# Assessing the Effectiveness of the Mining Regulatory Regime in Supporting Corporate Social Responsibility (CSR) For Sustainable Mining in Malawi.

**A thesis submitted in partial fulfilment of the requirements for the degree of**

**MASTER OF PUBLIC POLICY AND MANAGEMENT**

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I declare that this thesis is my own account of my own research. It contains as its main content work which has not been previously submitted for a degree at this university or any university.

## Declaration

This thesis is presented as part of the Master of **Public Policy and Management** at Murdoch University.

I declare that this dissertation is my own account of my own research. It contains as its main content work which has not been previously submitted for a degree at this university or any university.

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## Abstract

This study provides an assessment of the effectiveness of mining regulatory regime in Malawi in promoting the adoption and practice of Corporate Social Responsibility for sustainable mining. This comes from the background that CSR was traditionally business driven and was practiced voluntarily. However, the increased involvement of the public sector and the role it is playing to promote and enhance the agenda, prompted the assessment of the mining regulatory regime. This was a desk study which involved a comprehensive document review. The study reviewed government policies, legislations, journals, government reports and mining company reports.

The study shows that CSR in the mining sector in Malawi is supported by the regulatory frameworks. The regulatory frameworks showed that they contained the CSR terminology which is implied. In addition, the sector has some recent legislations which emphasise the need to enhance sustainable mining. However, enforcement and monitoring of legal frameworks and policies is poor due to lack of capacity and poor funding of institutions. The study also found that the mining sector does not have a deliberate national CSR policy or guidelines to support the CSR agenda by mining companies. It should be noted that the precise and detailed specifications of the regulation to achieve the objectives and robust institutions improves the effectiveness of the regulatory regime to support CSR in the mining sector. Though there are policies, strategies and laws in the mining sector which play the important role of strengthening the CSR agenda, they lack supportive efforts by the government to make them more effective.

## 1.0 Chapter 1: Introduction

### 1.1 Overview

The mining industry in Malawi is one of the important sectors with the potential to contribute significantly to the sustainable socio-economic growth and development of the country (GOM 2019). The country is endowed with numerous minerals which remain unexploited except for a few, such as uranium, coal, lime, rock aggregate and gemstones (GOM 2016; GOM 2019; World Bank 2009). The recent mining activities, especially the opening of a uranium mine in the country by Paladin Africa Limited which was the first large scale mining operation by Malawian standards, sparked a serious conversation about Corporate Social Responsibility (CSR) in the sector by stakeholders (Kamlongera 2013). CSR in mining receives significant attention as the nature of the activity raises significant environmental and social concerns. Mining companies in Malawi carry out CSR activities to address their social and environmental impacts within their community in the course of extracting minerals (Kamlongera 2013; Mzembe 2012). According to Mzembe and Meaton (2014), there are several factors that shape the CSR agenda in mining in Malawi. These include civil society demands, community expectations, government's policies and regulations, the influence of international regulation and "pressure from financial markets" (Mzembe and Meaton 2014). This study focuses on the role of government's policies and regulations to shape the CSR agenda. Apart from policies and laws, the existence and well-functioning regulatory institutions such as environmental regulatory agencies and mining inspectorate agencies will determine the effectiveness of government's role. Malawi has made tremendous efforts in reforming the legislation. However, underfunding of key government departments in the sector remains a challenge. Govindan, Kannan and Shankar (2014), notes that CSR presents an opportunity for mining companies to embrace sustainable practices. However, it is observed that weak regulatory frameworks, weak institutions and multinational corporations being too powerful hamper the progress of CSR in developing countries.

Mining is one of the important activities that drive economies. Mineral extraction remains the economic backbone of many countries and the number of countries that depend on mining has grown by 81% over the past two decades (ICMM 2018). Mineral products provide essential raw materials for the production of electronics, fertilizers, and machinery and construction materials amongst others (GOM 2019). The mineral sector generates direct and indirect economic benefits to an economy and can contribute to socio-economic development through employment, income and social programmes (ICMM 2018 and World Bank 2009). According to the World Bank (2009, 30), the "major direct economic impacts can be measured in terms of contributions to GDP, international trade, foreign exchange, government revenues and… job creation".

Despite the positive socio-economic benefits of mining, the activity is associated with serious negative environmental and socio-economic impacts. Moreover, mining generates external costs to the third party who are not involved in the economic transaction. This is referred to as an externality. According to Rosen and Gayer (2008), an externality is a "situation in which an activity of one entity (a person or a firm) affects the welfare of another in a way that is outside existing markets". Mining cause destruction of natural environment, pollution, displacement of people from their settlements and in serious cases it has caused conflicts amongst others (Oxfam Australia 2019; World Bank 2009; Mzembe 2016; World Economic Forum. 2015; ICMM 2018).

Managing the negative impacts of mining requires concerted efforts among stakeholders. Governments use existing legislative frameworks, strategies and policies to address negative issues in mining. On the other hand, mining companies operate by abiding by the terms of mining development agreement and implement their good corporate strategies. Good corporate practice entails abiding by the terms of the mine development agreement in all aspects of the mining cycle, protecting the environment and acting socially responsible for the mining communities beyond the minimum standards as set out in regulations (Essah and Andrews 2016). The practice is referred to as Corporate Social Responsibility (CSR). According to Steurer (2010), CSR aims to better integrate social and environmental concerns into business routines on a voluntary basis. This is because CSR started as a neo-liberal concept which resulted in government being only a spectator (Steurer 2010). However, the role and interest of government in the CSR agenda has changed overtime, from being a spectator to progressively becoming involved in a societal co-regulation approach (Fox, Ward and Howard 2002; Steurer 2010; Ward 2004).

The growing interest of governments in CSR has been motivated by the realisation as to how important CSR activities are in contributing to sustainable development (Fox, Ward and Howard 2002). The role the government plays helps to develop minimum standards so that business contributes to sustainable development guided by policies and strategies, which are *soft laws* in character, complementary to hard law (Steurer 2010). In addition, the public sector can also provide policy and institutional framework that motivates businesses to raise their performance [voluntarily] beyond minimum standards (Steurer 2010). In so doing, the government makes sure that the stakeholders, especially communities, are protected from exploitation by businesses and that communities are benefiting. Andrews (2016), observes that in cases where government plays a passive role in CSR, companies do only what they identify as necessary, while on the other hand communities claim to not benefit from the CSR activities companies claim to be doing. This has been a recipe for conflicts, especially in the mining industry.

This paper examines the effectiveness of the mining regulatory regime in supporting CSR with a specific focus on sustainable mining in Malawi. It argues that the presence of regulatory institutions, clear CSR policies and strong institutional capacity is needed to promote the adoption and practice of CSR practices for sustainable mining in Malawi. According to May (2007) a regulatory regime consists of an institutional structure and assignment of duties and responsibilities for carrying out regulatory actions and it serves as a means for attaining regulatory objectives. In examining the effectiveness of regulatory regime in the mining sector, the paper will analyze the existing regulations and public policies in relation to CSR and the institutions involved in regulating the mineral sector. The main objective of this study is to evaluate the effectiveness of the mining regulatory regime in supporting and encouraging CSR in mining for the benefit of stakeholders, especially mining communities, civil society organisation and the environment.

In other words, the study will answer the following research question: does the current mining regulatory regime support and enhance CSR practice for sustainable mining in the Malawi? In addition, the paper will address the following questions.

- What is the role of the government in promoting the CSR in the mining sector, in policy and practice?
- How effective are the policies in supporting CSR for sustainable mining in the Malawi
- To what extent do the mining sector policies encompass CSR language?

These are important questions because the mineral sector remains one of the important sectors of an economy. The mining sector in Malawi has received attention in recent years because of its potential to significantly contribute to the socio-economic development of the country. It is estimated that the contribution of the mining sector to the country's GDP grew from as low as 3 percent in 2004 to about 10.8 percent by 2010, as a result of the Kayelekera Uranium Mine (GoM 2011). However, since the inception of the Kayelekera Uranium Mine, which is regarded as the first large scale mining operation in the country, Malawians, and more particularly communities around the mine, and CSOs advocating for environmental and human rights protection, have expressed discontent on how the government of Malawi negotiated the mine development agreement. The CSR issues that were raised range from environmental concerns to issues of transparency in contract negotiation and publishing of mining revenues (Tilitonse 2013). Civil society organisations attributed the issues to weak and out dated institutional, policy and legislative frameworks. This is evidenced when six local non-government organisations (NGOs) launched legal action against the government and Paladin Africa Limited company, alleging deficiencies in the project approval process and seeking additional protective measures for the local community and the environment (Business and Human Rights Resource Centre 2012; Somerville and Green 2018).

CSR is one of the undertakings the stakeholders expect mining companies to pursue so that meaningful sustainable development is realised. Conversely, mining companies are motivated to adopt CSR practices for a range of reason - because they want to improve the image of their company, they are in pursuit of new business opportunities, they face campaign pressure from NGOs and or at the same time are acting to abide by local regulation and international best business practices (Ward 2004). Garriga and Melé (2004), observes that amongst others, NGOs, activists, communities, governments and the media put pressure on corporations to adopt responsible corporate practices. However, proper governance structures in the host country form a foundation where business entities can exercise their social responsibilities. Essah and Andrews (2016), highlight that clear laws addressing important issues, such as compensation and resettlement and proper public policies that support CSR in the mineral sector, are necessary for sustainable development. In addition, Human Rights Watch (2016), indicates that "social license" must be government regulated instead of leaving social responsibility to the discretion of mining companies.

A well regulated mineral sector is ideal if the citizens are to realize full benefits from the mineral resources. The public sector has the tremendous role to play to ensure that CSR is strengthened and contributing to the sustainable development of the country. It is through these public sector roles that CSR activities of mining businesses with regard to the social, economic and environmental management coincide with public sector priorities. It is for this reason that it is imperative to investigate the effectiveness of the mineral sector regulatory regime in supporting CSR activities.

## 1.2 Structure of the thesis

The rest of the paper is organized as follows; chapter two discusses the theoretical overview of CSR. Chapter three discusses government and CSR, specifically, the role of government in CSR, government and CSR in mining, and CSR and sustainable mining. Chapter four discusses and analyses the CSR in the Malawian mining. The chapter will look at the trends and the current CSR situation in mining, main institutions involved in the mining regulation. In addition, chapter four will present an assessment of the regulatory regime enhancing the CSR agenda in mining and the policy content analysis. Finally, chapter five concludes the study and outlines some possible policy recommendations.

## 2.0 Chapter 2: Theoretical Overview

### Introduction

This chapter discusses the theoretical underpinning of CSR activities vis a vis government regulation and stakeholders. In this regard, the stakeholders are individuals affected by the activities of the company, other than shareholders, workers and managers. The theoretical views try to explain why and how CSR is adopted and practiced. There are a number of theoretical perspectives on CSR. Garriga and Melé (2004) show that most CSR theories focus on one or more of the following aspects of social reality, economics, politics, social integration, and ethical values. Most of these theories explain the behaviour of businesses in relation to CSR activities when faced by different principles and objectives. Generally, the assumption is that the businesses are made socially responsible by sacrificing economic pursuits for social, ethical and environmental considerations. In this paper, the adoption of the CSR practice can be explained by two different views. Firstly, businesses are motivated to act socially responsible in order to create a positive image to stakeholders. Secondly, the view that CSR practice is an alternative to government regulation in addressing the problem of negative externalities (Polishchuk 2009). The general description of the legal (law) and economic theory proposed by Ronald Coase called Coase theorem and the integrative theories as categorise and proposed by Garriga and Melé (2004) are presented.

### 2.1 Coase Theorem

During the pursuit of economic activities such as mining, externalities are likely to occur. Externalities are considered to be a cost or a benefit of an economic activity which affects the third parties without the cost or benefit being reflected in market prices. The Coase theorem is a law and economic theory that has been used to explain how the problem of negative externality can be resolved through bargaining between the parties involved where there are conflicting property rights. The theory claims that the bargain will lead to an efficient outcome, regardless of which party is ultimately awarded the property rights, as long as the transaction costs associated with bargaining are negligible (Coase 2013; Rosen and Gayer 2008). In particular, the Coase Theorem states that "if trade in an externality is possible and there are no transaction costs, bargaining will lead to an efficient outcome regardless of the initial allocation of property rights." (Coase 2013; Lombardo et al. 2019, 3). In the case of a mining activity, the theorem argues that if the transaction cost of bargaining for property rights (clean environment, access to ancestral land, for stakeholders and exploitation of minerals by mining companies) is very low, the parties will come to an efficient outcome, regardless of whether the mining activity progresses or not.

The problem of negative externalities by businesses can be resolved using government instruments and privately. The common ways of correcting and reducing externalities is through the use of taxes which are administered by the government (Rosen and Gayer 2008; ). However, Stiglitz (2009) argues that governments are unable to deal with the problems effectively due to information asymmetry and failure to select appropriate regulatory instruments in a timely and accurate manner and apply them effectively. In addition, government instruments addressing externalities may have significant costs that exceed the benefits (Polishchuk 2009). They are prone to abuse and can be taken over by small group interests. Furthermore, Polishchuk (2009) indicates that government regulation often does not keep pace with changes in environmental, economic and social needs. It is for this reason that CSR has gained ground to address problems such as externalities because companies and stakeholders are involved directly in the issues and have adequate information that can be considered in agreements.

If the government fails to address the problem of externalities adequately, then according to the Coase theorem the involved parties— businesses generating externalities and those who experience their effect—"may privately negotiate a mutually acceptable settlement of the problem" as long as the transaction cost is negligible (Polishchuk 2009; Stiglitz 2009; Rosen and Gayer 2008). In this regard, CSR can be viewed as satisfying the Coase theorem. Crifo and Forget (2015) note that CSR activities around environmental and social issues are intended to deal with negative externalities, such as pollution or creating positive externalities, such as funding rural hospitals and schools in the company's area of influence. Therefore, a socially responsible business will go beyond what the law and market demand for the benefit of stakeholders affected by operations. According to Benabou and Tirole (2010, 117), this is an act of "sacrificing profits in the social interest" by corporations.

The Coase theorem presents a case for looking at viable alternatives to government regulation in dealing with externalities. Therefore, from this perspective, CSR has been looked at as an alternative to regulations where companies pursue CSR activities and programs voluntarily. Polishchuk (2009) observes that CSR is a way of dealing with externalities where the government regulations seem to fail due to information asymmetry and its ineffectiveness.

However, Kamlongera (2013) observes that some stakeholders, such as mining-affected communities, who demand social responsibility actions and progammes from mining companies, may not have the capacity to negotiate with mining companies. In such cases mining companies may exploit the knowledge gap of communities and end up getting raw deals which is worsened by nonexistence and enforcement of a legal framework (Kamlongera 2013; Jenkins and Obara 2006). It is such experiences that necessitates government to provide policy and institutional framework that motivates businesses to perform beyond legal standards (Steurer 2010). Vogel and Moon (2008; 2009) state that, even though CSR is perceived as an alternative to government regulation, the concept of CSR has developed within public policy. Governments play a role in ensuring that businesses assume responsibility for environmental and social impacts of their operations through non command and control regulations (Vogel and Moon 2008; 2009). A detailed discussion of government and CSR is discussed in preceding sections.

## 2.2 Integrative theories

The integrative theories (a combination of four related approaches in CSR) suggested and characterised by Garriga and Melé (2004, 58), say that businesses are “focused on the detection and scanning of, and response to, the social demands that achieve social legitimacy, greater social acceptance and prestige”. The social demands are ways in which the community interacts with a business and give it social licence to operate and improve the community welfare (Garriga and Melé 2004). The integrative theories identify four approaches that explain business behaviour with respect to CSR. These are issues management, stakeholder management, corporate social performance and public responsibility. Three approaches (issues management, stakeholder management and corporate social performance) illustrate the discretionary nature of the CSR activities and their interaction with stakeholders while public responsibility hinges on the need for CSR conduct to refer to government regulation.

Firstly, issues management involves the processes business use to respond to social and political issues which have the potential to affect their business. The processes involve identifying stakeholder issues, analysing issues and developing responses to the issues (Nigh and Cochran 1994). Johnson (1983 in Wartick and Mahon 1994), defined issues management as “the process by which a corporation can identify, evaluate and respond to those social and political issues which may impact significantly upon it”. Issues management is an important element of how the business engage communities. Management of societal expectations forms an important element in issue management. According to Wartick and Mahon (1994), societal expectations are the indicated demands and expectations of stakeholder groups. In mining, communities have high expectations from mining companies which, if not properly managed, may lead to conflicts. Issues that arise in mining include the relocation of communities, lack of access to clean land and water, impacts on health and livelihood, change in social dynamics of communities and environmental degradation (Oxfam Australia 2019).

Secondly, the stakeholder management approach ensures that there is a balance of stakeholder's interests. It focuses on things (people and the environment) which affect or are affected by corporate policies and practices. This approach ensures that corporations can balance the competing demands of various stakeholders (Ogden and Watson 1999). Garriga and Melé (2004) observe that NGOs, activists, communities, the media and the government, amongst others, demand from corporations what they deem to be responsible corporate practices. Therefore, through stakeholder management, businesses seek corporate responses to social demands by establishing negotiations with different stakeholders (Garriga and Melé 2004). In the case of mining companies, they come up with stakeholder management policies which enable them to engage stakeholders at different levels. For instance, Paladin Africa Ltd has a community relations policy and the company holds regular stakeholder meetings to consult and engage with its stakeholders because it understands the significance of attending to issues raised by them (Paladin 2018). The approaches are pursued through the company's discretionary policies.

Thirdly, the corporate social performance approach searches for social legitimacy and processes to give appropriate responses to social issues (Garriga and Melé 2004). It is an understanding that, when the business is lacking public acceptance due to unresolved social issues, there are bound to be conflicts with stakeholders. Similarly, Carroll (1979) suggested that corporate social performance has three integrating elements which include a basic description of social responsibility, corporate social responsiveness and a description of how corporations respond to social issues. According to Carroll, social responsibility must include the economic, legal, ethical, and voluntary categories of business performance as the business addresses all its obligations to society. The economic category entails that business is viewed mainly as the basic economic unit in society which is meant to provide return on investment (Carroll 1979; Jamali and Mirshak 2007). The legal category entails that the community expects companies to achieve its economic mission within the prescribed law. However, Jamali and Mirshak (2017) notes that regulations tend to be reactive to situations, leaving little opportunity for companies to be proactive. The ethical category of business performance involves going beyond law by creating ethical code that businesses follow (Solomon 1994 in Jamali and Mirshak 2017). According to Jamali and Mirshak (2017, 246), ethical category depicts "business as being moral, and doing what is right, just, and fair". The voluntary category entails that companies can discretionary make judgments and decide on philanthropic contributions to society (Carroll 1979).

The second element, the corporate social responsiveness, describes how the business manages the relations with the society. According to Carroll (1979), it deals with the values, method and the strategy behind business' response to social responsibility and social issues. Social responsiveness can range "from no response (do nothing) to a proactive response (do much)" (Carroll 1979, 501). Frederick (1994) describe corporate social responsiveness as the ability of a business to address social pressures. The focus is on "the literal act of responding, or of achieving a generally responsive posture, to society" Frederick (1994, 154). Lastly, is the description of how businesses respond to social issues. According to Carroll (1979), there is no standard way of responding to issues because each and every industry is unique and issues change and they differ with the industry. Addressing the social issues is important, but is at the discretion of the business as they see fit and of interest to the corporation.

Finally, the public responsibility approach includes responsibilities that goes beyond the *primary involvement* (production, marketing, input procurement, personnel policy) to *secondary involvement* – which include all relationships, activities and impacts of the business that are supplementary to its *primary involvement* activities (Preston and Post 1979; Heyne 1976, 279). According to Preston and Post (1979, 96 in Heyne 1976, 279), secondary involvement effects are the "… consequences of production and sales activities themselves, the impact of procurement and employment and the neighbour-hood effects of physical plant occupancy" amongst others. Activities in *primary and secondary involvement* need to be guided by the public policy. According to Garriga and Melé (2004), the public responsibility requires that existing laws and public policy process are taken as a reference for corporate behaviour and social performance. Similarly, Preston and Post (1981) highlights that corporate behaviour should be guided by the relevant public policy. According to Preston and Post (1981, 57), ''public policy includes not only the literal text of law and regulation but also the broad pattern of social direction reflected in public opinion, emerging issues, formal legal requirements and enforcement or implementation practices''. This entails that governments take an active role in ensuring that, not only are businesses operating according to legal requirements, but they are supporting the role corporations are playing in social responsibility activities.

Corporations incorporate social responsibilities into their business because they realize that business depend on society for their existence, continuity and growth. The inclusion of social demands is at the discretion of management according to the business perspective. However, the foundation of responsible behaviour for any business is public policy and legal compliance and the public sector sets standards such as environment stewardship, health & safety and human rights (Steurer 2010). The Integrative theories recognise that the law and the existing public policies are taken as a reference for realizing companies' social, environmental and economic reality. Vogel (1986), observes that the government is actively involved in social issues through formulation and implementation of regulations and corporate political strategies. These include "campaign contributions, lobbying, coalition building, grass-roots organizing, and corporate public affairs and the role of public interest and other advocacy groups" (Vogel 1986). Though the integrative CSR perspectives recognises the discretionary nature of CSR practice, there is strong reference to public sector role in shaping the practice.

**Conclusion**

In conclusion, this section has highlighted two theoretical perspectives on why and how CSR is practiced. The Coase theorem presents the view that CSR is an alternative to government involvement in regulating the activity and addressing the social issues brought about by the business operations. While the coase theorem discourages government involvement in the CSR process, the integrative theories highlights the role the companies' decisions (management) play as well as the role of the public sector is dealing with social issues arising from the business. The integrative theories focuses on the interaction of the business and the stakeholders to address social demands which have the potential effect on the business operation. In addition, Coase theorem emphasizes on the regulation of the CSR practice and presents an economic theory of CSR that involves defining property rights and negotiating for an efficient outcome to address negative externalities. Despite the fact that the two theoretical view explain the CSR agenda in business, coase theorem focuses much on who should regulate the practice, while the integrative theories explain why do companies address social demands. It should be observed that, even though the notion of CSR originated from the role that business plays in contributing to the social-economic wellbeing of its stakeholders, governments' involvement is not entirely out of the picture in supporting the CSR and as the regulator of economic activities. Apart from being the regulator, government remains one of the important external stakeholders to influence CSR.

## 3.0 Chapter 3: Government and CSR

### Introduction

As a regulator, government remains one of the key stakeholders in every industry. Therefore, this chapter discusses the role the government plays in promoting CSR in general and mining in particular. In addition, CSR and sustainable mining is also discussed in this chapter because government wants the exploitation of minerals to maximise the social and economic benefits while minimising the environmental effects. This is also in cognizant that CSR practices are very important in enhancing sustainable mining and that promoting the CSR agenda is essential to improve sustainability in mining. Thus, government needs strong regulatory regime to effectively play its role in strengthening CRS practice.

### 3.1 The role of Government in CSR

Government not only regulate business operations, it also plays a role of promoting CSR through policy initiatives which promote collaboration among the key stakeholders in a business. The public sector uses various approaches to encourage CSR practices in business. Though the role of the public sector in the CSR agenda may be considered complex, as noted by Petkoski and Twose (2003), interest in aligning public good outcomes of CSR activities with public sector priorities is increasing. Fox, Ward and Howard (2002), argues that the public sector plays four central roles in strengthening CSR. These are mandating, facilitating, partnering and endorsing. In addition, Albareda et al. (2009) notes that in a multi-stakeholder CSR environment, the government plays an important role in mediating between stakeholders. These roles ensure that the government is actively involved in the CSR agenda in making sure that there is a favorable environment where CSR is strengthened and promoted.

According to Fox, Ward and Howard (2002), in playing the “mandating” role, government defines minimum standards for business performance embedded within the country’s legal framework. These minimum standards are justified by the laws, directives and regulations. Steurer (2010, 57), notes that the public sector will use “legal instruments” which define the preferred choices and activities by using the legislative, executive and judicial powers of the government to drive the CSR agenda. In addition, the government provides policy frameworks which set the standards that encourage businesses to improve their performance beyond minimum legal requirements (Ward 2004). This is very important because it promotes the CSR agenda by improving the standards. In this regard, the public sector promotes the CSR agenda through the commanding role which requires the businesses adhere to the prescribed laws.

Secondly, the public sector provides an enabling environment to help businesses engage in meaningful CSR activities through facilitation. According to Fox, Ward and Howard (2002), in performing the “facilitating” role, the public sector agencies incentivize companies to engage in social and environmental improvements. The government plays a catalytic and a supporting role where it is able to stimulate the engagement of key actors in the CSR agenda. Albareda et al. (2007) observe that the government uses soft tools and means to play the role of a facilitator to promote the CSR agenda by corporations. In addition, the public sector helps to develop or support appropriate CSR management tools and mechanisms such as voluntary guidelines for company management systems or reporting (Fox, Ward and Howard 2002). Thus, the public sector sets clear policy frameworks and positions to guide businesses in CSR, develop nonbinding guidelines and codes for application in the marketplace, laws and regulations that facilitate and provide incentives for business investment in CSR.

Thirdly, the public sector collaborates with businesses to promote the CSR agenda. Fox, Ward and Howard (2002) observed that the public sector acts as participant, convener, or facilitator. This is the partnering role that ensures strategic partnerships bring together the complementary skills and inputs of the public sector, the private sector, and civil society in tackling complex social and environmental problems (Fox, Ward and Howard 2002). According to Steurer (2010), these are partnering tools that are based on co-regulatory networking. In this role, it is assumed that the different stakeholders with a common agenda will share their synergies to achieve their objectives. Steurer (2010), observes that stakeholders promote the CSR agenda by exchanging complementary resources and avoiding conventional regulations. As a result of the voluntary elements in the CSR agenda, Fox, Ward and Howard (2002), observes that stakeholder meetings, negotiated contracts and public-private partnerships are extensively used.

Lastly, the government will recognize and commend what businesses are doing beyond the legal requirements of their operations. This entails political support and public sector endorsement of the concept of CSR and practices. Fox, Ward and Howard (2002), called this an endorsing role the public sector plays in strengthening CSR. This may involve direct recognition of the efforts of individual business through reward schemes, public recognition through speeches and publicizing leading corporate givers (Fox, Ward and Howard 2002; Jamali 2011; Gond, Kang and Moon 2011). In addition, the public sector will promote CSR through policies that address a variety of topics within CSR. These policies include development of voluntary guidelines and initiatives that guide or require companies to implement socially responsible practices and national campaigns that raise awareness about CSR issues (Ascoli and Benzaken 2009). The voluntary guidelines tend to focus on transparency, accountability, and labor rights, as well as the promotion of community involvement practices. A number of standards also require reporting and the public disclosure of social and environmental practices, while other guidelines recommend that companies contribute to newly created community development funds (Ascoli and Benzaken 2009).

Public sector roles are performed through policy directions by the government. The government defines minimum standards and may establish targets (Jamali 2011). The public sector promotes an understanding of good practice, encourage voluntary initiatives and engaging in multi-stakeholder dialogues relating to effective CSR. The public sector's involvement in CSR by providing frameworks for regulation and the means by which to monitor compliance improves CSR standards and encourage businesses to improve their performance.

Finally, most governments develop comprehensive national development strategies, which are overarching development blueprints. Normally they are implemented in the short to medium term and are usually aligned with broader initiatives, such as the United Nation's Sustainable Development Goals (SDGs). Most national development strategies evolved from the Poverty Reduction Strategy Papers (PRSPs) which "describe the country's macroeconomic, structural, and social policies in support of growth and poverty reduction" (IMF 2003; IMF 2007; GOM 2006). Businesses need to align their CSR programs with those laid out in the country's development plans. According to Ascoli and Benzaken (2009), companies can support existing government development programs, hence increasing their impact and sustainability of their efforts. Through alignment of CSR initiatives to government programs, there is a good relationship between businesses and different stakeholders, which foster sustainable socio-economic development.

### 3.2 Government and CSR in Mining

Government as the regulator of the mining industry sets the rules and regulations to be followed in every mining activity. This is done through the enacting laws and enforcing them, putting in place policies that are expected to be obeyed by mining operators. Rules and regulations are enforced during each and every stage of the mining cycle, from exploration to mine closure.

Mining is one of the activities where stakeholders demand that benefits be tangible and sustainable. A robust mining regulatory framework and the effective enforcement of the rules, helps to ensure that stakeholders will be happy with the operations. According to Mutti et al. (2012), the CSR agenda must be supported by the existing regulatory framework and how the regime is setup will determine whether the stakeholders will be satisfied with the contribution of CSR to the sustainable development.

The relationship between the public sector and CSR in mining is rarely given attention due to the discretionary notion of CSR. However, the public sector helps to define the type and path of CSR and respective roles of different stakeholders. According to Ward (2004), the government's regulatory and enforcement ability is very important in supporting CSR because they help to establish the minimum environmental and social standards. The discretionary idea of CSR has been opposed in mining, especially in developing countries where there is weak governance. Mutti et al. (2012), observes that weak governance results in stakeholders not getting adequate information as to what is happening in the mining sector. This result in communities resorting to conflict because they feel they are not benefitting from CSR programs by the mining projects. Ward (2004), observes that "the ability of government to improve disclosure and transparency of often-hidden social responsibility practices within the private sphere is key to building wider confidence in the way business is run".

Government as one of the major stakeholders in mining has a big influence on the adoption of CSR practices by mining companies. Govindan, Kannan and Shankar (2014), observes that among the three stakeholders, the government, the community and the media, government plays a leading role in driving the CSR in mining. Analysing the infant mining industry in India, Govindan, Kannan and Shankar (2014), noted that mandatory drivers, which are pursued by the government through regulations and codes of conduct, are the most significant drivers of CSR agenda. In addition, Andrews (2016), argues that while CSR is practised as a discretionary activity, a strong domestic framework could possibly reduce the degree of dominance corporations have over domestic populations who are often left at the mercy of handouts in the form of social responsibility initiatives.

According to Andrews (2016), the mining regulatory framework needs to explicitly contain the CSR language to promote its adoption and practice by mining companies. In his analysis of the

Ghanaian CSR trends and factors affecting the adoption of CSR in mining sector, Andrews (2016), observed that there is absence of explicit CSR policies and language in the current regulations which has resulted in mining corporations acting in any manner they see appropriate. This scenario has led to companies doing what they identify as necessary, while on the other hand communities claim to not benefit from the CSR activities that companies claim to be doing. In addition, unclear laws and policies regarding CSR in mining leads to conflicts between mining corporations and mining communities. Essah and Andrews (2016), observed that in Ghana, misunderstandings between mining communities and mining companies emanated from unclear regulations addressing important issues such as compensation and resettlement. In addition, there is need for a clear understanding of what the mining companies are doing for host communities and how the activities have been defined. This will help to clear misconceptions and help both parties understand what to expect from each other.

Government is responsible for creating an environment where stakeholders mutually exist and benefit from each other. This depends on the effectiveness of the mineral regulatory regime in supporting all important aspects of the mining cycle. The pro-activeness of the government through CSR policies that set rules of engagement will help strengthen CSR practices that will benefit all stakeholders. To deal with misconceptions, Essah and Andrews (2016) propose that there should be a clear legislation to regulate CSR activities and define what is acceptable so that the mining companies should follow through. In addition, government should be proactive in coming up with self-sustenance programs in mining communities so that when mining operations have closed there should not be a gap created. Essah and Andrews (2016) note that sustainability programs and activities in mining communities should not be the sole responsibility of mining companies who have a primary objective to make profits.

### 3.3 CSR and Sustainable Mining

Sustainability remains at the centre of the mining industry and its operations due to the nature of the industry which is associated with economic, environmental and social concerns. However, the sustainability notion will be enhanced when mining companies go beyond legal requirements in mineral development by fully incorporating CSR practices in their operations and recognising the role the public sector plays in the supporting sustainable mining and CSR. Sustainability in mining hinges on the environmental accountability, dealing with community expectations, commercial success and mine safety and health (Australian Government 2013). Kirsch (2010, 87), highlights that sustainability in mining “refer to corporate profits and economic development that will outlast the life of a mining project”. Dissecting the notion of sustainability in mining, several terms stand out in most definitions. Onn and Woodley (2014), framed the concept of sustainability in mining by coming up with three tiers, perpetual, transferable and transitional sustainability.

Firstly, perpetual sustainability underscores the continuance of the mining activity and benefits to the owners. According to Essah and Andrews (2016), this level is concerned with the ability of the business to survive, revenue replenishment, strong sustainability and technological advancement adopted to promote mining. Secondly, transferable sustainability emphasises how benefits are extended to a wider community and environment. This tier is largely concerned with mining for development and looks at “environmental sustainability, social sustainability, economic development, sustainable fairness and weak sustainability” (Essah and Andrews 2016). Finally, the transitional sustainability emphasizes on generating and providing intergenerational benefits to the wider community and environment that last even after mine closure.

In business, the “triple-bottom-line” approach has been used to measure and define sustainability. The concept looks at the balance of economic, social and environmental aspects of the operations to enhance quality of life. Figure 1: shows how the “triple-bottom-line’ aspects interact and issues that each aspect considers. The “Triple-Bottom-Line- Approach” has been used to understand CSR as the way through which a company achieves a balance of economic, environmental and social requirements (UNIDO 2019). However, sustainability in mining goes beyond the “triple- bottom- line” and it include mine safety and efficiency in mineral extraction (Australian Government 2011, 2013).

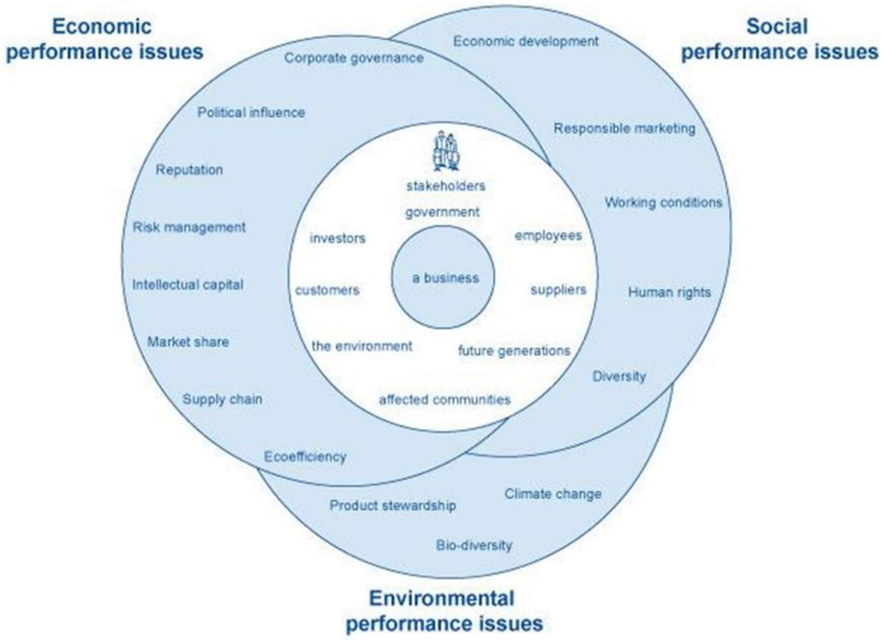


**Figure 1**: Aspects of "triple- bottom- line". *Source: UNIDO*

Therefore, the holistic model of sustainability in mining should look at the safety of the mine and the associated management systems for ethical and business reasons. Secondly, is the economic aspect which looks at the profitability of the mine for it to be sustainable. This ensures that the operation minimises costs while maximizing revenue so that all stakeholders derive benefits from the operation. Thirdly, is the resource efficiency which entails efficient management and extraction of minerals to avoid wastage and non-sustainable mining practices that may shorten the mine life.  Fourthly, is the adoption of good environmental management practices to ensure that environmental values are protected. Lastly, engagement of the community provides the "social licence to operate" which help to curb mining conflicts. This is illustrated in figure 2, which shows that sustainable mining practices.


**Figure 2**: Sustainable Mining Practices. *Source: Australian Government (2013).*

According to Walker and Howard (2002), mining companies will engage in CSR and other voluntary initiatives because of the need to secure and maintain "social licence to operate". Progressive mining companies, mainly those operating in the developing countries, maintain their social licence to operate by investing in CSR and undertaking various initiatives, such as implementation of local content policies (Australian Government 2011). Enlightened mining companies regard CSR activities very seriously because they help to manage externally perceived poor environmental and social performance. Jenkins and Obara (2006), notes that mining companies look at CSR as the practical implementation of the sustainable mining practices beyond the legal requirements.

The concept of sustainability has been supported in the mining industry such that mining companies have gone a step further by producing sustainability reports periodically. In Australia, for instance, sustainable mining has been prioritised and is considered seriously in mining operations. Stakeholders demand the sustainable exploitation of resources and expect that mining companies act in an environmentally and socially responsible way.

> Sustainable resource management in Australia is something that's always been at the forefront of the mining industry. It's something our communities and our people demand and something the people involved in the mining sector particularly are

> passionate about. We plan our mines for mine closure, so we take into account rehabilitation regeneration at the very outset of any mine development. (Australian Government 2013, 6).

In addition, sustainable mining needs the support of the government to realise its full potential. In Australia, despite the leading role mining companies play in the sustainability agenda, the government plays a supporting role to enhance the practice by supporting initiatives and protocols developed for mineral development (Australian Government 2013). In 2006 the Australian Government launched the Leading Practice Sustainable Development Program in Mining initiative which established best-practice procedures in mining stages and salient matters that affect sustainable mining (Australian Government 2013).

Sustainability in mining has been enhanced by the CSR practice. Jenkins (2004) notes that CSR balances the different demands of communities and the need to protect the environment while pursuing the economic ends of the mining activity. The practice reinforces the need for companies to pursue their economic agendas with the obligation to protect environment, ensure that the wider community benefits from the mining operation and that the benefits are intergenerational, is at the heart of the business. The effective practice of CSR has a huge baring on sustainable mining. Vintró et al. (2012) observes that, for companies that minimally adopt and engage in CSR activities, their practice of sustainable mining standards is low. Mining companies may be aware of the notion of CSR but some companies lack important information of the practice. Therefore, companies need government support and professional associations to help the adoption of CSR practices (Vintró et al. 2012).

In conclusion, sustainable mining is indispensable if the current and the future generation are to benefit from the exploitation of the natural resources. The interlinkage that exists between sustainable mining practices and CSR initiatives is very important in maintaining benefit flows among stakeholders. As noted, CSR remains the way towards better sustainability in the mining industry and that the integration of environmental, economic, efficiency, safety and community aspects in all phases of a mining project is enhanced by robust CSR practices. Government should maintain playing an active role to ensure that sustainability in the mineral sector is enhanced.

## 4.0 Chapter 4: CSR in the Malawi Mining Context

### Introduction

The mining sector in Malawi is still in its infancy stage with the potential to promote economic diversification and contribute to the socio-economic development of the country. Malawi is endowed with a lot of mineral resources such as uranium, heavy mineral sands, strontianite, rare earth minerals, phosphate, bauxite, gypsum, vermiculite, precious and semiprecious stones, limestone, dimension stone, silica sand, sulphides and coal (GoM 2019). However, only a few minerals have been exploited with the majority nearing development. These are uranium, precious and semiprecious stones, limestone, rock aggregate and coal. Most of the mining operations are small scale except for the uranium. Realising benefits from mining activities remain a contentious issue in many developing countries. Malawi, though in its early stages of mining, has not been spared of stakeholders' outcry that communities are getting raw deals. Mining benefits come in many forms, from mandatory tax revenues and non-tax revenues to local content and voluntary initiatives by mining companies. CSR remains one of the activities stakeholders in Malawi expect from a mining operation. This chapter discusses CSR in the Malawi mining sector in relation to mining regulatory regime.

The CSR initiatives in the mining sector is guided by the existing laws, policies and strategies. While the legal framework plays the mandatory role of the government in promoting CSR in the mining sector, policies and strategies help the government to perform the facilitating, partnering and endorsing roles. CSR in Malawi mining sector has received mixed reactions from stakeholders (Kamlongera 2013; Mzembe and Meaton 2014; Tilitonse 2013). This is a result of expectations from stakeholders, especially affected communities, and how mining companies have approached the CSR agenda. In the last decade there have been a few mining operations which have ignited the conversation regarding the benefits communities are deriving from mining. Amongst the existing operations, the contentious ones have been Kayelekera Uranium Mine operated by Paladin Energy Ltd, which suspended its operations in 2014, and Chimwadzulu Ruby and Sapphire Mine by Nyala Mines Limited whose licence was not renewed in 2017 due to breaching some terms of its mining contract.

In the Malawi mining sector, CSR programmes concentrate on community initiatives because the locals feel the most environmental and social impacts of the mining. Effects of mineral extraction are first felt by communities surrounding the mine. These are in terms of pollution, relocation, social disintegration and loss of ancestral land (Oxfam Australia. 2019; Hajat 2008; Human Rights Watch. 2016). CSR initiatives in Malawian mineral sector have been undertaken to make sure that all stakeholders, internal and external, have the right attitudes towards the mining operations. Mzembe, Novakovic and Meaton (2016) point out that, apart from improving the companies' outlook, mining companies embrace the social-economic development agenda of the government by undertaking CSR initiatives in communities surrounding the mine. Mining companies contribute to the communities through complementing the provision of social services, such as health and education, and employing local skilled and non-skilled labour (Kamlongera 2013). Apart from the stakeholders' needs and demands, the CSR programmes in the Malawi mining sector are guided by the national strategic development plan. The government of Malawi uses the short term strategic development policy, the Malawi Growth and Development Strategy (MGDS), to allow mining companies contribute meaningfully to the socio-economic development of the country. In the first and second medium term development plans, the MGDS I and MGDS II, the government earmarked mining as a priority area (GoM 2006; GoM 2011). The MGDS is the strategic and an overarching policy instrument, which calls for increased and active participation of private sector in the achievement of sustainable socio-economic development (GoM 2006; GoM 2011; GoM 2017). The policy framework lays down the sustainable socio-economic development aspirations of the government for its citizens in the short run.

While in operation, Paladin Energy Ltd constantly engaged with the community and provided some social projects as part of social responsibility. The company managed to provide a water supply system to Karonga Township, built school blocks and supplied teaching and learning materials, trained communities modern farming methods to provide food supplies to the mine, sunk and maintained boreholes and community health service outreach. In their Community Relations Policy, Paladin indicates that the company will strive to "achieve a balance between the economic, environmental and social needs in all phases of its projects" (Paladin energy Ltd 2019). In addition, the company highlights in the policy that mining plays a significant role in sustainable development by being a facilitator of economic and social change. In the case of Chimwadzulu Ruby and Sapphire Mine by Nyala Mines Limited, the government did not renew the mining licence in 2017 which was awarded in 2007 due to breaching some terms of mining contract (Etter-Phoya 2017). Despite the communities urging the government to renew the licence because they were benefiting through CSR initiatives by the company, the government went ahead not to renew the licence (Etter-Phoya 2017). This can be attributed to government's dissatisfaction with the quality of the projects the company was carrying out in the area as well as under-declaration of revenue form the mine. Kamlongera (2013), observes that despite the mine being in operation since 1950s, the area surrounding the mine remain impoverished. In addition, Chimwala (2018), observes that apart from the company delaying applying for the licence extension, there were allegations of under-declaration of revenue and failure to meet environmental management standards. Mining companies have shown their interest undertaking CSR activities, though, are regarded as unsatisfactory in some quarters.

CSR initiatives in the mining sector still receive contentious reactions from some stakeholders. Malunga and Phalira (2015) observe that, regardless of social development activities undertaken by Paladin Energy Ltd in the mining community, some CSOs argued that the company did not do enough. According to Kamlongera (2013), the CSOs described the CSR initiatives carried out by mining companies as window-dressing. This is in reference to the discontentment that surrounded the Kayelekera uranium mine in the initial stages of its operations. CSOs claimed that communities were not consulted and involved in the initial planning stage and that there was no transparency in contract negotiations (Kamlongera 2013). Hajat (2008), points out that the company did not commit to a CSR plan in the initial stages of the project, nevertheless, eventually the company committed to the provision of social amenities such as constructing a school, a clinic and a water treatment system for the community. However, government indicated that the lack of access to the mining development agreement by the public was as a result of the legal provisions in the prevailing mining law during the award of the contract which did not allow contract disclosure for a certain period of time (kamlongera 2013; Malunga and Phalira 2015; Mzembe and Meaton 2014).

According to Kamlongera (2013), CSOs felt that the construction of the school and a local clinic was designed to create a favourable impression and silence the activists who were questioning the large tax holiday the company got. Hamann and Kapelus (2004), has referred to this tendency as "greenwash" - meaning that the company embarks on activities just to portray a positive outlook without essentially being sustainably responsible with the community's wellbeing. Despite the strong activism shown by CSOs in the mining sector, the government has said that the company conducted activities using the prevailing Mining laws of 1981 (Mzembe and Meaton 2014; Kamlongera 2013). According to the mine development agreement signed in 2007, the social responsibility initiatives that the company carried out were part of the agreement. The reaction by some CSOs can be attributed to stakeholder's expectations on the responsibilities of the mine to the affected communities as well as lack of information, especially access to mining contracts details.

The government of Malawi has provided the regulatory environment to ensure that the CSR in mining thrives. Though CSR has been regarded as a voluntary initiative by companies, the Malawi government provides the legal footing of social issues, economic and environmental governance. According to Mzembe and Meaton (2014), the pieces of legislation that shape CSR can be categorised as the social governance laws, economic and business operations laws, and environmental governance laws. Firstly, the social governance and development laws include the labour associated regulations such as the Employment Act (2000), Labour Relations Act (1996), and the Occupational Health, Welfare and Safety Act (1997) (Mzembe and Meaton 2014). Secondly, the economic and business regulations which form the basis of business licensing and taxation. These include the Companies Act (2013), the Corrupt Practices Act (1995) and the taxation Act (2018). Thirdly, the environmental governance of the mining operations in Malawi are governed by the Environmental Management Act (2017), Atomic Energy Act (2011), Explosives Act (1966) and the Mines and Minerals Act (2019). Mzembe, Novakovic and Meaton (2016), observes that these laws can be considered as the institutionalisation of CSR practice in Malawi mining. In addition to the laws, CSR in the mining sector is guided by Mines and Minerals Policy of 2013, the Malawi Growth and Development Strategy, National Environmental Policy of 2004, Artisanal and Small Scale Mining Policy of 2018, and the Mineral Sector Communication Strategy of 2014. These policies and strategies can be regarded as playing the facilitating, partnering and endorsing role in strengthening CSR.  However, the CSR agenda entails that companies go beyond these legal obligation to be and act as "responsible citizens". Enforcement of the legal tools and implementation of the policies enables the government to play a mandatory role where it is defining minimum standards for business performance as well as facilitating, partnering and endorsing the CSR agenda (Fox, Ward and Howard 2002; Ward 2004).

The existence of the roles the government play on CSR has not dealt with the discontentment of some NGOs and CSOs on the need for mining companies to do more on CSR issues. This may be as a result of non-existent an institution or a unit that enhance communication and flow of information regarding CSR activities in the sector. According to Mzembe, Novakovic and Meaton (2016), the mining sector in Malawi lacks an institution that is responsible for coordinating and promoting the CSR initiatives activities and informing the public. In addition, Andrews (2016), observes that there is need for governments to be explicit about the CSR agenda in the regulations so that communities and advocacy groups are able to hold companies accountable. In addition, governments need to develop a national CSR policy defining and clarifying parameters for CSR practices in mining. In Malawi mining sector, government promote the CSR agenda using the regulatory frameworks. In addition, NGOs and CSOs have played an active role in trying to influence and shape the CSR agenda and ensure that exploitation of minerals are benefiting the communities as well as the country.

## 4.1 Main Regulatory institutions in Malawi Mining Sector

To better assess the effectiveness of the regulatory framework supporting the CSR agenda in the mining sector, it is imperative that we understand the institutions that are responsible for regulating the sector. These institutions are mandated to enforce and drive the mandatory role of the public sector in the CSR agenda through laws. According to Malunga and Phalira (2015), there are several institutions involved in regulating the mineral sector. The Ministry responsible for mining (the current Ministry of Natural Resources, Energy and Mining), is responsible for providing the overall policy guidance in the sector. The Minister grants the mining licence upon the recommendation of Mineral Resources Advisory Board (MRAB) (MMA 2019). The Ministry is mandated to ensure sustainable development, management and utilization of natural resources, energy and mineral resources for the socio-economic growth and development of Malawi. Under the Ministry are three departments that administer the laws and provide technical expertise in the sector. These are the Department of Mines, the Geological Survey Department of Malawi and the Environmental Affairs Department of Malawi.

According to Malunga and Phalira (2015), the Department of Mines was established with the objective of facilitating the development of mineral and petroleum exploitation in order to create an orderly and environmentally sustainable mining industry. The department is a mandated institution for the regulatory administration and inspectorate of mining operations (Mines and Minerals *Act* 2019 (MW)). The Department of Mines ensures that the objective of the Mines and Minerals Act is achieved. The objective of the Act is “to regulate the development of the mineral resources of Malawi through adherence to sustainable development principles (Mines and Minerals Act 2019 (MW), sec. 3). The achievement of the objective of the Act ensures that the principles of CSR are realised. According to the Mines and Minerals Act of 2019, sec. 3, the development of mineral resources will ensure that the minerals contribute to the sustainable socio-economic development of Malawi and its people. In addition, the Act ensures that environmental impacts are properly managed for the benefit of all present and future generations of Malawians. The Department of Mines, therefore, plays an important mandating role of promoting CSR through the enforcement of the Mines and Minerals law, which is the principal law regulating the sector.

The Geological Survey of Malawi is another institution which is very important in the mining sector. According to the Mines and Minerals Act of 2019, sec. 25, the Department of Geological Survey is responsible for all Geological mapping and acquisition and archiving of geological and mineral resources data. Though the Department may not be directly involved in promoting the CSR agenda, it provides the needed information for the development of the sector.

Protection and maintenance of the environment remains one of the contentious issues in the mining industry. As one of the dimension of the CSR agenda, the environment raise a lot of concerns in the industry. The regulator of environment was the Environmental Affairs Department of Malawi until the passing of the Environmental Management Act of 2017, which establishes the Environment Protection Authority as an institution responsible for regulating the environmental aspects of the industry. According to the Environmental Management Act of 2017, sec. 7, the Environment Protection Authority of Malawi is the "principal agency for the protection and management of the environment and sustainable utilization of natural resources". Amongst others, the general principles of the Environmental Management Act 2017 (MW) sec. 3. subsect. 2, stipulates that:

> (2) … every person required under any written law to perform functions relating to the protection and management of the environment or the conservation and the sustainable utilization of natural resources shall take such steps and measures as are necessary for-
>
> (a) promoting a clean and healthy environment in Malawi;
>
> (b) ensuring the sustainable utilization of the natural resources of Malawi;
>
> (c) facilitating the restoration, maintenance and enhancement of the ecological systems and ecological processes essential for the function of the biosphere, and the preservation of biological diversity;

> (d) ensuring that true and total costs of environmental pollution and degradation are borne by the person responsible;
>
> …
>
> (g) promoting cultural or social principles applied by any community in Malawi for the management of the environment or natural resources in so far as the same are relevant;
>
> (h) using and conserving the environment and natural resources of Malawi equitably and for the benefit of both present and future generations taking into account the rate of population growth and productivity of the available resources;
>
> (i) promoting community based management of natural resources and ensuring equitable sharing of costs and benefits of sustainable management of natural resources;
>
> (j) ensuring that precautionary measures are taken to prevent or mitigate possible deleterious environmental effects of any project, even where scientific evidence is not certain;
>
> (k) ensuring that development planning at all levels takes into account environmental conservation;
>
> (/) requiring prior Environmental and Social Impact Assessment of proposed projects which may significantly affect the environment or use of natural resources;
>
> …
>
> (n) ensuring that social issues including gender, health, human rights, disability, HIV and AIDS are mainstreamed in development interventions to minimize negative impacts on the environment and to enhance sustainable utilization of natural resources in accordance with relevant policies and legislation (Environmental Management Act 2017 (MW) sec. 3. subsect. 2)

Through enforcement of the Act, the Authority ensures that mining companies adhere to the minimum environmental standards as set out in the statute. This ensures that the government is playing mandatory role of strengthening CSR in the mining sector.

The other institutions directly involved in the mining sector are the Ministry of Finance, Economic Planning and Development which is responsible for collecting tax and non-tax revenues. The ministry is also responsible for managing and allocation of resources for socio-economic development of Malawi. The Ministry is mandated under the Taxation Act (2018) to negotiate the tax regime in mining development contracts. Other institutions involved directly in promoting the CSR aspects in the mining sector include the Ministry of Labour and Manpower Development and the Ministry of Trade and Industrial Development. According to Mzembe, Novakovic and Meaton (2016), the Ministry of Labour and Manpower Development enforces the labour laws, which ensures that the labour relations in the CSR discourse are respected and adhered to. This is particularly where mining companies engage the services of locals through the local content policies. The laws also ensures that there are no child labour issues in the mining sites and that the welfare of employees is upheld. The Ministry of Trade is another important institution which is the custodian of the Companies Act (2013). This entity ensures that the businesses are registered and licensed according to the regulations (Mzembe, Novakovic and Meaton 2016).

## 4.2 Mining Sector Policy content analysis from CSR perspective

This section analyses the general content and language of main policies and legislation in the mining sector to understand how clearly the CSR agenda has been incorporated. In analysing the policy's and legislation content, the paper considers the five dimensions of the CSR definition, the environmental, social, economic, stakeholder and the voluntariness dimensions (Dahlsrud 2008). Andrews (2016) argues that state mining policies and regulations are supposed to contain explicit language on CSR which may help communities and advocacy groups to better hold companies accountable. In addition, Andrews (2016), suggests that there should be a clear legislation to regulate CSR activities and define what is acceptable so that the mining companies should follow through, such as the national CSR policy.

Therefore, in analysing the general content and language of main policies and legislation, this section is answering the question "to what extent do the mining sector policies encompass CSR language". Table 2 outlines key policies and legislation in the sector.

**Table 2:** Inclusion of CSR dimension and terminology used in key mining policies and legislation

| **Name of the regulation/Policy** | **Key Policy Objective/ Goals / Outcomes** | **Reference to the CSR dimensions** | | **CSR Language terminology** |
|---|---|---|---|---|
| | | **Yes** | **No** | |
| Mines and Minerals Act of 2019 | "The objective of this Act is to regulate the development of the mineral resources of Malawi through adherence to sustainable development principles" | ✓ | | ○ Management of environmental impacts,<br>○ Protecting and improving the welfare of the present and future Malawians<br>○ Social and economic empowerment of local communities and regions affected by mining |
| Mines and Minerals Policy 2013. | The goal of the Mines and Minerals Policy is to enhance the contribution of mineral resources to the economy of the country so as to move from being agro-based to mineral based economy. | ✓ | | ○ Ensuring that there is environmentally sustainable mining practices<br>○ Ensuring that mining related social issues are adequately addressed.<br>○ The policy recognises the lack of articulated social responsibilities for mining companies |
| The Malawi Growth and Development Strategy (MGDS) III – Mining is mentioned within the key priority area "Energy, Industry and Tourism Development" | Enhanced production and sound management of non-renewable resources. | ✓ | | Encourage environmentally sustainable mining practice, encourage community participation in sustainable use and management of mineral resources Improving coordination among stakeholders, enhance accountability and transparency |
| Environmental Management Act of 2017 | An Act to make provision for the protection and management of the environment; the conservation and sustainable utilization of natural resources and for matters connected· therewith and incidental thereto | ✓ | | ○ the conservation and the sustainable utilization of natural resources<br>○ Protection and appropriate management of the environment<br>○ ensuring that true and total costs of environmental pollution and degradation are borne by the person responsible<br>○ Environmental and Social Impact Assessment |
| National Environmental Policy (2004), | The overall policy goal is the promotion of sustainable social and economic development through the sound management of the environment and natural resources. | ✓ | | ○ Promotion of sustainable utilization and management of the country's natural resources<br>○ Promote stakeholder participation in environment and natural resources management. |
| Mineral Sector Communication Strategy (2014) | ○ Building and sustaining positive but realistic perceptions of mining sector development among stakeholders<br>○ Fostering transparent dialogue, partnership and trust through engagement which is consistent, timely, targeted and orderly | ✓ | | ○ The role of mining in local development,<br>○ the appropriate roles and responsibilities of all stakeholders;<br>○ Improving and increasing direct communication with community members about socio-economic issues |
| Artisanal and Small Scale Mining Policy | The goal of the Policy is to contribute to economic growth and poverty reduction in Malawi through sustainable ASM activities. | ✓ | | ○ Promotion of environmentally sustainable mining practices<br>○ Compliance of mining environmental standards in ASM. |
| Mineral sector Stakeholder engagement policy | N/A | N/A | N/A | N/A |
| National CSR Policy | NA | NA | NA | NA |

The table above shows key legislations and policies that govern the sector. The general outlook of the regulation is that they contain the dimensions of CSR definitions. The implementation of the policies and enforcement of the law is supposed to provide the minimum CSR standards. In this regard, the public sector role of mandating in strengthening CSR has been reflected in the regulation. However, the most challenging part for Malawi has been implementation of policies and strategies and enforcement of the laws (Kamlongera 2013; Mzembe, Novakovic and Meaton 2016; World Bank 2009; Mzembe & Meaton 2014; GoM 2013; Hajat 2008; Malunga and Phalira 2015; Human Rights Watch 2016).

In addition, it has been observed that the mineral sector does not have a mineral sector Stakeholder Engagement policy which is supposed to lay out the modalities of how all stakeholders will engage to promote sustainable mining. Furthermore, the absence of a standalone CSR Policy may result in companies conducting in a manner they deem fit with regards to the CSR agenda. Essah and Andrews (2016), notes that what mining companies may consider CSR practices, mining communities and other stakeholders may think otherwise. Nonetheless, the presence of the mineral sector communication strategy fills the gap because it highlights key issues regarding the role mining plays in socio-economic development, the need to engage and improve communication with stakeholders and highlighting the appropriate roles and responsibilities each stakeholder is supposed to take and fulfil (GOM 2018). The Mines and Minerals Act of 2019 has also made it mandatory for mining companies to sign a community development agreement which forms part of the mine development agreement (Mines and Minerals *Act* 2019 (MW)). The Mines and Minerals Act, section 150, subsection 1(p) stipulates that

> **150.**—(1) an application for the grant of a medium-scale mining licence or large-scale mining licence shall be submitted to the Registrar in the prescribed form and manner and shall have attached to it—
>
> (p) a description of plans and initiatives for planned, sustained economic and social development in the region and local communities affected by the mining operation, and in the case of a large-scale mining licence, any community development agreements that have already been approved;

This provision in the Act protects the communities from not benefiting from the mining operation. The provision enables the community to negotiate for a minimum development initiatives from the mining company. However, it does not replace the CSR initiatives that companies must undertake because CSR goes beyond development projects that companies may contribute to mining communities.

## 5.0 Chapter 5: Effectiveness of the regulatory regime to enhance CSR in Mining

To assess effectiveness of the regulatory regime enhancing the CSR agenda in mining, the chapter tries to determine the extent to which targets (objectives) are met and detect the factors that deter or facilitate their achievement. From the available literature, the section will discuss and establish the cause and effect relationship between the regulatory regime and how well it has been administered and enforced. The analysis adopts the evaluation of regulation as defined by Coglianese (2012), in which it is postulated that public officials and the general public demand to know how well the regulations work. To evaluate the effectiveness of the regulations in mining we adopt the regulatory administration type of evaluation where it focuses on the delivery of the regulation (Coglianese 2012). The evaluation describes how well the public officials have implemented a regulation. However, Coglianese (2012), notes that the assessment articulate how well regulations are administered and do not evaluate whether they really change outcomes. In essence, the regulations are assessed against “ideal administrative goals” (Coglianese 2012).

Four indicators have been identified to assess the effectiveness of the regulatory regime in the mining sector supporting the CSR agenda. These are regulation existence, enforcement and monitoring, institution budget funding, and public relations. There is no specific criteria that has been used to determine the selection of these indicators apart from inferring from the definition of regulatory administration as provided by Coglianese (2012). According to Coglianese (2012), an assessment study using the regulatory administration scrutinizes the comprehensiveness of regulation enforcement, frequency of inspections and enforcement actions. In addition, it may analyse the punishments being imposed for noncompliance to regulation. It should be noted that a combination of two or more other evaluation methods, such as *outcome performance* and *behavioural compliance* should give a comprehensive assessment of effectiveness of regulation.

### 5.1 Regulation existence and enforcement

The success of policy interventions will depend on the existence of well-established agencies and the legal mandate that empowers them to enforce the sector laws. The existence of the regulatory institutions and the laws in a particular sector is the prerequisite for governing. A successful CSR agenda depends on the presence of vibrant regulatory institutions and laws that mandate them to regulate the sector. As observed, the mining sector in Malawi has the regulatory agencies and laws that govern the sector. The existence of the strategic agencies ensures that the regulations in the sector are enforced. Malunga and Phalira (2015), observes that it is one thing to have regulations and policies in place, and it is another thing to implement and enforce them. The mining sector was faced with the problems of harmonisation of legislation to regulate mining activities; and inadequate and outdated legal provisions as observed in the mining policy of Malawi (GOM 2013).

The passing and adoption of the new mining law in 2019 in Malawi is a big step towards harmonisation of laws and updating the old legal provisions. The new Mines and Minerals Act of Malawi, which is the principal mining law, has been developed to ensure that there is strict environmental compliance, recognition for improved welfare of communities affected by mining, transparency and that there is increased local participation in the sector (Mines and Minerals Act 2019 (MW)). But Kamlongera (2013) noted that the existence of the law did not necessarily mean that everything is in place in mining. The secrecy surrounding the contractual agreement by Paladin Africa and the Government of Malawi regarding Kayelekera Uranium mine has been attributed to the repealed 1981 law which did not allow the public to access the contract documents. Netvertheless, the sector has legal frameworks, policies and strategic documents which are meant to govern the sector.

## 5.2 Monitoring and enforcement

Monitoring mining operations remains an important government function to ensure that the companies are complying with the minimum standards of operations. Good laws and regulations must be accompanied by proper enforcement and monitoring mechanism. Mzembe, Novakovic and Meaton (2016) observe that the development and presence of good laws in the mining sector is fundamental for the institutionalisation of CSR in Malawi. However, the government of Malawi lacks the capacity to adequately enforce compliance with regulations due to shortage of financial, physical and human resources in the enforcement agencies (Mzembe & Meaton 2014; Mzembe, Novakovic and Meaton 2016 ).

In the case of Kayelekera Uranium mine by Paladin, Mzembe & Meaton (2014), observed that the regulatory framework was one of the important drivers of Paladin's CSR agenda in Malawi, however, they noted that the enforcement of compliance with regulatory regimes was challenging and sub-standard. According to Hajat (2008), in some instances, the company could provide per diems for government officers on monitoring exercise and the company had some local chiefs on their payroll. This tendency may compromise the quality and objectivity of monitoring and enforcement exercises. Kamlongera (2013), observes that the actions have the potential to weaken the wider-community's ability to participate in the decision-making processes which affect their welfare.

Malunga and Phalira (2015), has attributed the flaws in the enforcement of sustainable environmental management practices in the mining industry, to weak sector governance and lack of enforcement. They observed that the sector needs to reform to ensure that there is transparency and that enforcement mechanisms are in place to make sure there is sustainable mining practices. Shortage of experts in monitoring special minerals, like radioactive materials, pose some serious challenge on the part of government to ensure that communities surrounding mining sites that are extracting radioactive minerals are environmentally safe. In the case of Kayelekera Uranium Mine, Kamlongera (2013) notes that the government did not have the expertise to monitor uranium mining. This was attributed to the movement of available few experts in government to work in the mining company.

Monitoring and enforcement of the regulations is very important if the country is to realize sustainable mining. As Kamlongera (2013) notes, the success of CSR initiatives is largely reliant on the existence and enforcement of the regulations. In addition, the World Bank (2009), observed that important institutions regulating the sector in Malawi do not have adequate equipment, vehicles and well equipped laboratories which constrain the effectiveness of these institutions. This creates challenges where government wants to review EIA studies and monitor environmental management plans.

### 5.3 Budget funding

Availability of adequate funds for monitoring and other activities, play a significant role to enable agencies carry out their mandate and in turn, strengthening their role in promotion of CSR. The World Bank in the *Malawi Mineral Sector Review*, noted that the country lacks sector experience and has inadequate human resources and funding amongst others (World Bank 2009). According to the report, the status can lead to overstretching of the limited capacity in the event of large mining developments. A quick synopsis of the budgetary allocation in the Department of Mines, Geological Survey Department and Environmental Affairs Department, shows that the agencies do not receive adequate funding, as shown in Figure 3 below. The institutions do not get all the approved funds in their budget. This is according to the data available for budgetary funding for Other Recurrent Transactions (ORT) in three financial years (FY), 2015/16 FY, 2016/17 FY and 2018/19 FY. This has consequences on the implementation of activities and completion of budgeted tasks in the agencies. The World Bank (2009), observed that, for instance, the Environmental Affairs Department does not receive adequate funds to review EIA studies and monitor environmental management plans. Therefore, the department relies mainly on revenues from EIA fees which are not adequate to promote an environmentally and socially sustainable mineral sector growth. Institutions involved in the regulation of the mining sector face the same challenges. According to the World Bank (2009), the common problems among these institutions are human resources, training of personnel, data management, suitable equipment and funding. Kamlongera (2013), observes that underfunded government departments and disorganised legislation gives mining companies little motivation to observe good environmental practices and contribute to community development.

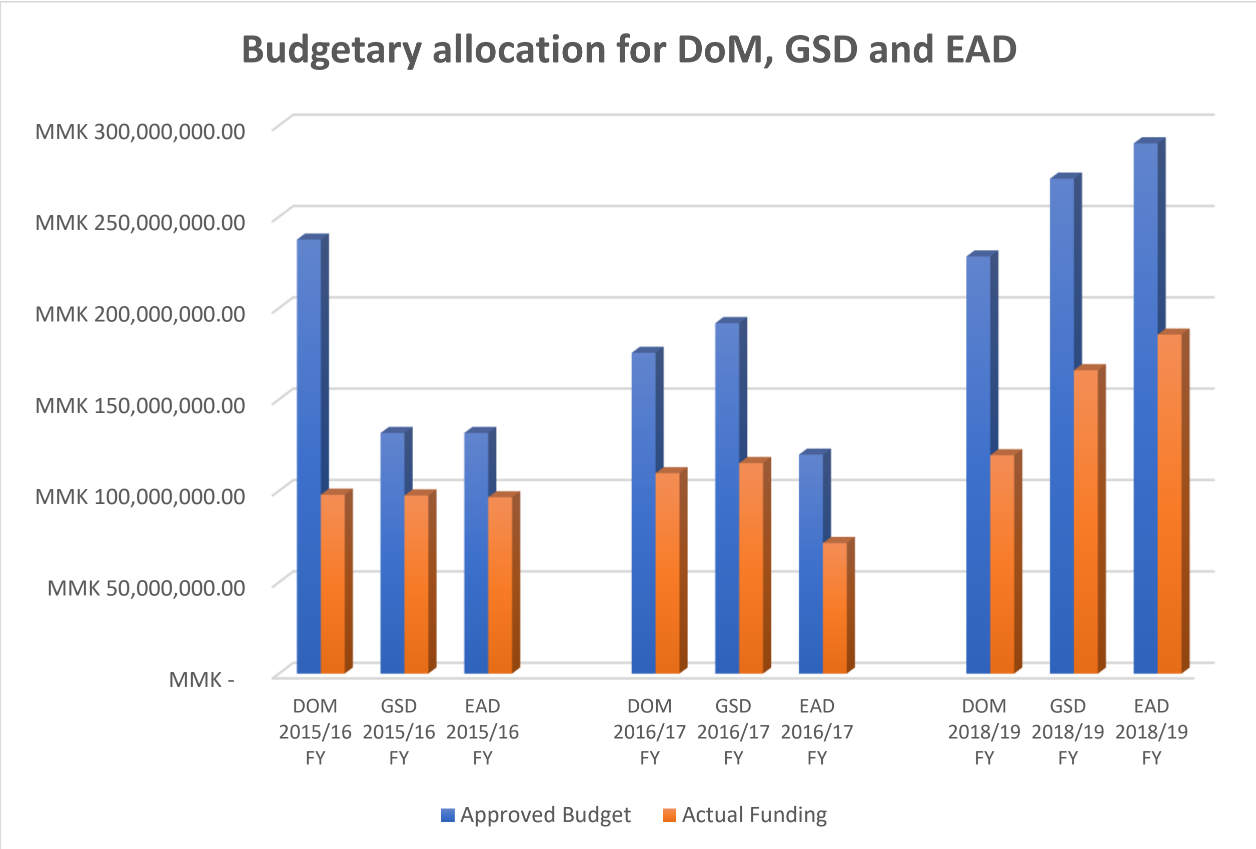


**Figure 3:** Budget allocation and funding for Department of Mines, Geological Survey Department and Environmental Affairs Department

Inadequate funding can also impact the recruitment of key personnel and establishment of important specialised unit in the mining sector. Mzembe, Novakovic and Meaton (2016), observes that the mining sector is supposed to have a standalone unit dedicated to CSR issues. However, lack of resources in the Malawi mining sector does not allow the government to establish and recruit competent personnel to the unit. The absence of important personnel has repercussions on the quality of monitoring exercises. Funding remains an important element for the smooth operation and regulation of the sector. The effectiveness of the regulatory institutions will highly depend on the availability of both human and financial resources.

### 5.4 Communication and stakeholder engagement

Availability of information at every stage of the mine development is crucial for managing stakeholders. This helps to minimise speculation and ultimately averting conflicts, especially with communities and CSO. Availability of information helps to manage expectation that stakeholders have regarding the mining on CSR initiatives. Poor management of expectations may result in host communities expecting that the mining companies will take-up the roles normally performed by the government. Mzembe & Meaton (2014), observes that in the case of Kayelekera Uranium Mine, the host communities had high expectations about the company's role in improving poor road infrastructure, provision of healthcare and education which was in bad state and addressing worsening poverty levels. However, in the case of the Kayelekera mining development agreement, the law did not allow the disclosure of the mining agreement contents for a specific period of time. According to Paladin energy Ltd (2019), the mining development agreement contained the social initiatives activities but the stakeholders did not have access to such information by law.

Transparency in managing the negotiation of contracts, revenue collection and allocation is another area that create contentions in the sector. Apart from reviewing the mining law, Malawi joined the Extractive Industries Transparency Initiative (EITI) in 2015 to ensure that transactions in the mineral sector are as transparent as possible. The affiliation to the EITI is regarded as a move to build trust amongst stakeholders in the mining which has been associated with concerns about environmental effects, distribution of benefits and awarding of licenses (EITI 2015). However, Bell and Maurea (2007) observe that transparency can help compensate for the shortfalls in weak institutions, as stakeholders can use such information to demand responsibility and improvement where necessary.

The Malawi Government developed the mining sector communications strategy aimed at providing a comprehensive framework for stakeholder activism to support transparent, consistent and fact-based communication (GoM 2018). The strategy recognizes that there are knowledge gaps in the mining sector on some key issues. The strategy observes that stakeholders need to be sensitized on "the potential role of mining in local development, the legislative framework governing the sector; the appropriate roles and responsibilities of all stakeholders," amongst others. The strategy seeks to improve communication with stakeholders, especially community members, about health issues, relocation and resettlement during mine development, protection of vulnerable groups and land ownership (GOM 2018). Nevertheless, Human Rights Watch (2016), observed that despite efforts to develop the communication strategy, the government provide little or no information to the public and that the strategy does not provide a mechanism of reporting or informing the mining communities about the results of environmental monitoring.

However, mining companies, such as Paladin which operates Kayelekera Uranium Mine has a Community Relations Policy which guides their interaction with stakeholders in the overseas jurisdictions. The company policy clearly stipulates that it strives to "respect the attitudes and expectations of host communities; act with integrity, honesty and cultural sensitivity; and contribute to the growth and prosperity of host countries through community development" (Paladin energy Ltd 2019, 2). The company is proactive in engaging stakeholders on a regular basis. According to Paladin Energy Ltd (2018, 8), the company "regularly consults and engages with its stakeholders, recognising the importance of listening to and understanding the issues raised by them so that the Company can respond effectively". Table 1 shows number of formal stakeholder meetings held by Paladin Kayelekera Uranium Mine.

**Table 1**: Number of formal stakeholder meetings conducted by Paladin by Stakeholder Group. *Source: Paladin Energy Ltd (2018)*

| Stakeholder Group | 2017/18 | 2016/17 |
|---|---|---|
| **Community** | 10 | 18 |
| **Environmental Forum/Groups** | 3 | 0 |
| **Civil Society Organisations** | 0 | 6 |
| **Government** | 9 | 18 |
| **Employees** | 0 | 3 |
| **Other** | 0 | 0 |
| **Total** | 22 | 45 |

This shows how proactive the mining company has been in engaging stakeholders. On the other hand, the government is not engaging stakeholders, especially communities to provide them with information. According to Ward (2004), in performing the endorsing role in strengthening CSR, the government is supposed to lead by example. The government need to set a good example by implementing the strategy it developed to improve access to information on regarding mining. As noted by Human Rights Watch (2016), the government of Malawi needs to improve public access to information and be transparent to the public, mining communities and CSOs.

**Conclusion**

This chapter has discussed the current status quo of the CSR practice in the Malawi mining sector. It has been observed that mining companies who have had operations in the country have incorporated the CSR agenda in their management plans. This has been observed through the community development initiatives they have carried out in communities surrounding the mines. However, meeting expectations of stakeholders has been a challenge in the sector. Activists working in the social justice and environmental sector observe that mining companies are not doing enough to protect and support communities. In addition, the CSO criticize the government for lacking adequate capacity to manage the sector. Nonetheless, CSOs have played a tremendous role in acting as watchdogs in the mining sector and being proactive that mining companies are being socially responsible.

The chapter also observed that the mining sector has key institutions responsible for regulating the sector and providing policy guidance. In addition, the sector has policies and legal frameworks of which some have been reviewed recently, such as the Mines and Minerals Act of 2019 and Environmental Management Act of 2017. The sector has put in place mechanisms to improve communication and transparency in the sector. The development of the Mineral Sector Communication Strategy and joining of the EITI will enhance transparency and flow of information in the sector, which is critical in managing expectations among stakeholders. The regulatory regime supports the CSR practice in the mining sector through prescribed actions in policies, laws and strategies. However, in adequate funding, lack of comprehensive monitoring and enforcement are some of the issues that affect the effectiveness of the regulatory regime.

## 6.0 Chapter 6: Summary of Findings and conclusion

The study looked at how effective the mining regulatory regime in Malawi is in promoting the adoption and practice of the CSR agenda in the mineral sector. It began by considering the roles the government in general plays in ensuring that CSR is enhanced and adopted by mining companies. In particular, the study discussed the CSR in the Malawi context, the trends and current situation in the mining sector. In addition, the paper looked at the institutions that are involved in regulating the Malawi mining sector and the regulations in place to understand the roles they play in promoting CSR and the tools being used to support the CSR agenda. Thus, to evaluate the effectiveness of the regulatory regime, the paper looked at the regulatory institutions, the legislation and policies the government has in place to regulate the sector. The study analysed the existence of the necessary policies and legislation in support of CSR agenda; enforcement and monitoring of the regulations to promote sustainable mining practices, funding of institutions regulating the mining sector and the stakeholder management by the government. Finally, the paper discussed the policy content to understand how the language of CSR has been incorporated in the existing policies, strategies and legislation.

The paper argued that the presence of regulatory institutions, clear CSR policies and strong institutional capacity is required to support the adoption and practice of the CSR agenda for sustainable mining in Malawi. It has been observed that the sector has institutions mandated to regulate the sector, the main ones are Department of Mines, Geological Survey Department, Environment Protection Authority, Ministry of Labour and Manpower Development, Ministry of Trade and Industrial Development, and Ministry of Finance, Economic Planning and Development. In addition, the sector has laws, policies and strategies which regulate and guide the sector. The study observed that main laws, policies and strategies contain the CSR terminology. However, the terminology in the laws and policies are implied based on the dimensions of the CSR definition. There is no clear referencing to the notion of CSR and its relevance to sustainable mining in Malawi. It should be noted that the precise and detailed specifications of the regulation to achieve the objectives improves the effectiveness of the regulatory regime to support CSR in the mining sector. In addition to specific issue policies, there is need for deliberate national CSR policy and guidelines to support the CSR agenda in the mining sector.

Furthermore, the study observed that there is inadequacy and inconsistency of funding to relevant agencies regulating the sector. Funding of regulatory agencies remains an important element if institutions are to perform their mandate and achieve their objectives. Underfunding results in institutions not operating to the optimum and not achieving planned activities. This affect institutions' effectiveness in enhancing CSR because funding improves monitoring and enforcement functions to ensure that mining companies are adhering to minimum standards and are honouring CSR initiatives with communities.

It is evident from the research that the role of the public sector policies in enhancing CSR in mining sector is indispensable. Though there are policies, strategies and laws in the mining sector which play the important role of strengthening the CSR agenda, they lack supportive efforts by the government to make them more effective. This corroborates with Nelson (2008), that most governments in developing countries have well-crafted policies but usually there are governance gaps and institutional failures, ranging from repressive and corrupt regimes, to weak public administration and lack of political will. As observed, the CSR agenda in the mining sector in Malawi is being pursued by all stakeholders involved, the government, communities, companies and CSOs. Nevertheless, it is the mandate of the government of Malawi to create an enabling environment where CSR agenda is strengthened so that companies are able to contribute to sustainable socio-economic development through sustainable mining.

## 6.1 Limitation and Areas of further Research

The documents analysed in the study might have subjectivity of the author respondents. The authenticity and validity of the data was assured by scrutinizing the data source and also by comparing with different reports on the subject. Finally, the researcher recommends that a further study can be done to investigate how corruption, political power and political dynamics affect adoption of the CSR agenda and implementation of CSR initiatives by mining companies.

## 7.0 References


Ackerman, Robert W. 1973. "How Companies Respond to Social Demands." *Harvard Business Review* 51 (4): 88-98. https://search-ebscohost-com.libproxy.murdoch.edu.au/login.aspx?direct=true&db=bth&AN=3867087&site=ehost-live.

Albareda, Laura, Josep M. Lozano, and Tamyko Ysa. 2007. Public policies on corporate social responsibility: The Role of governments in Europe. *Journal of Business Ethics* 74 (4): 391-407. https://doi.org/10.1007/s10551-007-9514-1.

Albareda, Laura, Josep Maria Lozano, Antonio Tencati, Francesco Perrini, and Atle Midttun. 2009."The role of government in corporate social responsibility." In *Ethical Prospects*, pp. 103-149. Springer, Dordrecht. https://link.springer.com/chapter/10.1007/978-1-4020-9821-5_6

Ascoli, Kimberly, and Tamar Benzaken. 2009. "Public policy and the promotion of corporate social responsibility." *University of California, San Diego.* https://www.bsr.org/reports/Public_Policy_ Promotion_of_CSR.pdf

Andrews, Nathan. 2016. Challenges of Corporate Social Responsibility (CSR) in Domestic Settings: An Exploration of Mining Regulation Vis-À-Vis CSR in Ghana. *Resources Policy* 47: 9-17. https://doi.org/10.1016/j.resourpol.2015.11.001

Agle, Bradley R., Ronald K. Mitchell, and Jeffrey A. Sonnenfeld. 1999. "Who Matters to CEOs? An Investigation of Stakeholder Attributes and Salience, Corporate Performance, and CEO Values." *The Academy of Management Journal* 42 (5): 507-525.http://libproxy.murdoch.edu.au/login?url=https://search-proquest-com. libproxy. Murdoch. edu.au/docview/199808574?accountid=12629.

Australia Government. 2011. A Guide to Leading Practice Sustainable Development in Mining: Leading Practice Sustainable Development Program for the Mining Industry. Department of Industry, Innovation and Science. https://www.industry.gov.au/sites/default/files/2019-04/lpsdp-a-guide-to-leading-practice-sustainable-development-in-mining-handbook-english.pdf

Australia Government. 2013. Sustainable Mining. Australian Trade Commission. https://www.austrade.gov.au/ArticleDocuments/1358/Sustainable-Mining-ICR.pdf.aspx

Australia Government. 2004. Social Responsibility in the Mining and Metals Sector in Developing Countries Hand Book. https://www.im4dc.org/wp-content/uploads/2014/01/Social-responsibility-in-the-mining-and-metals-sector-in-developing-countries.pdf

Bell, Joseph C. and Teresa Maurea Faria. 2007. "Critical Issues for a Revenue Management Law." In M. Humphreys, J. Sachs, & J. E. Stiglitz (Eds.), *Escaping the resource curse* (pp.286-321). Columbia University Press.

Benabou, Roland and Jean Tirole. 2010. "Individual and Corporate Social Responsibility." *Economica* 77 (305): 1-19. https://www-jstor-org. libproxy.murdoch.edu.au/stable/27764393

Business and Human Rights Resource Centre. 2012. Paladin lawsuit (re Malawi). https://www.business-humanrights.org/en/paladin-lawsuit-re-malawi.

Carroll, Archie B. 1979. "A Three-Dimensional Conceptual Model of Corporate Performance." *Academy of Management. The Academy of Management Review (Pre-1986)* 4 (4): 17. https://www-jstor-org.libproxy.murdoch.edu.au/stable/257850.

Coase, R. H. 2013. "The Problem of Social Cost." *The Journal of Law & Economics* 56 (4): 837-877. https://doi-org.libproxy.murdoch.edu.au/10.1086/674872

Coglianese, Cary. 2012. *Measuring Regulatory Performance: Evaluating the Impact of Regulation and Regulatory Policy:* OECD. https://www.oecd.org/gov/regulatory-policy/1_coglianese%20web.pdf

Chimwala, Marcel. 2018. Mining in Malawi. *We Demand Transparency from Government. On Chimwadzulu Mine Issue.* https://mininginmalawi.com/2018/03/14/editorial-marcel-chimwala-we-demand-transparency-from-govt-on-chimwadzulu-mine-issue/.

Commission of the European Communities. 2001. *Promoting a European Framework for Corporate Social Responsibilities*, COM (2001) 366 final, Brussels. http://www.europarl.europa.eu/meetdocs/committees/deve/20020122/com(2001)366_en.pdf

Crifo, Patricia and Vanina D. Forget. 2015. "the Economics of Corporate Social Responsibility: A firm-level Perspective Survey." *Journal of Economic Surveys* 29 (1): 112-130. DOI: 10.1111/joes.12055

Dahlsrud, Alexander. 2008. "How Corporate Social Responsibility is Defined: An Analysis of 37 Definitions." *Corporate Social Responsibility and Environmental Management* 15 (1): 1- 13. DOI: 10.1002/csr.132

Ditlev-Simonsen, Caroline D. and Atle Midttun. 2011. "What Motivates Managers to Pursue Corporate Responsibility? a Survey among Key Stakeholders." *Corporate Social Responsibility and Environmental Management* 18 (1): 25-38. DOI: 10.1002/csr.237.

Dobers, Peter, Minna Halme, Akademin för hållbar samhälls- och teknikutveckling, and Mälardalens högskola. 2009. "Corporate Social Responsibility and Developing Countries." *Corporate Social Responsibility and Environmental Management* 16 (5): 237-249. doi:10.1002/csr.212

Elkington, John. 1998. Partnerships from Cannibals with Forks: The Triple Bottom Line of 21st-Century Business. *Environmental Quality Management* 8 (1): 37-51. DOI:10.1002/tqem.3310080106

Essah, Marcellinus and Nathan Andrews. 2016. "Linking or De-Linking Sustainable Mining Practices and Corporate Social Responsibility? Insights from Ghana." *Resources Policy* 50: 75-85. https://doi.org/10.1016/j.resourpol.2016.08.008.

Etter-Phoya, Rachel. 2017. Mining in Malawi. *Community Pleads with Malawi Govt to Extend Nyala's Ruby Mining Licence.* https://mininginmalawi.com/2017/11/23/community-pleads-with-malawi-govt-to-extend-nyalas-ruby-mining-licence/

Fox, Tom, Halina Ward, and Bruce Howard. 2002. *Public Sector Roles in Strengthening Corporate Social Responsibility: A Baseline Study*. Corporate Responsibility for Environment and Development Programme. Washington, DC: World Bank. pubs.iied.org/pdfs/16017IIED.pdf

Frederick, William C. 1994. “From CSR1 to CSR2: The Maturing of Business-and-Society Thought.” *Business & Society* 33, no. 2 (August 1994): 150–64. doi:10.1177/000765039403300202.

Garriga, Elisabet and Domènec Melé. 2004. "Corporate Social Responsibility Theories: Mapping the Territory." *Journal of Business Ethics* 53 (1/2): 51-71. DOI:10.1023/B:BUSI.0000039399.90587.34

GEVA, AVIVA. 2008. "Three Models of Corporate Social Responsibility: Interrelationships between Theory, Research, and Practice." *Business and Society Review* 113 (1): 1-41. DOI: 10.1111/j.1467-8594.2008.00311.x

Government of Malawi. 2006. The Malawi Growth and Development Strategy (MGDS). Ministry of Finance, Economic Planning and Development. www.malawi.gov.mw/ Publications/MGDS%20November%202006%20-%20MEPD.pdf.

Government of Malawi. 2011. Malawi Growth and Development Strategy II. Ministry of Economic Planning and Development.

Government of Malawi. 2013. Mines and Minerals Policy of Malawi. Ministry of Mining

Government of Malawi. 2014. Mineral Sector Minerals Sector Communications Strategy. Ministry of Natural Resources, Energy and Mining.

Government of Malawi. 2017. Malawi Growth and Development Strategy III, Ministry of Economic Planning and Development. https://www.mw.undp.org/content/dam/ malawi/docs/UNDP_Malawi_MGDS)%20III.pdf

Government of Malawi. 2013. Artisanal and Small-Scale Mining Policy of Malawi. Ministry of Mining

Government of Malawi. 2019. Annual Economic Report 2019. Ministry of Finance, Economic Planning and Development. Department of Economic Planning and Development. www.finance.gov.mw/index.php/blog/documents/annual-economic-reports?download=50:2019-annual-economic-report.

Government of Malawi. 2019. Mines and Minerals *Act* 2019 (Malawi). Act No. 8 of 2019.

Gond, Jean-Pascal, Nahee Kang, and Jeremy Moon. 2011. "The Government of Self-Regulation: On the Comparative Dynamics of Corporate Social Responsibility." *Economy and Society* 40 (4): 640-671. DOI: 10.1080/03085147.2011.607364

Govindan, Kannan, Devika Kannan, and K. Madan Shankar. 2014. "Evaluating the Drivers of Corporate Social Responsibility in the Mining Industry with Multi-Criteria Approach: A Multi-Stakeholder Perspective." *Journal of Cleaner Production* 84 (1): 214-232. https://doi.org/10.1016/j.jclepro.2013.12.065

Haigh, Yvonne. 2012. *Public Policy in Australia: Theory and Practice*. South Melbourne, Vic: Oxford University Press.

Hajat, R. 2008. Kayerekera and the Uranium Mining Saga in Malawi, in Konrad- Adenaeur-Stiftung (2008) Towards the Consolidation of Malawi’s Democracy. Occasional Paper 11, Konrad Adenaeur-Stiftung, Lilongwe.

Hamann, Ralph and Paul Kapelus. 2004. "Corporate Social Responsibility in Mining in Southern Africa: Fair Accountability Or just Greenwash?" *Development* 47 (3): 85-92. doi:http://dx.doi.org.libproxy.murdoch.edu.au/10.1108/IJLMA-03-2014-0022.http://

libproxy.murdoch.edu.au/login?url=https://search-proquest-com.libproxy.murdoch.edu.au/docview/2111128880?accountid=12629.

Heyne, Paul. 1976. *Private Management and Public Policy: The Principle of Public Responsibility*. Vol. 49 University of Chicago Press. https://www-jstor-org.libproxy.murdoch.edu.au/stable/2352262

Hilson, Gavin M. and James Haselip. 2004. "The Environmental and Socioeconomic Performance of Multinational Mining Companies in the Developing World Economy." *Minerals and Energy - Raw Materials Report* 19 (3): 25-47. https://doi.org/10.1080/14041040410027318

Howlett, Michael and M. Ramesh. 1993. "Patterns of Policy Instrument Choice: Policy Styles, Policy Learning and the Privatization Experience." *Policy Studies Review* 12 (1-2): 3-24. http://libproxy.murdoch.edu.au/login?url=https://search-proquest-com.libproxy.murdoch.edu.au/docview/61614504?accountid=12629.

Human Rights Watch. 2016. *"They Destroyed Everything": Mining and Human Rights in Malawi.* https://www.hrw.org/report/2016/09/27/they-destroyed-everything/mining-and-human-rights-malawi.

International Council on Mining and Metals. 2018. Social Progress in Mining-Dependent Countries: Analysis through the lens of the SDGs. http://www.icmm.com/website/publications/pdfs/social-and-economic-development/180710_revised_spimdcs.pdf.

International Monetary Fund. 2003. Malawi: Poverty Reduction Strategy Paper Progress Report. https://www.imf.org/~/media/Websites/IMF/imported-full-text-pdf/external/pubs/ft/scr/2003/_ cr03329.ashx

International Monetary Fund. 2007. Malawi: Poverty Reduction Strategy Paper—Growth and Development Strategy. https://www.imf.org/~/media/Websites/IMF/imported-full-text-pdf/external/pubs/ft/scr/2007/_cr0755.ashx.

Jamali, Dima and Ramez Mirshak. 2007. "Corporate Social Responsibility (CSR): Theory and Practice in a Developing Country Context." *Journal of Business Ethics* 72 (3): 243-262. https://www-jstor-org.libproxy.murdoch.edu.au/stable/25075377

Jamali, Dima. 2011. Corporate Social Responsibility (CSR) for Social Development in Arab States, UNESCO, Beirut. http://www.unesco.org/new/fileadmin/MULTIMEDIA/FIELD /Beirut/pdf/Dima%20Jamali%20(En).pdf

Jenkins, Heledd, and Louise Obara. 2006. "Corporate Social Responsibility (CSR) in the mining industry–the risk of community dependency." *Queen's University Belfast*. citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.466.417&rep=rep1&type=pdf.

Jenkins, Heledd. 2004. "Corporate Social Responsibility and the Mining Industry: Conflicts and Constructs." *Corporate Social Responsibility and Environmental Management* 11 (1): 23-34. DOI: 10.1002/csr.050.

Jones, Thomas M. 1980. "Corporate Social Responsibility Revisited, Redefined." *California Management Review* 22 (3): 59-67.

Kambalame, Daisy and Sean De Cleene. 2006. "Partnership Building as an Approach to Addressing Corporate Social Responsibility in the Agriculture Sector in Malawi." *Development Southern Africa* 23 (2): 281-287.

Kamlongera, Paul Justice. 2013. "The Mining Boom in Malawi: Implications for Community Development." *Community Development Journal* 48 (3): 377-390. https://doi-org.libproxy.murdoch.edu.au/10.1093/cdj/bst020

Kirsch, Stuart. 2010. "Sustainable Mining." *Dialectical Anthropology* 34 (1): 87-93. https://doi- org.libproxy.murdoch.edu.au/10.1007/s10624-009-9113-x.

Lombardo, G., A. Mazzocchetti, I. Rapallo, N. Tayser, and S. Cincotti. 2019. "Assessment of the Economic and Social Impact using SROI: An Application to Sport Companies." *Sustainability* 11 (13): 3612. https://doi.org/10.3390/su11133612

Lynch-Wood, Gary, David Williamson, and Wyn Jenkins. 2009. "The Over-Reliance on Self-Regulation in CSR Policy." *Business Ethics, A European Review* 18 (1): 52-65. DOI:10.1111/j.1467-8608.2009.01548.x

Malunga, Grain and Welton Phalira. 2015. Assessment of Mining Policy Implementation in Malawi, Study Report. Centre for Environmental Policy and Advocacy (CEPA). https://cepa.rmportal.net/Library/natural-resources/Assessment%20of%20Mining%20Policy%20Implementation%20in%20Malawi/at_download/file

May, Peter J. 2007. "Regulatory Regimes and Accountability." *Regulation & Governance* 1 (1): 8-26. DOI: 10.1111/j.1748-5991.2007.00002.x

Mitchell, Ronald K., Bradley R. Agle, and Donna J. Wood. 1997. "Toward a Theory of Stakeholder Identification and Salience: Defining the Principle of Who and what really Counts." *The Academy of Management Review* 22 (4): 853-886. http://libproxy.murdoch.edu.au/login?url=https://search-proquest-com.libproxy.murdoch.edu.au/docview/210945979?accountid=12629.

Mutti, Diana, Natalia Yakovleva, Diego Vazquez-Brust, and Martín H. Di Marco. 2012. Corporate Social Responsibility in the Mining Industry: Perspectives from Stakeholder Groups in Argentina. *Resources Policy* 37 (2): 212-22. https://doi.org/10.1016/j.resourpol.2011.05.001

Mzembe, Andrew Ngawenja, and Julia Meaton. 2014. Driving corporate social responsibility in the Malawian mining industry: A stakeholder perspective. *Corporate Social Responsibility and Environmental Management* 21 (4): 189-201. DOI: 10.1002/csr.1319

Mzembe, Andrew & Novakovic, Yvonne & Meaton, Julia. (2016). Corporate Social Responsibility in Malawi: Antecedents, Issues, Practices and Future Directions. DOI: 10.1007/978-3-319-26668-8_1.

Nelson, Jane. (2008): CSR and Public Policy: New Forms of Engagement between Business and Government. Corporate Social Responsibility Initiative Working Paper No. 45. Cambridge, MA: John F. Kennedy School of Government. Harvard University. https://www.hks.harvard.edu/sites/default/files/centers/mrcbg/programs/cri/files/workingpaper_45_nelson.pdf.

Nigh, Douglas and Philip L. Cochran. 1994. "Issues Management and the Multinational Enterprise." *MIR: Management International Review* 34: 51-59. http://libproxy.murdoch.edu.au/login?url=https://search-proquest-com.libproxy.murdoch.edu.au/docview/202699514?accountid=12629.

Ogden, Stuart and Robert Watson. 1999. "Corporate Performance and Stakeholder Management: Balancing Shareholder and Customer Interests in the U.K. Privatized

Water Industry." *The Academy of Management Journal* 42 (5): 526-538. http://www.jstor.org.libproxy.murdoch.edu.au/stable/256974.

Onn and Woodley. 2014. "A Discourse Analysis on how the Sustainability Agenda is defined within the Mining Industry." *Journal of Cleaner Production* 84 (1): 116-127. https://doi.org/10.1016/j.jclepro.2014.03.086

Oxfam Australia. 2019. Impacts of Mining. https://www.oxfam.org.au/what-we-do/mining/impacts-of mining/?gclid=EAIaIQobChMIpI3ywMXg5QIVS6SWCh3kWwJvEAAYASAAEgLVL_D_BwE.

Paladin Energy Ltd. 2018. "Sustainability Report". http://www.paladinenergy.com.au/sites/default/files/inline-files/19.01.10%20Paladin%20Sustainability%20Report% 202018%20FINAL.pdf

Paladin energy Ltd. 2019. Community Relations Policy. https://www.paladinenergy.com.au/sites/default/files/inline-files/19.05.09%20-%20Paladin%20Community%20Relations%20Policy%20CURRENT.PDF

Petkoski D. and Twose N. (2003). Public Policy for Corporate Social Responsibility, World Bank Institute. http://web.worldbank.org/archive/website01006/WEB/IMAGES /PUBLICPO.PDF.

Preston, Lee E. and James E. Post. 1981. "Private Management and Public Policy." *California Management Review* 23 (3): 56-62. http://libproxy.murdoch.edu.au/login?url=https://search-proquest-com.libproxy. murdoch.edu.au/docview/206241106?accountid=12629.

Polishchuk, L. 2009. "Corporate Social Responsibility or Government Regulation: An Analysis of Institutional Choice." *Problems of Economic Transition* 52 (8): 73-94.

Rosen, Harvey S. and Ted Gayer 1970. 2008. *Public Finance*. 8th ed. Boston: McGraw-Hill Irwin.

Rowley, Timothy J. 1997. "Moving Beyond Dyadic Ties: A Network Theory of Stakeholder Influences." *Academy of Management Review* 22 (4): 887-910. DOI: 10.5465/AMR.1997.9711022107

Sethi, S. Prakash. 1975. "Dimensions of Corporate Social Performance: An Analytical Framework." *California Management Review* 17 (3): 58-64. http://libproxy.murdoch.edu.au/login?url=https://search-proquest-com.libproxy. murdoch.edu.au/docview/206295812?accountid=12629.

Sharma, Deepankar and Priya Bhatnagar. 2015. "Corporate Social Responsibility of Mining Industries." *International Journal of Law and Management* 57 (5): 367-372. doi:http://dx.doi.org.libproxy.murdoch.edu.au/10.1108/IJLMA-03-2014-0022.http:// libproxy.murdoch.edu.au/login?url=https://search-proquest-com.libproxy.murdoch .edu.au/docview/2111128880?accountid=12629.

Somerville, Morgan and Jim Green. 2018. *Undermining Africa Paladin Energy's Kayelekera Uranium Mine in Malawi. Friends of the Earth Australia.* https://nuclear.foe.org.au/wp- content/uploads/Kayelekera-Paladin-Report-June-2018-Final.pdf

Steurer, Reinhard. 2010. The role of governments in corporate social responsibility: Characterising public policies on CSR in Europe. *Policy Sciences* 43 (1): 49-72. DOI:10.1007/s11077-009-9084-4

Stiglitz, Joseph E. 2009. "Government Failure vs. Market Failure: Principles of Regulation" in Government and Markets: Toward a New Theory of Regulation. pp. 13-51. Cambridge

Swanson, Diane L. 1995. "Addressing a Theoretical Problem by Reorienting the Corporate Social Performance Model." *The Academy of Management Review* 20 (1): 43-64. DOI: 10.5465/amr.1995.9503271990

Tilitonse. 2013. Political Economy Analysis of Mining in Malawi. http://www.chr.up.ac.za/images/researchunits/bhr/files/extractive_industries_database/malawi/reports/Political%20Economy%20Analysis%20of%20Mining%20in%20Malawi.pdf

United Nations Industrial Development Organization. 2019. What is CSR? https://www.unido.org/our-focus/advancing-economic-competitiveness/competitive-trade-capacities-and-corporate-responsibility/corporate-social-responsibility-market-integration/what-csr

Vertigans, Stephen, editor, Samuel O. Idowu editor, and René Schmidpeter editor. 2016;2015;. *Corporate social responsibility in sub-Saharan Africa: Sustainable development in its embryonic form*. 1st 2016 ed. Cham, Switzerland: Springer. Doi:10.1007/978-3-319-26668-8.

Vintró, Carla, Jordi Fortuny, Lluís Sanmiquel, Modesto Freijo, and Joaquín Edo. 2012. Is corporate social responsibility possible in the mining sector? Evidence from Catalan companies. *Resources Policy* 37 (1): 118-25. https://doi.org/10.1016/j.resourpol.2011.10.003

Vogel, David. 1986. "The Study of Social Issues in Management: A Critical Appraisal." *California Management Review* 28 (2): 142-151. DOI:10.2307/41165191.

Vogel, David and Jeremy Moon. 2008; 2009; "Corporate Social Responsibility, Government, and Civil Society." In. 1st ed., 303-325: Oxford University Press. DOI:10.1093/oxfordhb/9780199211593.003.0013

Walker, Jim and Steve Howard. 2002. Finding the Way Forward: How Could Voluntary Action Move Mining Towards Sustainable Development? IIED. https://pubs.iied.org/pdfs/9203IIED.pdf.

Ward, Halina. 2004. Public Sector roles in Strengthening Corporate Social Responsibility: Taking Stock. Washington, DC. World Bank. https://pubs.iied.org/pdfs /16014 IIED.pdf.

Wartick, Steven L. and Philip L. Cochran. 1985. "The Evolution of the Corporate Social Performance Model." *The Academy of Management Review* 10 (4): 758-769. http://libproxy.murdoch.edu.au/login?url=https://search-proquest-com.libproxy. murdoch.edu.au/docview/230017261?accountid=12629.

Wartick, Steven L. and John F. Mahon. 1994. "Toward a Substantive Definition of the Corporate Issue Construct: A Review and Synthesis of the Literature." *Business & Society* 33 (3): 293-311. https://doi-org.libproxy.murdoch.edu.au/10.1177/0007650 39 403300304

Wood, Donna J. 1991. "Corporate Social Performance Revisited." *The Academy of Management Review* 16 (4): 691-718. DOI: 10.5465/AMR.1991.4279616

World Bank. 2009. "Malawi Mineral Sector Review-Source of Economic Growth and Development." Oil, Gas, Mining and Chemicals Department. Africa Region. http://siteresources.worldbank.org/INTRANETENVIRONMENT/Resources/MALAWIMINERALSECTORREVIEW.pdf

World Business Council for Sustainable Development. 2000. Corporate Social Responsibility: Making Good Business Sense. World Business Council for Sustainable Development, Geneve.http://www.ceads.org.ar/downloads/Making%20good%20business%20sense. Pdf.

World Economic Forum. 2015. Mining & Metals in a Sustainable World 2050. http://www3. weforum.org/docs/WEF_MM_Sustainable_World_2050_report_2015.pdf.