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**ADDRESSING PREDATORY MINING AND
PROMOTING ETHICAL RESOURCE GOVERNANCE**

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**Harnessing Parliamentary Diplomacy for the Realization of Global Solidarity,
Equality, and Sustainability**

List of Abbreviations

AMAP	African Mining Accountability Platform
AMDC	African Minerals Development Centre
AMGF	African Minerals Governance Framework
AMV	Africa Mining Vision
APRM	African Peer Review Mechanism
ASM	Artisanal and Small-Scale Mining
AU	African Union
CMV	Country Mining Vision
DRC	Democratic Republic of Congo
ECOWAS	Economic Community of West African States
EITI	Extractive Industries Transparency Initiative
ESG	Environmental, social and governance
GDP	Gross Domestic Product
IGF	Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development
IMF	International Monetary Fund
MP	Member of Parliament
MPF	IGF Mining Policy Framework
OECD	Organisation for Economic Co-operation and Development
EITI	Extractive Industry Transparency Initiative
SADC	Southern African Development Community
SDG	Sustainable Development Goals
UNDP	United Nations Development Programme

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Abstract

Predatory mining in Africa remains a persistent challenge, characterised by exploitative extraction practices, opaque supply chains, environmental degradation, and the marginalisation of host communities. This paper examines the phenomenon through both international and regional lenses, with a specific focus on the voluntary and non-binding nature of resource governance instruments such as; the Extractive Industries Transparency Initiative, the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals, the International Cyanide Management Code, the Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development, the African Mining Vision, Regional Economic Community Instruments and the African Peer Review Mechanism. While these frameworks promote principles of transparency, accountability, and sustainable development, their lack of enforcement mechanisms limits their transformative impact, especially in contexts marked by weak institutions, elite capture, and limited political will.

At the regional level, instruments like the African Peer Review Mechanism and the African Minerals Development Centre aim to foster governance reform, but remain hindered by low ratification rates, funding constraints, and minimal follow-through. The absence of binding accountability mechanisms at both the international and regional levels allow predatory mining to persist under the guise of formal compliance.

Ultimately, the paper illustrates that addressing predatory mining practices requires a reconfiguration of the international and the African regional mineral governance norms of voluntary implementation and discretion towards implementation of recommendations. Enforceable obligations are required to ensure ethical resource governance. This would close the gap between normative ambition and practical enforcement, thereby shifting the mining sector from a site of exploitation to one of equitable development.

1. Background

Predatory mining refers to mining practices that prioritise short term profits over long term sustainability through mining operations that are exploitative, environmentally destructive, harmful to local communities and disregard legal or regulatory frameworks.¹

Predatory mining is often used synonymously with the term illegal mining.² However predatory mining and illegal mining are not the same, although they can overlap. Illegal mining is unauthorised extraction of minerals or resources in violation of legal, environmental and regulatory frameworks.³ For example, mining in protected areas without environmental assessments or government approvals, or mining by criminal or unregulated groups are common

¹ Kassa (2022).

² Davis (2016).

³ Ibid.

examples of illegal mining. Therefore, as a distinction illegal mining will always by definition be unlawful, whereas predatory mining can be legal or illegal.⁴

The overlap between the illegal mining and predatory mining is that a mining operation can be both predatory and illegal, for example an unlicensed miner destroying a rainforest. However, a legal mining company can be predatory if it disregards environmental or social impacts even while technically complying with regulations. While distinct concepts, they often intersect and reinforce each other and have common consequences particularly in resource rich jurisdictions like Africa.⁵

The common consequences of both illegal mining and predatory mining is that; both lead to environmental harm including deforestation, pollution and land degradation, both undermine governance and rule of law weakening institutions meant to regulate mining, both contribute to social conflict and labour abuses, and both result in loss of government revenue through tax evasion or illicit trade.⁶

Understanding the overlap is key for ensuring that policies that tackle illegal mining address the broader predatory practices in order to ensure sustainability and social justice. Conversely, the efforts to reduce predatory mining should consider the legal or illegal status of mining actors to tailor effective interventions.

Importantly, both predatory and illegal mining pose serious challenges to sustainable development, specifically in Africa where mining is vital for many African economies. Mining contributes significantly to African economies GDP, exports, and employment. Countries like Ghana, South Africa, Zambia, and the Democratic Republic of Congo (DRC) rely heavily on mineral exports such as gold, copper, cobalt, and bauxite.⁷ In Ghana, gold mining alone accounts for up to 48% of GDP, while in Zambia, copper makes up 70% of export earnings.⁸ South Africa's mining sector contributes 6% of GDP and 45% of merchandise exports.⁹ The DRC produces 70% of the world's cobalt, vital for clean energy technologies. Regionally, Sub-Saharan Africa holds about 30% of global critical mineral reserves, with the IMF projecting a potential 12% GDP boost by 2050 from mining-related activities.¹⁰ These figures highlight mining's essential role in national revenues, job creation, and positioning Africa in the global energy transition.

Mining is a key enabler for Africa's ability to effectively achieve SDG's and the aspirations of Agenda 2063: The Africa We Want. Therefore, the impact of predatory mining on the sustainable development outcomes in Africa is far-reaching. Predatory mining whether at a small or large scale deprives governments of substantial revenue as the predatory operations often declare minimal profits in host countries, siphon earnings to low-tax jurisdictions, and limits local benefits from mining development.¹¹ The predatory mining practices include mining companies

⁴ Ibid. See also Bebbington (2009).

⁵ Ibid.

⁶ Ibid.

⁷ African Business (2025).

⁸ Ibid.

⁹ Mining Focus Africa (2025).

¹⁰ IMF (2024).

¹¹ Ibid.

overextraction of minerals that leads to ecological degradation, mining operations near indigenous lands without proper consultation and ignoring community rights and welfare, mining companies that evade fair compensation such as taxes, royalties or workers fees, and mining companies exploiting governance structures through corrupt activities. These are all common examples of predatory mining practices.¹² These practices lead to lost revenue and undermines economic, environmental and social goals that are essential for long term equitable development. Predatory mining deepens inequality, fuels criminality, and destroys ecosystems.

Within the context of SDG's, the environmental degradation due to a lack of compliance and enforcement of environmental regulations leads to damage of ecosystems vital for agriculture (SDG 15, Life on Land), water security (SDG 14, Life below Water) and climate resilience (SDG 13, Climate Action). The loss of government revenue through mining companies' tax avoidance and not paying royalties or environmental fees results in host governments losing billions in revenue intended to fund development goals such as education (SDG 4, Quality Education), health, infrastructure (SDG 9, Infrastructure) and alleviate poverty (SDG 1, No Poverty). The poor working conditions, child labour and exploitation are widespread in predatory and illegal mining. Often in conflict zones, illegal mining fuels armed groups with conflict minerals such a coltan, gold and diamonds. This violates human rights and undermines peace (SDG 8), and justice (SDG 16, Peace, Justice and Strong Institutions). The scale of displacement to enable expansion of predatory mining operations results in loss of livelihoods as traditional livelihoods like farming and fishing are destroyed without adequate compensation. This increases inequalities (SDG 2, Zero Hunger) and food insecurity (SDG 10, Reduced Inequalities). Predatory mining practices operate within a weak and corrupt governance framework as corrupt officials may support illegal or exploitative mining deals, and/or the legal framework does not entrench transparency in licensing or enable enforcement. This weakens the government and erode good governance (SDG 16) and institutions (SDG 17, Partnerships for the Goals). The long-term implication is a deepening resource curse, where mineral wealth fuels inequality and instability rather than inclusive development, ultimately hindering Africa's ability to achieve sustainable and equitable growth. Therefore, there is an urgent need to address predatory mining and promote ethical resource governance.

This paper unpacks the international and regional perspectives on predatory mining and investigates the various best practices and standard setting measures put in place to address predatory mining practices. The paper ascertains suitability of the frameworks to addressing predatory mining practices and provides key considerations.

2. International Perspective

The international standard setting bodies, namely the OECD, EITI, and IGF view predatory mining as a multidimensional threat to human rights, the environment, economies and international security. The international community stated concerns of conflict financing, environmental destruction, child labour abuses, corruption and illicit financial flows and unsustainable

¹² Ibid.

resource extraction in relation to predatory mining.¹³ The various bodies are promoting a global framework grounded in; transparency and accountability, robust corporate due diligence, and application of best practice codes and multi-stakeholder collaboration. Therefore, at a high level, the international perspective to addressing predatory mining is centrally aimed towards curbing illicit mining by embedding responsible practices into both formal and artisanal sectors.

The subsequent section of the paper details various agreements, bodies and initiatives which support ethical mining practices in Africa.

2.1 Extractive Industries Transparency Initiative

The EITI is an international multistakeholder initiative consisting of governments, mining companies and civil society, working towards reducing corruption, improving governance and ensuring transparency in revenue flows from natural resources.¹⁴ Governments and companies publish and reconcile data on mining and oil revenues such as taxes, royalties and production figures to enable public scrutiny. It is a member driven initiative which includes 57 countries volunteering to implement the EITI standard. Twenty-five African countries are implementing EITI,¹⁵ and countries such as Mauritania, Uganda, and Ghana have performed well in terms of implementation of the standard. These countries have integrated transparency with empowerment, accountability, and local inclusion in mining governance.¹⁶ Ghana disclosed all mining and energy contracts and created a beneficial ownership register and provided a transparency report for the ASM sector covering 31% of gold production. Mauritania introduced tax breaks and local content into a new Investment Code signalling commitment to transparency. Uganda passed the Mining and Minerals Act with transparency amendments and created a Uganda EITI secretariat under the Ministry of Finance.¹⁷

The EITI standard is key to addressing predatory mining in Africa as it combats corruption and revenue loss by requiring companies and governments to disclose financial and mineral data. Furthermore, it requires disclosure of social and environmental impacts of mining operations. It is therefore a useful tool for promoting transparency and accountability in mining, specifically as it takes a multi-stakeholder approach to addressing issues in natural resource governance. It is a standard that includes local communities and enables those most affected to hold mining companies and government accountable for responsible resource governance.

However, the EITI standard is not without limitations. The implementation of the EITI standard is limited as it is a voluntary standard and not law. There are no legal penalties for misreporting, corruption or ignoring the EITI recommendations. Additionally, the EITI is not a silver bullet for good governance, therefore if a country has weak enforcement authority, the EITI transparency standards will not result in accountability.¹⁸ For example, Zambia's EITI reports illustrated a tax

¹³ EITI, OECD, IGF.

¹⁴ EITI (2025).

¹⁵ African countries implementing EITI are; Angola, Central African Republic, Ethiopia, Gabon, Guinea, Niger, Togo, Ghana, Nigeria, Côte d'Ivoire, Senegal, Burkina Faso, Mali, DRC, Chad, Republic of Congo, Cameroon, Zambia, Mozambique, Malawi, Tanzania, Uganda, Liberia, Mauritania, Sierra Leone.

¹⁶ EITI Progress Report, (2024).

¹⁷ Ibid.

¹⁸ Lujala (2018).

shortfall of US\$66 million in payment discrepancies however the government did not utilise its enforcement mechanisms or recover these funds.¹⁹

Additionally, implementation of the EITI standard requires civil society participation to achieve the multi-stakeholder aspect of accountability. Therefore, in countries with shrinking civic space in which activists face harassment, arrests or exclusion it will limit the impact of the EITI standard. For example, Equatorial Guinea was suspended from EITI due to a lack of civil society space and silencing of watchdog groups.²⁰ Similarly in Mali where the country received a “fairly low” implementation score due to constrictions on freedom of expression.²¹

EITI provides a valuable transparency framework which can address predatory mining practices. It creates an important multi-stakeholder approach for local communities to hold governments and mining companies accountable to responsible mining practices. However, it is a voluntary standard and without legal enforcement, a robust civil society, and institutional stability, it will remain symbolic rather than a transformative framework.²² In order for the EITI standard to become effective, countries must domesticate the standard into legislation to ensure enforcement.

2.2. OECD Due Diligence Framework

The OECD Mineral Supply Chains Forum is an annual global platform that first launched in 2011 and it is designed to reinforce due diligence in mineral supply chains, particularly for minerals extracted from conflict-affected or high-risk areas, to which predatory mining practices thrive.²³ It engages governments, business leaders, civil society, and community voices to promote the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals which guides companies on respect for human rights and to avoid contributing to conflict through their mineral purchasing decisions and practices.²⁴ Several African countries actively participate in the OECD Forum, with the DRC, Burundi and Rwanda formally embedding the guidance into national mining laws and adopting them as binding frameworks.²⁵ In other African countries the guidance is widely referenced and promoted but it remains a voluntary standard.

As mentioned, the OECD due diligence framework is non-binding therefore the voluntary nature of the guidance limits the impact. While it encourages companies to follow ethical sourcing practices, the enforcement is up to national government or trading partners. Furthermore, the guidance does not enable accountability, even in countries with weakened governance systems or conflict zones.

A compelling illustration of the limitations and accountability gaps of the OECD Due Diligence Guidance is with regards to artisanal and small-scale mining in the conflict affected areas in the Eastern DRC. The OECD Due Diligence Guidance is meant to help companies make sure the minerals they buy aren't funding conflict or human rights abuses or from predatory mining

¹⁹ EITI Zambia Report, (2011).

²⁰ Publish What You Pay, Equatorial Guinea and EITI candidacy, slow but steady progress? (2015).

²¹ EITI Mali Report, (2022).

²² Ibid n 18.

²³ OECD, (2024).

²⁴ Ibid.

²⁵ OECD ,(2020).

operations. But in the Eastern DRC, this system doesn't work well especially for artisanal and small-scale gold mining. About 98% of artisanal gold is smuggled out of the country and never goes through official channels. This means the traceability systems only track a tiny portion of the gold and miss most of what's really happening on the ground. Without addressing these smuggling routes and enforcing border controls, due diligence remains ineffective as it is failing to stem the flow of conflict minerals. So, even if companies follow the rules, the due diligence process often fails in practice.²⁶

The DRC demonstrates that without mandatory enforcement, governmental oversight, and capacity support, the guidance can fall short of improving conditions on the ground. This highlights the need for stronger accountability mechanisms, public enforcement, and empowerment of ASM communities to make responsible sourcing both meaningful and equitable.

2.3. International Cyanide Management Code

The International Cyanide Management Code (Cyanide Code) is a voluntary industry driven programme that promotes the safe management of cyanide used in gold and silver mining. It is administered by the International Cyanide Management Institute (ICMI) and is not a legal regulation, but signatories commit to strict compliance with its requirements. As of January 2024, The Cyanide Code has 215 signatories and is used in 48 countries to manage cyanide usage in gold mining.²⁷

Cyanide is known to have widespread toxic utility in artisanal operations which results in contamination of water and soil. Studies reveal that in Zimbabwe 70% of informal miners use mercury and cyanide, unknowingly polluting waterways and threatening community health.²⁸ Illegal miners in South Africa known as "zama-zamas" mine in abandoned shafts and frequently use cyanide and mercury to process ore, leading to severe environmental contamination and health risks in underground communities.²⁹ The use of cyanide in these predatory mining practices causes severe environmental and public health impacts.

The Cyanide Code outlines principles, standards, and audit procedures for the manufacture, transport, storage, use, and disposal of cyanide. Signatories must comply with the standards of practice, and to remain a signatory a company must undertake a certification process through an independent third party audit every 3 years. Africa is well represented in this list with 10 nations hosting operations certified under the Code, covering mining, cyanide production and transport. Sasol South Africa (Pty) Ltd and Alistair Logistics Kenya Ltd and Alistair Logistics (Pty) Ltd are certified transporters of cyanide.

The Cyanide Code helps reduce environmental and health risks; however, its impact on curbing predatory mining is limited and indirect. The Cyanide Code has indirect impact on addressing predatory mining as it raises industry standards and encourages industrial mines to meet global environmental and safety benchmarks. For example, Sasol South Africa and other certified

²⁶ Bafilemba & Lezhnev, (2015).

²⁷ Cyanide Code, (2025).

²⁸ Kunguma, (2013).

²⁹ de Greef, (2023).

operations maintain chemical handling standards far above local regulatory minimums. The Code also restricts certified cyanide producers and transporters from selling to uncertified buyers for example illegal miners, therefore this can limit access to cyanide for predatory operations.

The limitation in addressing predatory mining is that it excludes artisanal and small-scale mining and predatory mining often thrives in the ASM sectors which the Cyanide Code does not regulate. The Code is also voluntary and non-enforceable; therefore government must ideally integrate the standards into licensing frameworks.

The Cyanide Code contributes to responsible mining and has demonstrated impact, particularly by reducing chemical risk in formal industrial operations. In South Africa, major gold producers such as Gold Fields and Sibanye Stillwater have adopted and certified their operations under the Cyanide Code.³⁰ While, it has limited direct influence on predatory mining, it can be useful in setting minimum standards for the regulation of ASM and in mining jurisdictions with poor governance and in regions where cyanide supply chains remain opaque.³¹

2.4. IGF Mining Policy Framework

The Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development (IGF) created the Mining Policy Framework (MPF) to help resource-rich countries govern their mining sectors responsibly. The IGF MPF assessment is a structured, government-requested review of a country's mining sector, focusing on how well national laws, policies, and institutions align with international best practices outlined in the IGF's six-pillar framework.³² The six pillars are directly linked to SDGs as the MPF assessment is through the lens of promoting inclusive economic growth, environmental sustainability, strengthening governance and institutions and facilitating responsible use and equity. The MPF provides a comprehensive set of international best practices for achieving social, environmental, and economic sustainability through mining.³³

The IGF updated its framework in 2023 to include holistic governance across mining lifecycles and explicitly cover ASM.³⁴ This is a necessary step towards addressing predatory mining in African jurisdictions where the ASM sector is not adequately regulated therefore enabling unethical practices.

Several countries have conducted IGF MPR assessments and are actively implementing the framework as part of mining governance. For example, Senegal underwent an MPF assessment in 2016–2017, focusing on all six MPF pillars. Key achievements included model mining contracts, clarity in licensing, financial assurance for mine closure, and formalization of ASM zones.³⁵ In 2018, Namibia's Ministry of Mines and Energy requested an MPF-wide assessment. It evaluated legal, fiscal, socioeconomic, environmental, post-mining, and ASM frameworks leading to recommendations on local-content, environmental liability, and community

³⁰ cyanidecode.org/sibanye-stillwater-becomes-a-signatory-to-the-international-cyanide-management-code

³¹ See riskbulletins.globalinitiative.net/esa-obs-024/01-sodium-cyanide-in-kenyas-gold-market.

³² Mining Policy Assessment Process Guide, (2025).

³³ Ibid.

³⁴ IGF Mining Policy Framework Report, (2023).

³⁵ IGF Mining Policy Framework Assessment Report, Senegal, (2016).

benefits.³⁶ Mauritania completed an MPF assessment in 2017, diagnosing strengths and gaps across all thematic areas. It provides a blueprint for modernizing mining law and policy to support sustainable extraction.³⁷ Assessed in 2017, Rwanda's MPF review highlighted strong legal structures and traceability systems for ASM minerals (e.g. tin, tungsten). Follow-up training targeted mine closure planning and local benefit optimisation.³⁸ These assessments build the foundational governance needed to effectively combat predatory mining.

As illustrated in the case studies, the IGF is explicitly designed to tackle many of the issues linked with predatory mining such as weak governance, social exclusion, environmental harm, and informal or illegal operations by offering guidance and standards aligned with sustainable development.

Importantly, the IGF assessments are advisory, and countries voluntarily request them, therefore the implementation of reforms is non-mandatory. IGF assessments do not enforce compliance with recommendations as there is no formal mechanism to track and compel reform. The IGF MPF is a useful policy tool that has helped many African governments strengthen governance in their mining sectors. However, its voluntary nature, resource constraints, and political challenges result in implementation that is often slow or partial.

3. Regional Perspective

The African region's perspective on predatory mining in Africa has historically been coupled within the broader concept of the resource curse. The resource curse refers to the paradox where countries rich in natural resources, particularly in oil, gas, or minerals, often experience slower economic growth, weaker governance, and more conflict than less resource-endowed countries.³⁹ Predatory mining is often a cause or enabler of the resource curse in that it exemplifies how extractive industries can be exploited in ways that undermine governance, harm communities and trap countries in cycles of poverty and instability despite their natural wealth.

However, recently, with the uptake of critical minerals and growing demand of minerals required for the just energy transition to meet climate change ambitions, the regions perspective has sharpened to address predatory mining explicitly. As will be illustrated below, the regional bodies have identified three priorities to effectively address predatory mining, namely, enforcement, accountability, and structural reform.

At the 3rd African Forum on Mining (March 2025), the AU explicitly called for "A continental shift away from extractivism and predatory mining to a values-based, people-centred mineral regime that delivers development and justice."⁴⁰

At a 2024 parliamentary summit in Sierra Leone, ECOWAS leaders noted that illegal and predatory mining; fuels regional insecurity, undermines legal operators, and drains critical state

³⁶ IGF Mining Policy Framework Assessment Report, Namibia, (2018).

³⁷ IGF Mining Policy Framework Assessment Report, Mauritania, (2017).

³⁸ IGF Mining Policy Framework Assessment Report, Rwanda, (2017).

³⁹ World Bank (2020).

⁴⁰ AU Press Release, March 28, 2025 – Addis Ababa.

revenue. Therefore, the call was made to strengthen legal and regulatory frameworks and improve cross-border enforcement, as there is a rise in smuggling of gold and critical minerals.⁴¹

In Botswana, The APRM High-Level Dialogue in 2024, called for public contracts, a mining ombudsman, and civil society accountability in mineral governance.⁴² At the 2025 Alternative Mining Indaba in Cape Town, civil society groups launched the African Mining Accountability Platform (AMAP), stating: “Predatory mining is not a fringe issue, it is the dominant mode of extraction in too many African regions, especially in gold, lithium, and cobalt corridors. We need public registers, whistleblower protection, and enforcement.”⁴³

3.1. Regional Frameworks and Agreements

Several African regional agreements and frameworks have been developed to address predatory mining practices and promote sustainable mineral resource governance. These frameworks aim to strengthen transparency, equity, environmental protection, and community participation in Africa’s mining sectors.

3.1.1. Africa Mining Vision

The AMV is a pan-African policy framework adopted in 2009 to promote transparent, equitable, and sustainable mineral resource governance. It aims to ensure that Africa’s mineral wealth supports inclusive growth, structural transformation, and socioeconomic development across the continent. The AMV aims to be the central strategic instrument for reforming the mining sector.

The AMV is not legally binding however countries adopt it voluntarily and align national laws, policies and strategies to its goals. In 2022, South Africa published its Artisanal and Small-Scale Mining Policy which was informed by the AMV. The policy includes national traceability reforms and efforts to root out illegal and predatory mining all aimed at ensuring minerals benefit development and not criminality.⁴⁴

In practice countries develop a customised national plan referred to as the Country Mining Vision (CMV) which illustrates how mining policies align with the AMV. Implementation of the CMV is supported by the AMDC and the AU Commission which provide technical assistance, training and policy tools.

The AMV frames predatory mining as a development failure, rooted in weak governance, illicit financial flows, and external exploitation. It calls on African states to move away from the raw export model and instead build local value chains, promote inclusive beneficiation, and ensure that mineral wealth drives industrialisation, environmental justice, and long-term development.⁴⁵ This approach directly supports the Agenda 2063 goal of leveraging natural resources for structural transformation.

⁴¹ ECOWAS Parliament. (2024).

⁴² African Peer Review Mechanism (APRM) (2024).

⁴³ World Bank Accountability (2025)

⁴⁴ Department of Mineral Resources and Energy (DMRE) (2022) Government Gazette No. 46124 (GN 1938).

⁴⁵ African Union. (n.d.).

Like the international standard-setting instruments mentioned above, the limitation with the AMV is that it is not legally binding, and it is adopted voluntarily. According to the AMDC, 24 out of 54 African Union member states are actively implementing the AMGF which is the operational arm of the AMV.⁴⁶ Without widespread implementation the framework risks being viewed aspirational rather than authoritative.⁴⁷

3.1.2. Regional Economic Community Instruments

SADC Mining Protocol (1997)

The SADC Protocol on Mining is a key regional agreement that aims to harmonise mining policies, legislation, and practices among Southern African Development Community (SADC) member states to promote sustainable and equitable development of the mining sector. The Protocol is not legally binding, but it provides a framework for coordinated action. Compliance to the principles is voluntary but strongly encouraged to achieve regional goals.

The SADC Protocol addresses the risks and consequences of exploitative and unsustainable mining practices through several preventative and regulatory mechanisms. These mechanisms are aimed at ensuring that mining contributes positively to economic development, environmental protection, and community welfare, rather than causing harm.

ECOWAS Directive on the Harmonisation of Guiding Principles and Policies in the Mining Sector (2009)

The ECOWAS Directive provides a regional legal framework to guide the sustainable development of the mining sector across West Africa. It aims to balance economic growth from mining with social, environmental, and community interests. It was developed in response to concerns about, unequal benefit-sharing, environmental degradation, human rights violations and the rise of predatory mining by foreign companies exploiting legal and governance gaps.

The Directive harmonises national mining laws and policies of ECOWAS member states and sets minimum standards that all countries must reflect in their domestic mining legislation. The Directive uses a binding legal mechanism to ensure that member states domesticate the Directive into national law within a specific timeframe. There has not been an up-to-date official gazette of records after 2015 to verify which countries have adopted the Directive. However, in 2015, a total of 3 countries made progress towards domestication and 8 countries legally domesticated the Directive. Therefore 11 out of 15 countries have domesticated the Directive.⁴⁸

The Directive addresses predatory mining practices by providing that free, prior and informed consent is a minimum standard to prevent land grabs and forced displacement of communities. This results in community consultation as a compulsory requirement thereby reducing environmental and social harms. It also requires transparency and local benefits for mining development which addresses issues of corruption and lack of value addition associated with

⁴⁶ Mani & Mtegha (2022).

⁴⁷ Ibid.

⁴⁸ Jimoh (2015).

predatory mining. The Directive also requires member states to conduct environmental and social impact assessments.⁴⁹

3.1.3. African Peer Review Mechanism

The APRM is a voluntary governance self-assessment mechanism under the AU. It evaluates member states on governance, economic management and social development. The APRM reports often highlight natural resource governance challenges such as contract secrecy, rent seeking and weak enforcement. It is also a platform used to advocate for reforms in mining laws and tax regimes.

The effectiveness of the APRM addressing mining related issues has historically been mixed. This is largely as the APRM has limitations in terms of impact. The voluntary nature of the APRM means that not all countries participate and some major mining countries do not consistently participate or do not participate at all. There is no legal obligation to implement recommendations therefore reports are not considered, or implementation is delayed.

However, there has been positive outcomes with using the APRM to address issues pertaining to mining. Ghana was reviewed in 2005 and 2010 to which the APRM flagged issues in gold mining including lack of community benefit and environmental degradation. Ghana then agreed to support EITI to enable greater transparency in mining contracts.⁵⁰

The APRM can be a useful tool for diagnosing governance weaknesses that enable predatory mining, but its ability to drive change depends on how seriously countries take the process. Where governments are committed, the APRM has helped highlight and curb exploitative practices.

4. Prospects and challenges

A notable development in mineral governance that has the potential to elevate the issue of addressing predatory mining in the region is the reviewed AMV. In 2024, key stakeholders (AMDC, APRM, UNDP) reviewed the original AMV, and launched an updated Action Plan and refreshed the AMGF and referred to it as AMV 2.0. The AMV 2.0 refines strategies on fiscal regimes, community inclusion, environmental sustainability, institutional capacity, and pathways to integrate mining into industrial and trade policies. The AMV 2.0 marks a strategic shift by aligning mining and other resource sectors with socio-economic development, transparency, and sustainability across Africa.

The AMV 2.0 is therefore an important policy development, it comprehensively addresses the challenges associated with harnessing Africa's mineral resources for sustainable development, while striving to reflect global norms for the equitable governance of mineral sectors. This review enables countries to more readily implement the AMV 2.0 as it is more relevant to modern sector changes and individual country aims to achieve SDGs targets.

⁴⁹ Economic Community of West African States, Act 8-3 of 2011.

⁵⁰ SAIIA (2018).

However, the key aspect which will exacerbate the problem of addressing predatory mining practices is lack of political will. As mentioned above, addressing predatory mining and promoting ethical natural resource governance relies on voluntarily integrating the international and regional best practices and standards into domestic law. The voluntary frameworks like the APRM, EITI, or IGF MPF are only as effective as the governments implementing them. Where leaders are committed to reform, these tools can drive transparency, accountability, and sustainability in mining. Where political will is absent, even the best-designed voluntary policies risk becoming box-ticking exercises or tools for political expediency.

Below are high level points highlighting potential areas which will advance curbing predatory mining and promote ethical resource governance:

- **Policy Reform and Regional Alignment**

The AMV, the African Green Minerals Strategy, and national policies are laying strong foundations for more transparent, equitable mining systems. Additionally, the AMDC and AU create a platform for growth of continental coordination to effectively support harmonised responses to illicit and exploitative practices. This will be crucial given the growing demand for energy transitional minerals.

- **Technology and Traceability**

Advances in blockchain, mineral traceability systems, and digital licensing tools offer new ways to track resources from source to export which deters criminal networks. Nano-tagging and blockchain technology has been endorsed by the African Diamond Council that represents 18 countries, which will benefit producers and curbs illicit trade. Additionally, this has the potential to enable traceability and pilot blockchain systems in emerging minerals.⁵¹

- **Formalisation of ASM**

As more countries develop legal pathways for small-scale and artisanal miners, there is potential to curb illegal and predatory mining by bringing marginalised miners into the formal economy.

- **Demand for Ethical Minerals**

International pressure for ESG-compliant and conflict-free minerals provides an incentive for African states to improve governance and ban exploitative mining practices.

5. Key actions needed from global community

Firstly, to drive ethical mining practices and curb predatory mining in Africa, global and regional actors must move beyond voluntary guidelines towards coordinated, resourced, and enforceable action. The regional and international frameworks provide a platform for aspirational, tick box approaches to addressing key issues within natural resource governance. Establishing

⁵¹ Chaintum. (2024).

enforceable requirements which enable key stakeholders to hold mining companies accountable for exploitative practices must be a key action from the global community.

Secondly, it is important to strengthen due diligence and supply chain laws. The global community must mandate human rights and environmental due diligence in supply chains for all companies sourcing critical minerals such as gold, cobalt and lithium. Strong penalties are required for buyers that source from known illicit or abusive supply chains. The gaps of the OECD Due Diligence Framework highlighted in Eastern DRC must be examined and mechanisms must be put in place for better tracing of minerals.

Thirdly, there is an urgent need for support of African-led regulatory reforms. Initiatives such as the AMDC, IGF MPF and EITI country validations must be adequately funded to ensure that the necessary resources are available.

Fourthly, the global community must ensure just energy transition financing with fair terms for African countries. Due to the mineral wealth in the continent, the green industrialisation that comes with the energy transition presents a major opportunity for African countries to leapfrog the fossil fuels-based growth strategies of developed countries and instead chart a sustainable growth path to a healthier more prosperous future. The financing must therefore enable African countries to explore these opportunities.

Fifthly, there is a need to ratify and operationalise the AMDC. The AMDC as the institutional driver of the AMV 2.0 requires legal standing and sustainable funding to effectively fulfil its mandate. There must be a push for 15+ AU member states to ratify the AMDC statute to make it a fully functional and funded body guiding mining reform.

Sixth action, empower local communities and civil society through protection of civic space and whistle-blower protections to become accountability actors.

Seventhly, legal protection of land rights and environmental defenders, and a clear meaningful engagement and consent requirements and standards.

Lastly, formalisation of artisanal and small-scale mining by providing legal status, training and access to fair markets to ASM miners to reduce environmental harm and exploitation.

6. Role of individual Members of Parliament

Parliamentarians are uniquely positioned to protect communities from the harms of predatory mining and to drive systemic reforms for ethical mining. MPs responsibilities extend across legislation, oversight, advocacy, and community engagement therefore they can blend legislative action with grassroots engagement. Further MPs can bridge the gap between national policy and local realities, ensuring mining benefits people and is environmentally sound.

In the legislative role, MPs must introduce bills or support laws that regulate mining practices including environmental protections, labour standards, local economic development and corporate accountability. Also to support laws that promote civic space and protect whistle-blowers. Parliamentarians should ensure that proposed legislation is in line with international

best practice and the agreements that the country is party to. MPs must encourage ratification of key policy documents and regional bodies such as the AMDC.

Oversight and accountability require MPs to monitor mining activities and invite their constituents to play an active role in holding mining operations publicly accountable. MPs must use parliamentary powers to investigate cases of environmental degradation, community displacement, or labour exploitation. They should hold government and companies accountable and scrutinise regulatory agencies to ensure the entities are functioning optimally without corruption.

Advocacy and public engagement mean that MPs are championing the rights of the community and speaking up against predatory mining that harms communities. MPs must actively promote ethical standards and advocate for the adoption of ethical standards in supply chains and sustainable mining. Equally MPs must raise awareness of the long-term impacts of mining and importance of environmental stewardship and land rights.

7. Role of Parliaments

Parliaments have various tools that can be utilised to promote ethical mining. The relevant committees on mining and natural resources must conduct regular oversight on the mining ministry and regulators and engage with the progress of international and regional commitments, scrutinise how mining revenues are managed and push for adherence to EITI standards of transparency, investigate specific cases of exploitation or environmental harm and leverage African regional frameworks such as the AMV when considering mining laws and policies, and making recommendations to the executive.

Parliaments should exercise effective parliamentary diplomacy in encouraging sister parliaments to ensure compliance and adherence to the various frameworks and standards, ratification and domestication of international treaties and protocols and facilitating regular meaningful public involvement in policy development, lawmaking and oversight of government and private sector compliance in the mining sector. This can be further strengthened by regularly placing such matters on the agendas of multi-lateral parliamentary meetings.

8. Conclusion

To address predatory mining effectively, African countries must integrate enforcement measures into the regional frameworks and international standards set for best practices of resource good governance. While the frameworks are voluntary, they encompass sustainable development outcomes that curb predatory mining practices and promote ethical, responsible mining. The effective implementation, together with regional cooperation, and international accountability mechanisms in mineral resource governance will contribute significantly to Africa being on track to achieve the aspirations of Agenda 2063 and the Sustainable Development Goals.

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