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Law Association (ZELA)

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**MINING SECTOR  
SITUATIONAL  
REPORT (SIT-REP)**

# **CAUSES OF MINE DISPUTES AND CONFLICTS IN ZIMBABWE'S ARTISANAL AND SMALL-SCALE MINING SECTOR**

**VOICES FROM THE GROUND**



## Introduction

The wide range of minerals and other natural resources in Zimbabwe as well as competing land uses and unclear access rights to those resources often leads to disputes and conflicts amongst different players in the sector. The paradox of poverty in the midst of plenty is starkly apparent<sup>1</sup> in many countries and communities. Unregulated exploitation of artisanally mined high value and easy to get minerals such as gold, diamonds and other gemstones often play a central role in triggering, fanning, and sustaining disputes and conflicts. Mining related disputes in the artisanal and small-scale sector may become violent or subtle depending on the circumstances, but often include disputes over mining sites, theft of minerals, farmer-miner conflicts over land use or mere criminality and use of violence to displace others. A poorly designed and old mining title or mining rights system that does not take into account population growth, new economic conditions and the demand for jobs contributes to conflicts. In turn, conflict may lead to gross human rights abuses, undermines peace and security, stifles development efforts and destabilizes resource management and conservation regimes. The peaceful and productive resolution of conflicts in the artisanal and small-scale mining sector is thus a vital foundation for more-sustainable development.<sup>2</sup>

Globally, systems to help artisanal miners-, large and small-scale companies and even states to identify and address conflicts and human rights abuses along the gold and other mineral supply chains have been developed and are being applied in some countries. For example, the Organisation for Economic Cooperation and Development Guidance on Responsible Sourcing from conflict affected and high-risk areas as well as the European Union Regulation (EU) 2017/821 on Conflict Minerals requires importers of gold, tin, tantalum, and tungsten to carry out supply chain due diligence based on the five-step approach established by the OECD. These are applicable in the ASM sector. According to the OECD, conflict-affected and high-risk areas are identified by widespread violence, armed conflict, or other risks of harm to people. The UN Guiding Principles on Business and Human Rights also provide scope for mining companies or other actors to take measures to protect, respect and redress any human rights violations. Other important initiatives that can be customised and used by artisanal and small-scale miners to identify and address conflicts include the Initiative for Responsible Mining Assurance (IRMA), the Voluntary Principles on Security and Human Rights, the United Nations Global Compact, Global Reporting Initiative (“GRI”) Guidelines and GRI Mining and Metals Sector Supplement, among many others.

<sup>1</sup> <https://media.africaportal.org/documents/No.-74.-Natural-Resources-and-Conflict.pdf>

<sup>2</sup> [Armed Conflict and Natural Resources: The Case of the Minerals Sector \(iied.org\)](#)



In Zimbabwe, the gold mining sector has significantly contributed to uplifting the livelihoods of many communities who are making a living through artisanal and small-scale mining. Artisanal mining is largely informal, characterized by low technology and use of minimal machinery. <sup>3</sup>The sector has unfortunately continued to record cases of mine disputes, violent conflicts, fatal accidents, and human rights violations attributed to unsustainable operations and irresponsible mining.

With the above context, the Zimbabwe Environmental Law Association (ZELA) gathered information on the causes and drivers of mine disputes and conflicts in the ASM sector. In this 7th edition of the situational report the focus is on the types and causes of conflict being experienced in the artisanal and small-scale gold mining sector in Zimbabwe. The data used to compile this report was collected from ZELA's network of ASM miners, Community Monitors, and other actors in the gold mining areas. The information was collected from Bubi, Gwanda, Gweru, Kwekwe, and Zvishavane. Secondary sources such as government reports and newspaper articles also informed this situational analysis.

3 <http://www.zeparu.co.zw/sites/default/files/2019-11/pathways%20to%20formalisation%20of%20artisanal%20mining.pdf>



## Types of disputes and conflicts recorded in the artisanal and scale mining sector

**B**ased on field research, the main actors and types of disputes or conflicts in the artisanal and small-scale mining sector in Zimbabwe's gold mining sector range from farmer and miner conflicts; community and miner; miner and miner as outlined below.

### MINER VERSUS MINER DISPUTES

From field research and interviews with artisanal and small-scale miners, it was observed that most disputes between miners arise from situations where there are unclear boundaries set for mining claims over contiguous land that may be subject to separate mining titles or mining rights. In such cases lack of beaconing of the respective mines with clear boundaries contributes to disputes. This results in encroachment into other people's mines and some cases of violence conflicts recorded in the mining sector mainly emanate from such claim disputes. This usually happens when a claim has been double pegged or boundaries of two or more claims overlap. In some gold mining areas disputes arise between artisanal miners who fight over the same productive gold mining pits, seeking to displace each other.

Claim disputes are exacerbated by Zimbabwe's manual system used to peg claims which leaves room for corruption and abuse of the system. Zimbabwe does not have a modern online Mining Cadastre system which can help resolve such cases of overlaps and double pegging of mining claims. Such problems have affected mineral production and reduced effectiveness of other policies such as the use it or lose it policy<sup>4</sup> and the ease of doing business which aims at attracting investors into the country. A Ministry of Mines official who was interviewed for this situational report in one of the Mining Provinces showed the research team the old Maps (in hard copy) used in the pegging process. The Maps are old, torn and the grid lines have become faint. This is a great challenge in their operations which is most likely to be one of the drivers of claim dispute "In some cases, we estimate the gridlines using pencils", remarked one official from the Ministry of Mines and Mining Development speaking on condition of anonymity.

There is also no law that regulates the width of a boundary, apart from the beacons. Boundaries are imaginary. For example, in urban housing, the common practice is that the boundary is demarcated

4 <https://www.mining-technology.com/features/mining-in-zimbabwe-time-to-use-it-or-lose-it/>

by a fence or Durawall and the width of the Durawall is regulated. However, in the mining sector it is not regulated, some range from 1 – 3 meters and even more. So, when gold rushes occur within boundaries, this causes ownership disputes as miners tend to claim the rich and lucrative deposit area. This sometimes results in conflict which often become very bloody and under such circumstances machete gangs take advantage to usurp and control such mining sites.

## **FARMER VERSUS MINER CONFLICTS - LAND DISPUTE**

Conflicts have emerged pitting miners against farmers in land disputes. Miners often invade farms in search of the yellow metal, while others pit miners against wildlife conservation groups and the tourism sector in cases where miners invade protected areas such as National Parks or Safari areas. Artisanal and Small-Scale mining operations in Mfurudzi National Park and Chimanimani National Park are just examples. The traditional views in the mining sector have always been that mining supercedes all others forms of land use. In the event a mineral is found on one's farming land, their usufruct rights to use that piece of land are disregarded by miners. This has left many farmers/landowners who have lost land/ property disgruntled and, in some cases, the conflicts escalate into violence. In some situations, the landowners/ users make attempts to claim a share of the gold, but their efforts are sometimes snubbed by the artisanal or small-scale miners. In addition, miners sometimes leave behind a lot of open pits that have turned to 'death pits' resulting in the loss of livestock and in some serious cases, children allegedly falling into the open pits and getting injured in the process. Farmers in Insiza have lamented environmental degradation, land pollution, water pollution and the lack of consultation by miners when they come to the area to carry out their mining activities. In addition, miners who use gold detectors have been blamed for starting veld fires which in some occasions result in loss of farm produce, vegetation and livestock. One farmer from Insiza had this to say "The miners have no regard whatsoever for the environment. Most of them do not have toilet facilities to use as a result they resort to open defecation. The illegal mining activities have also resulted in water pollution and when ever we try to engage, they become aggressive." While subsistence farmer also shared her sentiments, "I am tired of the pits left by the miners uncovered. Many of which have resulted in the loss of livestock. To make matters worse these miners do not recognise us, let alone consult despite some of them literally mining on our farming land."

## **TRIBUTARY CONFLICTS**

Pegging of claims is a capital intensive and strenuous process, as a result many ASMers are opting to undertake mining operations under tributary arrangements. Tribute agreements were legally recognized in the country in 1947<sup>5</sup> although they had been in existence before that time. These agreements involve two parties, where one party known as the tributor, receives a tribute, license, concession, authority or other right from the holder of the mining location known as the grantor. Section 280 of the Mines and Minerals Act stipulates that a tribute agreement should be in written form, with the holder of a mining right agreeing to grant a tribute or a limited right to a third party. A tribute agreement should be approved by the Ministry of Mines.

However, the situation on the ground is different. Many women in Gwanda with tributary agreements have experienced disputes. Some women who have entered tributary arrangement have done so

without any written agreement or approval by the Ministry of Mines, leaving them vulnerable to the tributor. The terms and conditions are often in favour of the mining right holder even in terms of revenue distribution and this causes a lot of disgruntlements amongst miners working under a tribute arrangement. After investing money into the project many are often kicked out of the mine by the tributor in cases where they hit a rich gold vein. They either get nothing or very little compensation from the mine owner. One woman shared her story, "After getting very rich ore which I estimated would be worth USD\$5000, the tributor terminated my contract with no notice and only gave me USD\$20. This is a sad reality that many miners have had to live with in tributary arrangements." Some of these disputes have landed in the courts, while some have been reported to the police without any meaningful resolution of the matters.

## **MINER VERSUS COMMUNITY DISPUTES -SCRAMBLE FOR RESOURCES**

In areas where mining takes place the host communities sometimes feel miners are a threat. For those communities, not only do these miners leave a trail of environmental damage and degradation, but their "repulsive" behaviours have filtered into the homes of the host communities. In areas like Bubi, miners are blamed for the increase in unwanted teenage pregnancies, school dropouts, increased substance abuse by youth and the high levels of HIV infections in the district. Other drivers of farmer-miner conflict include competition for resources such as water, firewood and food leading to increase of food prices.

Some communities argue that in some instances miners do not cooperate with local leadership as they argue that they only report to the Ministry of Mines and Mining Development and are only accountable to them and not anyone else. This results in violation of cultural rights. As such some small-scale miners do not adhere to local cultures and customs such as "Chisi" which requires a day of rest from field work every week. Miners argue that they cannot heed since the established mining companies do not observe the same customary practices. This leads to disputes between the communities and miners. 'Chisi is a day set aside for rest and to honour Zimbabwean historical culture and traditions.'

## **MEN VS WOMEN IN MINING DISPUTES**

For several decades, Zimbabwe's mining sector has been male dominated and despite several women cutting their teeth in the sector and creating a name for themselves, some of the challenges remain unresolved. Women are forced to strive within the male dominated environment which is prone to physical, emotional and psychological abuse. Some women indicated that in some instances as a result of limited technical expertise they have found themselves vulnerable and have become prey to their male counterparts, with some preying on their vulnerability to rob them of their ore. Some experience sexual abuse as well as verbal abuse and name calling. In some cases, violence breaks out amongst different artisanal miners fighting over women at the mine sites. In Shurugwi, there is a gold mining area called Bonza. There are milling sites and mining claims that artisanal miners exploit for gold. What shocked the ZELA team most was that the area is referred to as "kuma Grade 7", and the other one as "kuma Form 1". The names are said to have been given to those areas based on the age groups of girls that 'entertain' miners through commercial sex work. The girls are very young. According to the miners, the girls would provide what is called Serengeti services or sexual performances to the miners in exchange for money. As part of the crude banter in such artisanal mining sites, some of the miners were saying "Grade 7s" are now few, since most of them have graduated to Form 1s. The

miners indicated that these girls belong to the miners in the area, and they have unequal relationships with them such that if anyone else expresses interest in these girls' conflict ensues, unless if such relationships are done with the knowledge of the miners responsible for the girls. This shows an element of control of the girls by the miners. However, most of the girls also participate in lightweight mining operations, but mostly gold processing using mercury. A few resort to other processes in the mining value chain.

## **SUMMARY OF THE LAW ON MINING DISPUTES**

The Mines and Minerals Act contains relevant provisions related to mine disputes including measures to address disputes and conflicts on acquisition and registration of mining rights, pegging, beaconing and prospecting. The powers of Mining Directors, the High court, Administrative Court and Magistrates Courts are also outlined in the Act with respect to mining disputes. For example, Section 32 provides for disputes between landowners and prospectors. It states that if any dispute arises between the holder of a prospecting licence and a landowner or occupier of land the matter shall be referred to the Administrative Court for decision. Section 345 provides for the jurisdiction of High Court and mining directors. It gives the High Court the power to exercise original jurisdiction in mining disputes, unless if the complainant and defendant have agreed in writing that the complaint or dispute shall be investigated and decided by the mining director in the first instance. The High Court may refer the dispute to the mining director for investigation. In cases where a dispute is brought before the Mining Director, the Director shall hear and determine such claim, dispute or proceeding shall give and make all such orders, directions, judgments or decrees, as may be necessary to give effect to his decision. In this case, in terms of Section 346 mining directors may exercise judicial powers. A mining director may hold a court in any part of the mining district to hear and determine, in the simplest, speediest and cheapest manner possible, all actions, suits, claims, demands, disputes and questions arising within his jurisdiction. In terms of 362 Magistrates may hear and decide any matter between a miner and a farmer, which would otherwise come before the mining director if the farmer states to the mining director in writing that he wishes the matter decided by the provincial magistrate instead of by the mining director.

The Mines and Minerals Act prohibits wilful over pegging of a mining location of a larger size than he is entitled to or purports to peg. This is in terms of Section 57 of the Act. Section 372 also prohibits pegging of ground which is not open to prospecting. No person shall wilfully peg a larger or longer mining location than he is entitled to peg or purports to peg.



## What fuels the conflict in ASM?

### ARCHAIC MINING RIGHTS AND CLAIM ALLOCATION SYSTEM

Zimbabwe still uses a manual claim allocation system. Repeated efforts by government to modernize the mining cadastre system – the award and administration of mining rights and title is moving in a very slow pace. The old system being used is prone to manipulation and mistakes leading to double allocation of mining claims. Consequently, disputes are a common feature especially when gold rushes occur with two or more people claiming ownership over gold mining claims. The disputes can easily spill into violence as people fight to secure access of prolific gold areas. The other problem is on registration of the mines. The Ministry of Mines and Mining Development is currently lagging behind, there is generally slow processing of mining titles. The maps currently being used to allocate claims are old and tattered, in some cases Officials are forced to estimate boundaries resulting in double pegging or boundary disputes. During the data collection period some maps shown to members of the ZELA team were torn, while some have faded such that boundaries are redrawn by a pencil. This results in shifting of blocks on paper/ map but not on the ground. Under such circumstances, one's block might encroach into another one on paper, hence causing conflicts. This can only be rectified by Ministry Officials when they go on the ground to check coordinates. Such is the case in Chinhoyi and Midlands Province (Gweru office) among others. Double pegging of claims driven by corruption also fuels the violence as one can lose a claim they had for years because one was able to “bribe and have a claim allocated to them, a challenge which ASM have failed to address despite speaking against it.

However, the Minister of Mines and Mining Development has for a long time been reporting to Parliament that the Ministry is taking steps to modernise the mining cadastre system and has already acquired some materials. The Ministry also reported that it is in the process of updating mining title information and registration per province. It is reported that a pilot project of the mining cadastre is currently being done in Manicaland Province. However, the details about these developments are sketchy and not readily available for public comments and input.

### CORRUPTION FUELLING CONFLICT AND VIOLENCE

Closely linked to claim disputes is corruption as a driver to conflict in the mining sector. There are growing fears among small scale miners that claim ownership disputes are increasingly linked with increased production and gold rushes mainly declared through official means. Women in Gwanda

and Bubi have shared cases where one is awarded a prolific claim and when the site starts producing people will turn up and claim ownership of the productive claim and force the miners out of the claim. When one tries to verify/ rectify the issue at the Mines office their paperwork mysteriously disappears leaving them with no claim despite having papers that state otherwise. In some cases, certificates are backdated to facilitate the smooth take over or displacement of miners. It is alleged that powerful individuals pay bribes to the Ministry of Mines officials for access to lucrative mining claims. Such acts of corruption are enabled by the fact that the country does not have a computerised mining title management system to deter such practices. The lack of transparency in the awarding of various mining licences and certificates, remains a problem which has provided an opportunity for some Mines Ministry officials to engage in various forms of corruption<sup>6,7</sup>. In the 1st quarter of 2021, the Masvingo Mines Office was hit by corruption allegations of pegging and back dating of certificates and the double allocation of certificates<sup>8</sup>. Such a situation fuels conflict in the mining sector, stifles progress and affects economic recovery. Issues of double pegging and allocation of claims taken to the Ministry of Mines take long to be solved and, in some cases, papers are misplaced during the times of investigation. Such cases would be minimised if there was a computerised system in place. It does not help that the Ministry of Mines lack a whistle blowing facility to manage the corruption risks in a country that is notoriously corrupt. Zimbabwe is ranked number 157 out of 179 countries according to 2020 Corruption Perception Index (CPI)<sup>9</sup> conducted by Transparency International with corruption being highest in the mining sector.<sup>10</sup>

In an investigation on criminality that was done in 2017 by ZELA, one woman miner from Gwanda shared her story on how she became a victim of claim ownership disputes. She started mining in 1999 after buying a gold claim from one miner. Between 2010 and 2013, gold production significantly increased to about 14 kilograms within this period. She was then approached by another man who claimed that the claim was not hers. Such matters normally spill to High Court since the Ministry of Mines arbitration process is not final and can be challenged at court. The challenge is that the High court takes a long time to make a judgement, in some instances, the case can drag to over three years. Production at the mine must stop until the court makes a judgement. Loss of production affects the socio-economic benefits enjoyed by the claim owner and the employees. It also impedes on the country's agenda to earn the country foreign currency through increased gold production.

## SECURITY OFFICERS INVOLVED IN THE ILLEGAL MINING OPERATIONS AND CONFLICTS

Since 2017, newspaper reports have been awash with stories of involvement of police and military officers in ASM and taking over mining claims.<sup>11</sup> In 2020 ASM miners in Gwanda reported several cases of some police officers who were allegedly working in cahoots with criminals to rob miners of their gold. In 2020, ten police officers were arrested in Chegutu for allegedly prospecting without a license<sup>12</sup>. Again in 2020, police officers who were protecting a disaster site Ran mine, where 30

6 [Corruption rocks Mines ministry | Mining Index Zimbabwe](#)

7 [Corruption in mining sector: Several officials implicated | The Chronicle](#)

8 [Masvingo Mines office in corruption saga \(miningzimbabwe.com\)](#)

9 The Corruption Perceptions Index (CPI) is an index which ranks countries by their perceived levels of public sector corruption, as determined by expert assessments and opinion surveys.

10 <https://www.transparency.org/en/cpi/2020/index/nzl#>

11 <https://www.theafricareport.com/53429/zimbabwe-losing-millions-from-illicit-gold-mining-trade/> also see <https://www.crisisgroup.org/africa/southern-africa/zimbabwe/294-all-glitters-not-gold-turmoil-zimbabwes-mining-sector>

12 <https://miningzimbabwe.com/ten-cops-arrested-for-illegal-mining-in-chegutu/>

artisanal miners were trapped allegedly offered security services by day and by night accepted bribes for people to go into the restricted area to mine for gold. The police are said to have charged US\$10 per night<sup>13</sup>. Miners have bemoaned the involvement of state security agents in the mining sector. Where they should be working to stop the criminal elements that cause conflicts, some unruly security agents work in syndicates with criminals. One miner in Kwekwe said, "in Kwekwe one can mine without the sufficient paperwork as long as they pay the CID USD\$100 and that is how some opportunists can take control over your claim." Some women indicated that when one goes to report a crime or a dispute the police use that as an opportunity to harvest information on prolific gold locations and share the information with their syndicates on the ground who then go and raid or displace the miners violently.

All these factors mentioned above end up fuelling violence. The machete wielding gangs have caused havoc in the ASM sector with many lives lost, innocent people injured, and property lost to the gangs. In the past few years, the machete gangs used machete as their weapons of choice, but some are replacing them with guns. The gangs are described by some ASM miners as acting like vultures that are lurking around waiting for the next gold discovery before they pounce and take away the hard-earned ore/gold. One ASM miner in Kwekwe expressed his fears and anger as follows "We work in fear, in fear for our lives and those of our families. The machete gangs use different monikers such as 'Khetho', 'Barcas' (MaBarca) and 'Magirigamba' and they do not make it easy. After working so hard and investing a lot of money to mine and get gold they come when you have found the gold and demand that you give it to them. In some cases, they follow you at home and violently demand either gold or money. The sad part is when one reports to the police the perpetrator is arrested and released an hour later." In Zvishavane women shared stories of how they are threatened and violently forced to load their ore into the vehicle of the criminal elements or gangs.

Most conflicts related to claim ownership that sometimes the ASM miners take to the courts and to the police end up being referred to Ministry of Mines which has a special unit that handles mine related disputes. Based on interviews with Ministry of Mines officials, it was revealed that the Ministry receives cases of disputes at least twice a week. To handle the cases, the provincial mining office summon the parties involved in a dispute for a meeting to hear each side of the story. Where necessary they conduct field visits before giving a determination and directive to address or resolve the dispute. However, any determination or decision can be contested, and complainants can appeal to the Ministry where there is a dispute resolution committee comprised of surveyors and lawyers. The Permanent Secretary can appoint a team to investigate the case independently. If complainants are not happy again, they can go to the High Court. High Court looks at merits and demerits of the case. The court does not normally come to a decision on its own, it normally instruct the Provincial Mining Director (PMD) to send a field report and use it as a basis for its decision. Some cases may also go to the Minister. These mainly involve cases of mining title cancellation recommended by the PMD.

However, the Provincial offices and inspectors have challenges with financial and human resources. This jeopardizes the Ministry's visibility on the ground. Ideally, the Ministry of Mines must always be on the ground to monitor and enforce compliance with mining laws and standards and not to only wait for disputes. The ministry is mostly seen on the ground when death occurs. Some criminals and miners take advantage of their absence to commit crimes and take over some mine sites or encroach on other people's mines. This result in some cases going for one-two years without being resolved. Police receive dispute cases over claim ownership, but they do not deal with these, they refer

13 <https://www.newzimbabwe.com/cops-demand-us10-bribes-from-makorokoza-to-pan-gold-at-disaster-site/>

to Ministry of Mines. Police only comes in for enforcement of the law after recommendations from the Ministry of Mines or Court. When cases are referred by police to Ministry of Mines, Ministry sends back a letter to the police with recommendations. On average the police in Kwekwe allegedly receive one case every month. However, the case can be recurring and can be dealt with like 10 times. In the event that all parties are instructed to stop operations for further investigations, the same case will give rise to other cases of theft and trespassing as both parties will be sneaking into mine and they end up reporting each other.

Some police and court officials who were interviewed revealed that, they never receive feedback from the Ministry of Mines on cases that they would have referred to them. Some miners and gangs are taking advantage of this loophole. They have a system which they call “cause confusion and during the confusion work and loot then leave.”

## Recommendations



The Mines and Minerals Amendment Bill should be finalised to help address farmer-miner conflict through a proper system that promotes respect of farmers rights and balance them against the interests of miners, including adoption of free prior informed consent principles (FPIC).



A Land use audit needs to be carried out to map the land use in mineral rich areas and clearly pinpoint areas that can be set aside for mining and other land use practices. This will help in the enforcement of FPIC when it comes to the use of land demarcated for other uses such as Agriculture or wildlife management programmes.



A computerised mining title system (Cadastre system) should be implemented immediately to restore confidence and trust in the allocation and administrating of mining claims. Incidences of multiple claim ownership disputes can be prevented through a more transparent and accountable mining title management.



Ministry of Mines and Mining Development need to effectively decentralise its services for effective and efficient verification and resolution of disputes. The Ministry must also put in place a whistle blower program like the one used by Zimbabwe Anti-Corruption Committee which can assist them to deal with cases of corruption especially in cases were their officials are involved.



It is important for Government to institute responsible sourcing and mining policy and administrative reforms and practices in the ASM sector to ensure traceability of minerals especially gold.



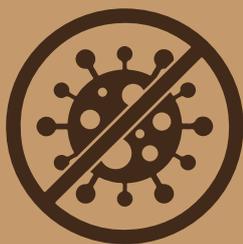
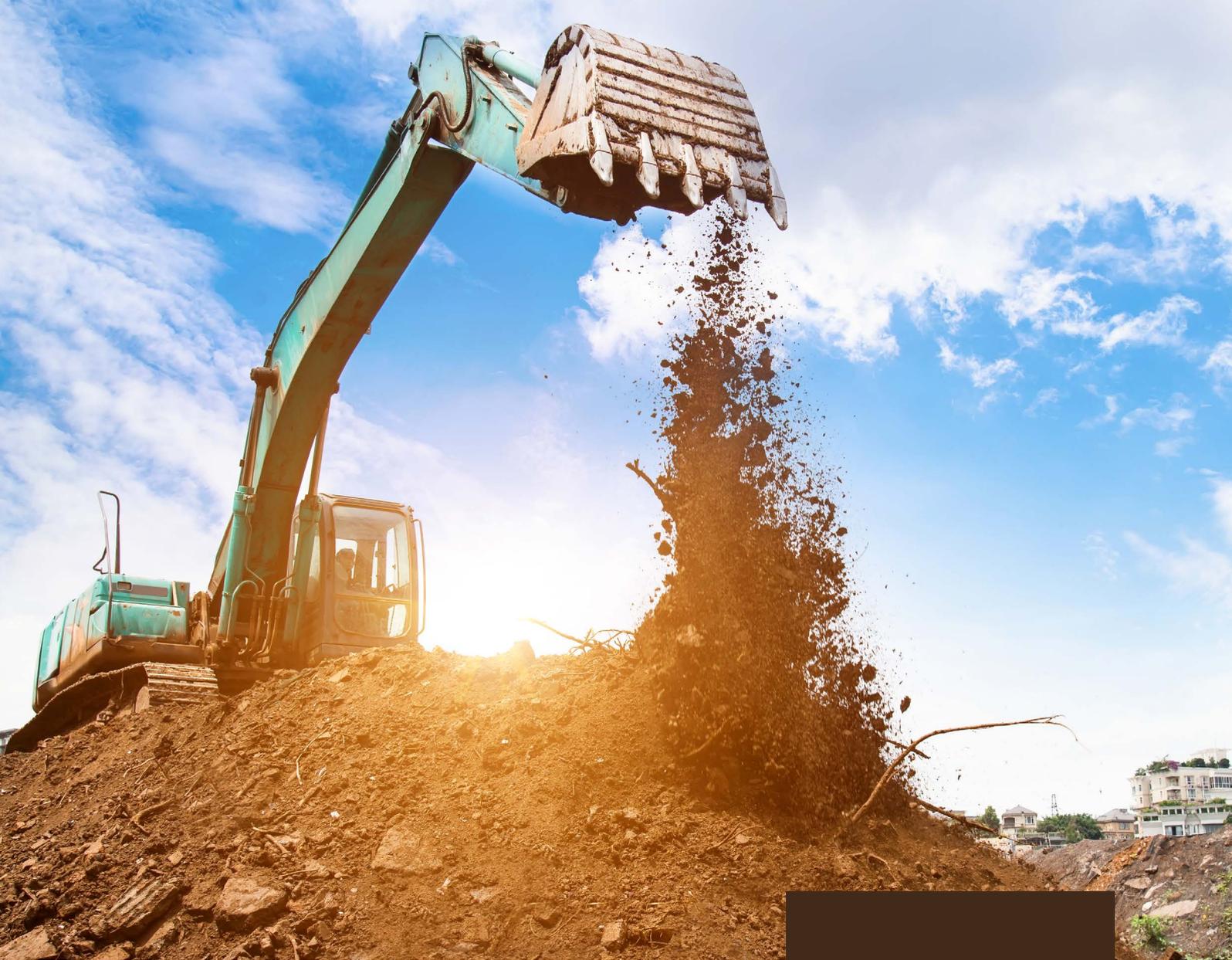
Awareness programmes must be implemented for the benefit of miners especially on laws and regulations that govern the sector, in particular the basic terms and conditions of tributary arrangements in the mining sector and on coexistence between farmers and miners.



The National Peace and Reconciliation Commission (NPRC) must scale up efforts to end violence in the ASM sector as well.



Ministry of Mines must publish a standardized procedure and policy on resolution of disputes which must be implemented fully.



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