objective of environmental justice and democracy can be achieved if local communities who do not wield public power and hail from ‘outside’ the traditional nucleus of public power have the procedural juridical means (such as public participation, access to information and justice) to participate in the governance of environmental matters.

2. Juxtaposing EIA to environmental democracy in the mining sector

Environmental democracy advocates for comprehensive public participation to ensure decisions on environmental issues or projects that affect the broader environment adequately capture citizens’ interests (Hashim, Ristak and Laili 2016). Fritsch (2015) calls for the public to participate before environmental decisions are made and challenge environmental decision-making that disregard human rights or harm the ecosystems they are dependent on. Through Principle 10 of the Earth Summit of 1992, governments pledged to promote sound environmental governance and democracy by being more transparent, inclusive, accountable and open environmental decision-making to public input and scrutiny in all sectors including the extractive sector (Foti 2008). This can be done through implementation of CBIs or ‘access rights’ as envisioned by the Aarhus Convention (Toxopeüs and Kotzé 2017). Many countries are implementing EIA for it contributes to sustainable development and fosters the implementation of substantive environmental rights (to live in a safe and healthy environment) and procedural environmental rights (Janka 2012; ZELA 2010).

While ‘access rights’ are fundamental pillars of environmental democracy and justice, not all governments and private corporations fulfil, provide and protect them for their citizens (CIEL 2016) despite these rights applying vertically and horizontally to the state and private sector respectively by virtue of constitutional provisions on human and environmental rights (Kotze and Du Plessis 2014). Edifying this observation, Foti (2008) is of the view that while governments have made significant headway by inserting constitutional provisions on ‘access rights’ and enacting administrative instruments such

as EIA that open up environmental decision-making, there seems to be a gap between the policy and practice. Many citizens in developing countries are still fighting for these rights that many in the United States take for granted (EPIC 2016). This observation is further supported by Lockie et al (2008) who observes that governments and mining industries have long been criticised for failing to consider the negative externalities of mining activities and the (access) rights of those affected by mining activities.

Though, EIA is regarded as one of the key tools used to promote environmental decision-making and democracy in the extractive sector (ZELA 2010), empirical evidence on the efficacy of EIA by mining projects to promote environmental democracy has produced mixed results. Lockie et al (2008) reports that coal mine operators in Bowen Basin, Australia are undertaking more comprehensive consultations with impacted communities than they are required to do under legislative provisions for EIA. Comprehensive consultation here implies that EIA processes in Bowen Basin were more than consultative but collaborative in decision making, involved two way flow of information while offering information on institutions of appeal when ‘unpalatable’ decisions have been passed. Briffett, Obbard and Mackee (2004) further reports that public participation in the Malaysian EIA processes is well established in legal statutes and policies as compared to other countries in the region as the public can comment, voice their views and reservations in the press and other publications on issues they feel they have been shortchanged. If ZELA’s (2010) definition of public participation (that entails participation in decision making processes, access to information on mining operations and even access to justice) is used, it then means EIA in Malaysia wholeheartedly enhances environmental democracy. Local’s ability to comment on environmental matters and voice their concerns if they feel their environmental rights have not been adequately considered shows that communities have access to information that makes them to actively input views and challenge what they feel to be unorthodox environmental decisions. Building on this observation, Toxopeus and Kotze (2017) argues that access rights are intertwined as the achievement and application of each right will likely impact on the realization of the other right. Despite Malaysia’s well-established legal framework that support public participation in its broadest sense through EIA, Briffett et al. (2004) reports that the quality of public comments in many EIA reports have not been encouraging, for instance, four out of the eight EIA reports submitted in 1999 had no comments and one had one comment (Briffett et al. 2004).

While environmental democracy is enhanced through ‘demand access’ of rights by the citizens, Briffett et al (2004) argues that Malaysians’ poor response to participate in EIAs was due to low awareness on the concept of EIA and their expected roles. Mining is one of the extractive sectors obliged by South African laws to conduct EIA but public participation in the process is limited due lack of information on their rights, laws that governs mining as well as information on institutions of appeal (Centre for Environmental Rights (CER 2009)). Building on this observation, Leonard (2018) report cases of tripartite collusion in South Africa between mining companies and the state and/or local community leaders in Dullstroom, Mpumalanga and St. Lucia, KwaZulu-

Natal areas where the government offered mining licenses to mining companies without having conducted proper public participation processes or sharing relevant information with the general public. Kabir and Momtaz (2011) further observes that the proponents of Meghnaghat Power Project of Bangladesh did not involve locals in all stages of the EIA process citing that the activities for the project were too technical to be understandable by the rural community. However, coal mine operators in Bowen Basin, Australia engaged affected communities beyond the legal provisions of EIA by initiating communication with them throughout the project life cycle (Lockie et al 2008). While, CER (2009) calls for project proponents to give locals detailed information about the mining activity for them to easily participate or challenge decisions taken by the mine, it seems mining companies often half-heartedly consult affected communities while some give them little or no information at all. It shows that both the state and the mining sector are not living up to their constitutionally enshrined vertical and horizontal responsibilities respectively to enhance environmental democracy and justice (Kotzé and Du Plessi 2014) through 'supply access' of procedural environmental rights. ZELA (2010) reiterates that while EIA should be done prior to mineral exploitation, the mining sector has been accused of implementing half-hearted measures that include limited participation of locals in environmental decision making. For ZELA, (2010) public participation entails participation in decision making processes, access to information on mining operations and even access to justice. However, Feyissa (2011) observes that public involvement in all the five stages of EIA process and access to EIA reports in Ethiopia has no legal provision and non-mandatory. Feyissa further reports that in other countries, EIA proponents should organize forums where the public can review final EIA reports and scrutinize decisions made while the federal government of Ethiopia obligates local administrators to work with proponents to identify and consult only a few representatives drawn from selected kebeles. In South Africa's Mpumalanga and KwaZulu-Natal mining areas, mining companies colluded with the state and local leaders to support EIA process and approve mining applications in their favor while elbowing out poor communities (Leonard 2018). Although South Africa's mining legislation prescribes a number of opportunities for the affected communities' involvement during EIA processes, mining companies often try to combine all of these into one consultation process as they try to avoid engaging the poor communities (CER 2009).

Ethiopian civil society castigates the EIA process for being consultative rather than participatory in approach (Feyissa 2011). Consultation is the second lowest tier or form of public participation where flow of information is two directional, but the proponent retains control on decision making. Challenges in implementing EIA are not peculiar to the aforementioned countries but also Zimbabwe despite having well-documented guidelines on carrying out EIA. Murombo, (2016) observes that consultation by mining companies in Zimbabwe's communal areas has tended to consist of one way information sessions where local authorities and their subordinates are simply told of a new mining project in their area but are not given a chance to scrutinize the given licenses or final EIA

report. This form of public participation points to weaknesses in the EIA policy as it does not empower local communities through access to information and documents with information. The guidelines prescribe the use of meetings which are not mandatory and unsuitable for capturing views of all stakeholders (Kabir and Momtaz 2011). While issues captured in the EIA report are multidisciplinary (cover different disciplines), this calls for EIA processes to involve a team of experts. However, EIA Conference Report (2014) observes that some Zimbabwean consultancies are unprofessional in the way they conduct EIA studies as one individual can be involved in the process. This affects not only the conduct of EIA but also ‘supply access’ of information on the nature, cross cutting impacts and remedies of challenges associated with development projects. The individual may fail to explain some issues outside one’s area of specialization making the consultant or mining companies to mislead communities by giving them too little, incorrect information or simply ask selected communities members to sign a form arguing that there is no room for objection to the mining project (CER 2009; Murombo 2016). Though failure to conduct EIA is criminalized in Zimbabwe, some mining projects obtain EIA certificates through the ‘back-door’ just to complete a checklist of all licenses before projects start (Mathende and Nhapi 2017). Edifying this view, Gapu (2010) reports that the state owned Zimbabwe Mining Development Corporation (ZMDC) was granted an EIA license while the local people were not aware of any consultation meetings having been conducted in Chiadzwa mining area. ZMDC even entered into partnership with private players to form diamond mining companies (Canadile and Mbada) that initially started operations without carrying out EIA and EIA report was done later but was not publicized.

For mining companies, gaining trust, acceptability and public consent for their operations, namely obtaining a “Social License to Operate” (SLO) is a complex and dialogic process but it is essential to avoid potential delays and costly conflicts (Antoci et al. 2019). Starke (2002) argues that if communities feel they are being unfairly treated, mining can lead to tension and sometimes to violent conflict. This is further supported by EIA Conference Report (2014) that communities tend to reject projects if they are not informed and meaningfully engaged. Though Zimbabwe has one of the most progressive environmental laws that have made it mandatory for project proponents to enhance ‘access rights’ during EIA processes, (Gapu 2010) observes that locals in Chiadzwa diamond mining area report having been given no chance for public input, scrutiny and view of EIA reports despite the state owned mining company and its private partners having been granted EIA license.

Murombo (2016) argues that the natural resources sector especially the mining sector has been a site of lack of transparency and accountability, not only in Zimbabwe, but also in other resource rich countries. Despite this status quo, Leonard (2018) observes that there is limited academic research that has been done to empirically examine the influence of mining corporations on environmental democracy through EIA processes at micro/community levels in South Africa and beyond. It is against this background that this paper seeks to examine the perception of a local community on the extent to which a

gold mining company in Zaka District mainstreamed environmental democracy and procedural environmental justice during EIA processes. The mining company had its EIA license renewed but it is failing to move to mineral exploitation phase due to community resistance. Such disgruntlement and resistance offered by locals in Chiromo communal area before the project starts exploitation is a cause of concern hence the need to check if the gold mining company had mainstreamed or marooned 'access rights' during the EIA processes. In order to make a safe conclusion that procedural environmental rights were actually respected and to know the extent of their fulfilment, one has to examine the perception of Chiromo community on the use of CBIs during EIA processes to promote environmental democracy and justice.

3. Materials and methods

This article is a product of fieldwork based evidence obtained from Chiromo communal area, in Zaka district, Zimbabwe. Chiromo communal area here refer to the following villages: Mutanda, Jeketera, Mukanduri and Rushinga. Four to seven villages make a community (Matseketsa et al 2019) hence in this study, we focused on one community. Data was collected using tools inspired by the tradition of phenomenological research to understand perceptions of Chiromo residents on the ways in which EIA by a gold mining company had mainstreamed 'access rights'. The design enabled 'inquiry from within' the experiences of residents on the use of access rights to enhance environmental democracy. The four communal villages were selected using purposeful sampling since gold claims had been pegged there, thus making studies on implementation of 'access rights' through EIA crucial. The target population were 60 household heads, 15 from each village. These were selected through purposive sampling during village meetings that were being held to discuss on the way forward after a gold mining company had been given all licenses to start site preparation and mining. Key informants like village heads, EIA consultant, EMA district head and Headman were also purposeful sampled since these were the ones who arranged public meetings to discuss about this mining venture. In-depth interviews and village meetings organized by village heads were used to collect information on their perception of EIA process as far as enhancing environmental democracy and governance during the two initial phase of the mine life cycle. Interviews and adhoc meetings allowed communities to share their experience on the use of CBIs during EIA process. The interview guide covered topics on access to information on environmental rights, notification of participation meetings, representation of stakeholders, participation during scoping, report compilation and review, feedback after consultation meetings, accessibility of EIA report and information on significant impacts. Written responses were coded using predetermined codes. The coded responses were analyzed by putting them into different ideas which became the research themes. Paraphrases or direct quotations were used to support these research themes. Experiences of research participants collected were further transcribed and analyzed as tables showing percentages and frequencies. Views of affected communities and key informants were

complemented with scholarly work that edified current findings or contradicted these findings.

4. Results and discussion

One of the principles of environmental management in the EMA Act mentions the horizontal and vertical responsibilities of all persons (including private enterprises) and the state agencies respectively to share environmental information and experiences to increase capacity of communities to address environmental issues. However, the community felt marginalized in accessing information that would have helped them appreciate mine activities and project life cycle, impacts and EIA processes. A scrutiny of Table 1 further suggests that the proponent, EIA consultant and EMA had reneged on their common but differentiated constitutional responsibilities to provide the local community with information under their purview such as operation and design of project and environment related information respectively. Though EMA was constitutionally obligated to inform the community on their environmental rights and responsibilities during EIA processes, institutions and procedures of appeal when the project violates their procedural and substantive environmental rights, they had failed to engage communities to empower them with such preliminary information before EIA processes started.

Table 1: Perspectives on access to preliminary information (N=60)

Type of information	Information supplied		Information not supplied	
	Responses	%	No of responses	%
Project design and life cycle	0	0	60	100
Site of processing plant	4	6.7	56	93.3
Awareness of EIA processes	0	0	60	100
Environmental rights	0	0	60	100
Appeal institutions	0	0	60	100

Source: Field-based surveys (Fbs) (2020).

Based on the information in Table 1, it would be plausible to argue that while the state through EMA as the licensing authority was supposed to be the ‘forerunner’ in preparing, empowering and informing local communities to actively engage project proponents, it set a wrong precedence which made the proponent and EIA consultant to ‘cut corners’ during the EIA process. They did not equip locals with important information that helped them to know about their environmental rights, responsibilities during EIA, institutions of appeal when aggrieved by decisions made or piecemeal actualization of access rights. Building on this observation, ZELA (2010) argues that as long as EIAs are carried out by proponents or the mining companies, they will still remain less effective environmental management tools to guarantee and advance community rights, environmental democracy and justice. This is further supported by Chibememe et al (2014) who argues

as long as Zimbabwe's Mines and Minerals Act has provisions guiding mining operations only while a separate Act (EMA) has provisions for prior, informed consent and meaningful consultation, these will not be actualized as mine proponents feel they are guided by the former Act. Attendance of EIA public meetings was supposed to be preceded with information sessions where communities are given preliminary information by EMA as the public trustee of communities' rights and interests. Edifying this observation, Foti (2008) reports that Ethiopian EIA processes are announced ahead of time using print, electronic and traditional media (beating of the "gong gong") in areas likely to feel the effects of the project.

An elderly resident of Chiromo community in his early 60s further added:

"In 2017, an outsider (mine proponent) came and recruited some locals who helped him to put pegs in our village (on areas suspected to have gold). We were not informed about this exercise, maybe the village head knew about it. We were only told that he was prospecting gold after he had gone." (personal communication, 2020a).

Along this continuum, another local resident in his mid-70s reported:

"In 2017, we were surprised when the village told us that he had received money for us to prepare an ancestral appeasement ceremony. We sat down as a village, agreed to send the money back to the miner through the chief...until our concerns have been addressed. The miner temporarily disappeared only to emerge during the COVID period (mid 2020). This time, only local leaders were invited to attend the meeting. Recently, the Chief wrote a letter to all affected villages that the proponent was likely to start mining operations in 2021. Before we agree? They won't get any gold here, our 'soil' (ancestors) will fight for us." (personal communication, 2020b).

Based on the above views and information in Table 1, one can infer that EIA processes seemed to have involved local leaders while marginalizing their subordinates despite EMA being duty bound to 'supply access' to relevant information to all stakeholders. Also, the conduct by the mining project is contrary to legal provisions in the Mines and Minerals Act which states that any prospecting exercise on any portion of communal or private land should occur with the consent of the occupier of the land concerned (Chibememe et al. 2014). It will not be an overstatement to argue based on the above remarks the proponent undermined access rights of communities and residents' dignity as citizens. Furthermore, actions by traditional leaders to force locals to conduct appeasement ceremonies despite registering displeasure with the way EIA public consultation was done was not only a betrayal of their subordinates but also the 'living dead' who had bestowed them custodianship and trusteeship over local resources. Edifying this observation, Leonard (2018) reports the existence of political connections between the mining industry and government, including collusion between mining corporations and local community leadership in Dullstroom, Mpumalanga and St. Lucia,

KwaZulu-Natal to influence mining approval whilst excluding local communities from decision-making processes.

Although the constitution of Zimbabwe is enshrined with the right to administrative justice as a fundamental human and procedural right, the above remarks show that local residents had not been informed of the institutions of appeal if they felt disadvantaged by actions of proponents. Local residents had to resort to and invoke the spiritual realm to permeate 'spiritual justice' on the proponent who wanted to exploit gold without informing and involving them in environmental decision-making. Sentiments shared by local people are contrary to views by Hashim et al (2016) that access to justice avails the mechanisms by which the public can ventilate for solutions and seek judicial review when access rights are denied or piecemeal. It will not be an exaggeration to conclude that local residents were forced to invoke vengeance of the 'living dead' on proponent because they had not been informed of their right to appeal and institutions of appeal. Contrary to this observation, Briffett et al (2004) reports that the right to appeal was well established in Malaysia as the public was very vocal in the print and electronic media if they felt their environmental rights were not being adequately regarded. One can further argue that lack of transparency during EIAs affect not only social acceptance of the project but also cause disharmony between the state and residents, residents and their local leadership.

While complaints being raised by Chiromo community on the mining project were supposed to serve as a 'litmus test' on the extent to which the mining proponent had met his 'supply access' in terms of informing and involving locals during the EIA process, one EMA official viewed the discontentment as resistance to economic development. An officer from EMA district office stated:

"If you miss this opportunity, you will live a life of regret. If the project had been launched in my home area, I would have persuaded my kinsmen to grab it. This is not a large-scale mining project that will lead to relocation of people like what you have seen elsewhere...it's not. This is a small scale mining company owned by a Zaka district 'child', hence he will not relocate his own people." (personal communication, 2020c).

Based on the information in Table 1 and the above remarks, it would be plausible to argue that while public officials were supposed to ensure EIA compliance by project proponents, they were now convincing Chiromo community to accept EIA outcomes despite violation of key principles of environmental democracy such as fairness, equity, transparency and inclusivity. The remark by the public official further violates constitutional provisions on administrative justice stating that everyone has a right to administrative conduct that is reasonable, impartial and fair despite EMA being the custodian of environmental resources and the guarantor of people's environmental rights. EMA was the first port of call when local's feels aggrieved with EIA processes but in this case, it was sapping on its constitutional obligations of protecting locals' environmental rights by siding with the proponent. Building on this observation,

Leonard (2018) observes that from apartheid into post-apartheid South Africa, the lines between mining industry and government have remained blurred as the two still have a close relationship making the former to operate without restraint but at the expense of environment and communities' interests. Though EMA was legally mandated to protect the environment and communities' environmental rights, it was highly sympathetic to the proponent. This is contrary to an observation by Briffett et al (2004) that the environmental management body of Malaysia was protected the environmental protection needs of the public by ensuring that EIA processes are transparent as possible.

EMA is legally bound to oversee implementation of EIA as well as notification of the public about EIA meetings and provision of knowledge on EIA processes to capacitate communities before they engage proponents. A scrutiny of Table 2 suggests that 50% of all the research participants indicated having been notified of all EIA public meetings by hearsay, while 16.7% through traditional leaders. A further 33.3% reported having received no notification about the participation meetings.

Table 2: Method of notification of public meetings (N=60)

Notification method	Response	%
Hearsay	30	50
Traditional leaders	10	16.7
Government departments	00	00
Media	00	00
No notification done	20	33.3
Total	60	100

Source: Fbs (2020).

Although EMA was a 'jurist person' established to promote 'supply access' of 'access rights', one would speculate based on information in Table 2, there was a 'false start' in EIA process due to poor methods or lack of prior notification of public meetings despite access to information being the common denominator of other access rights. It can then be assumed that many households failed attend these meetings as they got inadequate or distorted information through the grapevine and traditional leaders. It made households to be vulnerable to misinformation on the timing and meeting purpose as people usually respond to meetings after getting correct agenda items. Table 3 suggests that an estimated total of 75% of all the research participants were unsure of the people who had previously been invited and attended EIA public meetings while 15% felt only traditional leaders had attended. A further 3.3% reported that a few residents had been invited to attend despite public participation being a right of every community member.

Table 3: Participation during EIA's scoping, report compilation and review (N=60)

Participants	Responses	%
Mostly villagers	02	3.3
Traditional leaders	09	15
Not sure	45	75
None invited	04	6.7
Total	60	100

Source: Fbs (2020).

Judging on information in Table 3 and the remarks below, one can argue that despite transparency being a crucial principle of environmental governance and democracy, invitation to attend EIA meetings seemed to be exclusive, divisive and lacking transparency as some felt traditional leaders were invited on behalf of communities. Thus, report compilation and report review seemed to have been done by the proponent and EMA respectively without the involvement of locals as the majority (75%) were not sure of stakeholders involved. However, Briffett et al (2004) reports while the Malaysian government promoted EIA principles of inclusivity and transparency to the letter and spirit, many EIA reports which were being availed to locals for commenting were submitted with little, if no comments due to low awareness. It is, therefore, undisputable to argue that meaningful participation by locals is premised on free and prior informed consent by the local people.

The involvement of few locals and traditional leadership during the prospecting phase, some EIA phases and planning of the appeasement ceremonies seemed to be a strategy being used by mining proponents to create a wedge among locals and start their mining operations during the confusion. Edifying this observation, Leonard (2018) argues that mining proponents use their financial muscle to push mining projects by bribing some individuals among poor communities, thereby dividing them to their advantage. This is further supported by Feyissa (2011) who observes that EIA report compilation in Ethiopia was done based on views obtained from representatives drawn from selected kebeles identified by local administrators who were later not given a chance to review or access the report. While good governance is anchored on inclusivity, fairness, equity and consensus, the non-involvement of locals in report compilation and review by the proponent and EMA respectively in the study site undermined public trust of traditional leadership and EMA. Foti (2008) calls for the reformation of EIA systems in developing countries by engaging independent panels that meaningfully engage local people in report writing and collating of comments if communities' interests are to be considered. For effective, consensus oriented public participation, Janka (2012) further calls for the public to be involved in the EIA process both when EIAs are done by proponents and when their reports are evaluated by the relevant environmental protection organs. This avoids using the EIA process as a means to an end (obtaining EIA certificate) but a tool to promote good environmental governance and democracy.

“When we sent our team to (EMA) district office to get information on the licensing status of the mining company, we were surprised to hear that the company had been given all licenses and the EIA report indicated that we consented to the project. Secondly, among the list of people who are purported to have attended the first meeting (in 2017) were some women. Village meetings here are attended by males only. If the local leadership connived with the miner to invite their ‘yes man’, then let them conduct the appeasement ceremony, they will hit a brick wall.” (personal communication, 2020d).

Judging on the above views and information in Table 3, one can infer that local residents were unaware of the licensing status of the company four years after the grant. However, Chiromo community believed that though the mining company had been given all licenses including the EIA license, it still lacked the ‘social and spiritual license to operate’ that was obtainable from the community and their ‘living dead’ respectively. For Chiromo residents, the proponent could maneuver traditional leaders to ‘mine’ but not their ‘living dead’ because gold was a bequeathed capital from the dead, only exploitable through their ancestors. This was the case in Chiadzwa diamond mining area where state owned ZMDC and partnered private companies were granted licenses, commenced mining operations while locals were unaware of any consultation meetings having been done despite EIA having come into force (Gapu 2010). Mathende and Nhapi (2017) are of the view that the award of EIA certificate in Zimbabwe is not taken seriously as proponents are given certificates just to have a complete checklist before projects start.

It can then be argued that, where local communities are not given access to environmental decision-making and information on institutions of appeal over seemingly unfair decisions, they seek recourse from the spiritually realm to enforce their access rights. In the local community, gold is believed to have some spiritual connotations and connections which makes it exploitable if locals conduct appeasement ceremonies on behalf of the proponent. Such a feeling was very strong among locals such that they did not lose sleep over failure by the state to protect their right to administrative justice.

While information in Table 3 and the above remarks reveal that EIA public meetings were ieng attended by traditional leaders and a few they would have hand-picked, an official from EMA gave a contrary view:

“When the first EIA was done in 2017, we invited all people through their village heads but very few attended the meetings. Many thought it was a hoax that gold had been discovered in their area. Once the local leadership indicates that all their people are there, who are we to question them if surely all households are represented? In 2020, the mining company applied for the renewal of the EIA certificate because the licence expires after two years. This time, only village heads were invited....to ensure compliance with WHO guidelines on gatherings to prevent spread of COVID 19 disease.” (personal communication, 2020e)

Although the official from EMA seems to lay the blame on the public for apathy during EIA meetings, one can speculate based on the perspective above that this was covert admission for failing to use multiple methods to inform the public about such meetings. Furthermore, public apathy during public meetings was a secondary factor that was primarily an ‘offshoot’ of lack of preliminary information on EIA processes, their environmental rights and tripartite stakeholder roles during EIA. It can further be argued that, while rights are believed to be interdependent, equal and interrelated, the COVID pandemic seemed to have been used to advance right to health though undermining local people’s many other rights that include environmental rights. Thus, undermining of environmental rights could have a boomerang effect on the right to health as locals failed to access procedural rights that empowered them to participate and contribute to a healthy environment.

Meaningful participation can be measured based on the number of public meetings conducted during the EIA process. A scrutiny of Table 4 suggests that 61.7% of participants were not aware of any public meetings having been done while 33.3% indicated one had been done. A further 5% reported that only two had been held.

Table 4: Number of EIA public meetings (N=60)

Number of EIA meetings	No. response	%
No meeting	37	61.7
One meeting	20	33.3
Two meetings	03	05
Three or more meetings	00	00
Total	60	100

Source: Fbs (2020).

Based on the above remarks shared by EMA official and information in Table 4, it is indisputable to conclude that only one ‘public’ meeting had been conducted for each of the two EIAs that had been held in 2017 and 2020. It therefore shows lack of due regard to community participation by the proponent though environmental democracy was hinged on regular access to information shared during the meetings. The challenge can be traced back to the EIA policy that advocated for public participation but was silent on the number of times the public should be involved. The symbolic involvement of locals during each EIA session was done to fulfil a legal obligation but with little motivation to ensure that the communities’ right to a healthy environment are met. Symbolic involvement of locals had instilled negative feelings of exclusivity and non-belonging as evidenced by resentment to the launch of the project. While Covid-19 pandemic had affected the conduct of EIA public meetings, EMA had an obligation to explain to the public or postpone public meetings to reduce suspicion of marginalization by locals. Lack of communication on the changes in EIA public meetings compromised fairness, responsiveness and accountability. EIA has many steps, but this has not been correlated with participation sessions to generate feelings of project ownership among locals. Edifying this observation CER (2009) explains that, although South Africa’s Mineral and

Petroleum Resources Development Act (MPRDA) of 2002 prescribes a number of participation opportunities for affected communities, prospective mining companies often try to combine all these opportunities into one consultation process. This is further supported by Starke (2002) who is the view that communication and update on any changes need to be ongoing, transparent throughout the EIA process and mine lifecycle.

EIA gain social acceptance if project proponents implement whole-hearted measures anchored on transparency during the EIA process. A scrutiny of Table 5 suggests that all of the few research participants and village heads who had attended one of the two EIA public meetings held in 2017 and 2020 were not sure if minutes had been compiled during the meeting since they were not read at end of EIA public meetings.

Table 5: Feedback during EIA meetings (N=60)

Response	No. Response	%
Minutes read after meeting	00	00
Minutes not read after meeting	60	100
Not sure minutes were written	60	100
Total	120	100

Source: Fbs (2020).

Judging on information in Table 1 and remarks above shared by EMA official, one can speculate that EIA meetings were conducted to fulfil formalities but were not consensus oriented as they did not allow locals to input their views or challenge public meeting resolutions. Reading of minutes helped to promote two-way flow of information as locals could add views that came as an afterthought, ask for a review of their ideas wrongly captured or get clarification on issues raised by other stakeholders. Though meaningful engagement of local communities is believed to cultivate social acceptance of projects, the above remarks illustrate that proponents were not tapping into engagement opportunities through marginalization of communities in the compilation and review of the EIA report. Compilation of views by the EIA consultant only during EIA meetings reduce objective and comprehensive capture of all the views raised by stakeholders. Building on this observation, EIA Conference Report (2014) observes that while EIA consultancy companies are supposed to be a team of experts, sometimes EIA studies are done by one or two individuals, thereby compromising the quality and objectivity of EIA reports.

“As a village head, I attended the two meetings (in 2017 and 2020). Government officials (DA, EMA) and one guy (EIA consultant) took turns to tell us about the benefits of the project while the EIA consultant wrote some notes. On many occasions, these public officials were the ones who responded to our queries though we wanted to hear everything from the horse’s mouth. We were asked to fill the attendance register but many village heads did not as they were skeptical of falling into the ‘Lobengula trap’ whose signature unintentionally sold out his heritage.” (personal communication, 2020f).

The above remarks concur with earlier comments made by another research participant who indicated that the 2017 EIA register had names of women though culturally they don't attend village meetings. Again, the proponent tried to use his financial muscle to get appeasement ceremony done and also get consent of village heads through disguising consent forms as attendance register. It is therefore not an overstatement to argue that, the proponent used deception to gain social acceptance of the project. These actions violated communities' right to administrative action that is just and fair. It therefore shows that while EMA was supposed to act as a 'referee' and guarantor of environmental rights, it was siding with proponents who used 'short cuts' to obtain EIA licenses but at the expense of locals' environmental rights.

As legally designated 'jurist persons', EMA and mine proponent were vertically and horizontally bound to 'supply access' to information that includes all EIA documents. A scrutiny of Table 6 shows a general consensus by Chiromo residents that mining documents and EIA reports were inaccessible despite provisions in the EMA Act criminalising failure to provide information. Informed decision-making is also premised on access to mining documents owned by the proponent and state agencies (EIA report).

Table 6: Perspectives on public access to EIA documents (N=60)

Response	No. Response	%
Documents accessible	00	00
Documents inaccessible	60	100
EIA report only accessible	00	00
Total	60	100

Source: Fbs (2020).

Edifying information in Table 5, a local aged between 35-40 years who was part of village team that visited EMA district office on a fact finding mission reported:

"I was part of the team that visited EMA district office to check on the licensing and operations of the mining company. Unfortunately, the EMA district officer had to read, explain for us some issues that were contentious and encouraged us to accept the project. The officer refused us access to the whole EIA report citing confidentiality of some issues in the report." (personal communication, 2020g).

Based on the information in Table 5 and the perspective above, it would be plausible to argue that while EIA regulations provided for multi-stakeholder participation, state agencies did not regard local communities as equal partners in the EIA process as they did not avail EIA reports to them. It is therefore not an exaggeration to argue that report compilation seems to have been done but without due regard to the principles of environmental democracy such as equality, consensus and meaningful participation. The involvement of locals seemed superficial and intended to ensure that EIA 'boxes' on the checklist were ticked before mining can take place. Edifying this

observation, Thakur et al (2009) articulates that under India's EIA regulations of 1994, EIA reports were considered to be confidential thereby making them inaccessible to the public. This is further supported by Foti (2008) who argues that EIA documents in Ghana were initially kept under lock and key when EIA processes started though these were later availed to the public in regional capital libraries. Feyissa (2011) is of the view that at a minimum, the EIA process should provide for early public notification of meetings, access to EIA documentation and a chance to comment by local communities in almost all EIA stages.

5. Conclusion and recommendations

Zimbabwe's legal framework is applauded for adopting in EIA processes, principle 10 of the Earth Summit that calls for open, transparent, inclusive environmental decision making and provisions on environmental rights and their judicial enforcement as envisioned by the Aarhus Convention. While the legal framework calls for democratic processes and meaningful participation of locals in environmental decision making processes, there seems to be gaps in the policy framework, policy and practice if comprehensive environmental democracy is to be fully achieved through EIA. Findings from this study shows that EIA processes had not fully opened the democratic space as evidenced by locals' resistance to allow the project to start fully fledged mineral exploitation, four years after the company had been certified by relevant government departments. Locals accuse the miner, EMA, council and local leadership for marginalising them from accessing information, voicing their concerns and listening to their reservations about the mining project despite the gold mining company having been 'licensed'. It is thus recommended, that there is an urgent need to rethink and redesign EIA policy so as to embed comprehensive attributes of environmental democracy and governance in its implementation. If EIA processes are to be effective in promoting community interests and environmental rights, then locals must be supplied with adequate information on EIA processes, their rights and responsibilities during EIA, institutions of appeal and be involved in all the EIA stages so that suspicion is eliminated. EIA policy should allow civil society institutions to complement state agencies in promoting awareness on these issues. Also, the EIA policy should allow an independent panel of experts not financially 'attached' to proponents to conduct EIA and present findings for review to the state if EIA processes are to enhance community interests and environmental democracy. There should be establishment of an EIA report review with at least one expert on community and sociological issues to ensure people's views are adequately considered. Such an approach will facilitate the promotion of principles that anchor environmental democracy and sustainable development such as fairness, inclusivity, transparency and meaningful participation.

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Conflict of Interest Statement

The authors declare no conflicts of interests.

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A TRAVESTY OR TRIBUTE TO ENVIRONMENTAL DEMOCRACY AND JUSTICE

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