



# THE UNIVERSITY *of* EDINBURGH

This thesis has been submitted in fulfilment of the requirements for a postgraduate degree (e.g. PhD, MPhil, DClinPsychol) at the University of Edinburgh. Please note the following terms and conditions of use:

This work is protected by copyright and other intellectual property rights, which are retained by the thesis author, unless otherwise stated.

A copy can be downloaded for personal non-commercial research or study, without prior permission or charge.

This thesis cannot be reproduced or quoted extensively from without first obtaining permission in writing from the author.

The content must not be changed in any way or sold commercially in any format or medium without the formal permission of the author.

When referring to this work, full bibliographic details including the author, title, awarding institution and date of the thesis must be given.

**NON-GOVERNMENTAL ORGANISATIONS AND THE POLITICS OF MINING  
LAW REVIEW IN MALAWI: SUBJECTIVITIES AND BIFURCATED LOYALTIES**

**By**

**SANE PASHANE ZUKA**

**University of Edinburgh**

**A THESIS SUBMITTED FOR THE DEGREE OF DOCTOR OF PHILOSOPHY IN  
INTERNATIONAL DEVELOPMENT  
UNIVERSITY OF EDINBURGH  
SCHOOL OF SOCIAL AND POLITICAL SCIENCE**

**JANUARY 2022**

## ACKNOWLEDGEMENT

I would like to acknowledge a number of individuals and organisations that have made this mission possible. Above all, I would like to thank God, the Almighty, for His Grace for me to work on my studies and bringing into my life individuals and organisations that I am indebted to. First, I would like to thank my wife, Brenda, and my children Pemphero, Alice and Praise for enduring the long hours of absence during my three-years of study. God bless you all.

Second, I would like to sincerely thank Dr Samuel Spiegel, my main supervisor for his guidance and mentorship as I struggled to catalogue important debates from the literature. Samuel could allow me swim from shallow to deep waters without understanding how I got there. His persistent question of fishing out the thesis within my thesis sharpened my thinking. I would like to thank Dr Andrew Bowman whose dedication to my work went beyond his call for duties. Andrew patiently listened to my initial ideas as I was applying for admission to the University of Edinburgh. Andrew provided unparalleled guidance and mentorship, socially and academically. He was not tired of providing me with the tools to free myself every time I was stuck.

I would like to acknowledge and thank Commonwealth Scholarship Commission for financial support covering tuition and living expenses in the UK. Without this support, I could not have managed to pursue my PhD studies. I would also like thank my employer the University of Malawi, The Polytechnic, who allowed me to go for further studies. I would like to thank all my respondents and institutions that spared their precious time to respond to my questionnaire, take part in the interviews and focus group discussions. Special appreciation should go to the Malawi Parliament and Malawi Bureau of Standards staff who allowed me to use their Library to read and access some important documents that provided valuable data for this thesis. Finally, I am indebted to the following friends and relatives who supported me socially and emotionally throughout my studies: my mother-law Mama Nyachisi for the moral support throughout the period of study, Adriane Kerr, Rev Donald Scott and Members of Priestfield Church of Scotland, Dr. Michael Chasukwa, Malimba Lisulo, Annet Nakuyena, Dr. Danladi Adamu, Charles Mhango, Peter Phiri, Thokozani Kachale, Mr. and Mrs. Mazunda, Chikondi Peno, Mr and Mrs. Paul, Mr and Mrs Hojani, Matthew, Angellah, Wilton and Martha Zuka. All errors of fact and interpretation remain my responsibility.

## **DEDICATION**

To my mum, Aless Munthali, and late father, Foster, who shared their irreplaceable love and inspired me towards the love of knowledge. To Brenda, my wife, and my Children, Pemphero, Alice and Praise, who endured my absence during the demanding hours of this mission.

## ABSTRACT

This thesis examines the factors and relationships that impacted Non-Governmental Organisations (NGOs) in Malawi in shaping the review of the 1981 Mines and Mineral Act (MMA). In response to public outcry against environmental harm generated by mining activities, the Government of Malawi reviewed the 1981 MMA between 2007 and 2018, during which a group of NGOs in the country positioned themselves as championing the interests of the communities living within the mining sites. The review of any law is a political process among policymaking agents holding different interests, ideologies, and power, which takes different forms under different institutional contexts. Employing a qualitative research approach (drawing from key informant interviews, focus group discussions, document analysis and participant observation), and mobilising the analytical frameworks of environmentality and historical institutionalism, this thesis contributes to the theoretical debates relating to the (in)ability of NGOs to shape public policy towards the interests of marginalised communities. Fieldwork for this study was conducted in Karonga and Rumphi, Malawi's only districts where coal was mined during the period of this study. The key argument of this study is that NGOs' involvement in the technocratic processes of reviewing the 1981 MMA resulted into NGOs' subjectivities into government and international donors' rationalities of mining governance. Rather than addressing how environmental harm was negatively impacting the local communities' ecological environment, livelihoods and health, the reviewed Act advanced technocratic solutions that commodified environmental harms as goods for monetary compensation. The study highlights how the state and international donors controlled the institutional channels that guided the review of the Act, and that NGOs' financial dependence on international donors, combined with their competition for a seat in the national forums governing the extractives, resulted in NGO bifurcated loyalties between the local communities on one hand and the state and international donors on the other. Thus, this thesis explains how the state in Malawi was not only confronted by the NGOs, but also how the NGOs were themselves variously co-opted into the dominant structures of power. This thesis, therefore, questions the conventional argument on NGO empowerment agenda by demonstrating how technocratic processes of policymaking within hegemonic structures produces new political subjects that (re)construct agendas along the interests of powerful actors.

## LAYOUT SUMMARY

Name of student:	Sane Pashane Zuka	UUN	S1006429
University email:			
Degree sought:	PhD in International Development	No. of words in the main text of thesis:	94, 029
Title of thesis:	Environmental Non-Organisations and the Politics of Environmental Mining Regime Change in Malawi: Bifurcated Loyalties and Reversal of the Promise		

This thesis was carried out to find out factors and relations that affected the effectiveness of Non-Governmental Organisations (NGOs) in Malawi in shaping the review of the 1981 Mines and Mineral Act (MMA) around the interests of the communities living within the mining sites. The study was motivated by three related processes namely: unprecedented investment in Malawi’s mining sector since the 2000s, growing community protests against environmental harm generated from mining activities and increased NGOs activism against mining-induced environmental harm. In response to public outcry against environmental harm generated by mining activities, the Government of Malawi reviewed the principal law guiding the mining sector, the 1981 MMA, between 2007 and 2018. During the process of reviewing the Act, the NGOs in the country positioned themselves as championing the interests of the people living within the mining sites. The broad goal of the NGOs was to shape the review of the 1981 MMA so that it serves the interests of the people living around the mining areas. In general, this entailed halting or/and putting in place legal provision that limit exposure of local communities to environmental harm and ensuring that local communities’ benefit from mining activities taking place in their area. NGOs are, however, complex organisations whose ability to advocate for the interests of communities they claim to serve depends on many socio-economic and political factors that are either internal or external to NGOs. There is existing body of literature within political pluralism that see interest groups such as NGOs as having the ability to shape public policy towards a desired end. This study responds to this literature by drawing insights from the literature on environmentality and historical institutionalism. The data used in this study was predominantly

collected through qualitative research methods (key informant interviews, focus group discussions, document study and participant observation).

This thesis advances four major observations. First, current grassroots protests against mining-induced environmental harm in Malawi epitomise state-society struggles over utilisation of natural resources dating back to the colonial period. These environmental struggles has revolved around how the extension of capitalist mode of production interferes with the existing local communities' livelihood platforms. Second, the process of reviewing the 1981 MMA in Malawi was predominantly a struggle over ideas relating to how the mining sector should be governed to benefit the state, private mining companies and local communities. The study highlights how the state and international donors not only framed the question of good mining governance around a privatization pathway, but also controlled the processes through which the Act was framed. The study illustrates how environmental harms facing communities living in the mining areas were commodified as goods for monetary exchange. The third observation of this study is that, while opposing some of the strategies, the NGOs endorsed most of the neoliberal oriented strategies for managing the environmental harms. This situation ensued because NGOs' competition for donor funding as well as a seat in the national forums for governing the extractives incorporated them into structures of the international donors and the state. Lastly, the study observes that royalties of the NGOs were divided between the local communities, the state and international donors. This situation limited the ability of the NGOs to shape the review of the 1981 MMA along the interests of communities living in the mining areas. Thus, this study points to not only how the NGOs confronted the interests of the state, private mining companies and international donors, but also how the NGOs were themselves differently incorporated into the interests of these policy-making agents. In this way, this thesis highlights how NGOs' subjectivities are shaped by technocratic processes and unequal power relations during the mining law review. The study demonstrates how public policymaking is a political process in which interest groups, such as NGOs, not only bargain over pre-defined interests, but also (re)construct policy agendas along the interests of dominant structures of power.

## Table of Contents

ACKNOWLEDGEMENT .....	ii
DEDICATION .....	i
ABSTRACT.....	ii
LAYOUT SUMMARY .....	iii
LIST OF ABBREVIATIONS AND ACRONYMS .....	iv
CHAPTER ONE .....	1
BACKGROUND INFORMATION AND PROBLEM STATEMENT .....	1
1.0. Introduction.....	1
1.1. Research Context: Mining and the Environmental Question in Malawi .....	3
1.2. Problem Statement and Research Questions.....	6
1.4. Description of the 1981 Mines and Minerals Act.....	12
1.5. Description of the NGOs Involved in the Review of the 1981 MMA.....	14
1.6. Justification of the Study .....	18
1.7. Key Arguments and Conclusions of the Study .....	19
1.8. Structure of thesis .....	25
CHAPTER TWO .....	27
LITERATURE REVIEW .....	27
2.0. Introduction.....	27
2.1. Definition of a NGO .....	28
2.2 Locating NGOs' Work into Public Policymaking Scholarship .....	30
2.3. Forms and Objectives of Environmentalism Movements and NGOs.....	32
2.4. Economic Benefits of Mining versus the Environmental Struggles in Africa.....	36
2.6. Discourses on Mining and Development in Africa.....	39
2.7. Natural Resources Management Reforms in Southern Africa.....	43
2.8. Factors Limiting NGOs' Impact on Public Policy Advocacy .....	46



2.9.	Theoretical Framework of Analysis.....	53
2.10.	Key Analytical Concepts from Environmentality and Historical Institutionalism ...	58
2.11.	Conclusion.....	65
CHAPTER THREE .....		67
ANALYTICAL AND METHODOLOGICAL FRAMEWORK.....		67
3.0.	Introduction.....	67
3.1.	Methodological Approach and Research Philosophy .....	70
3.2.	Geographical Coverage and Field Sites .....	71
3.3.	Methods, Sampling and Tools of Data Collection.....	73
3.4.	Data Analysis .....	78
3.5.	Ethical Consideration.....	79
3.6.	Positionality .....	80
CHAPTER FOUR.....		82
HISTORY OF ENVIRONMENTAL NON-GOVERNMENTAL ORGANISATIONS IN MALAWI: THE MAKING OF A NEOLIBERAL BOURGEOIS .....		82
4.0.	Introduction.....	82
4.1.	Grassroots Movements and the State During Colonial Period: Path Dependency .....	86
4.2.	Grassroot Movements, NGOs and the State During One-Party Dictatorial Rule.....	96
4.3.	NGOs Work in Democratic Malawi: Contradictions and Bifurcation.....	102
4.4.	NGOs and the Politics of Environmental Conservation in Democratic Malawi .....	108
4.5.	Involvement of NGOs in Environmental Issues in Mining in Malawi.....	112
4.6.	Conclusion .....	117
CHAPTER FIVE .....		119
DISCOURSES ABOUT MINING AND ECONOMIC DEVELOPMENT IN MALAWI: CONTESTED IMAGINATIONS AND AMBIVALENCES.....		119
5.0.	Introduction.....	119
5.1.	Pro-Mining Discourse .....	122

5.2.	Anti-Mining Discourse .....	128
5.3.	Ambivalent Mining Discourse .....	129
5.4.	The rise to Prominence of the Private Sector Led Pro-Mining Discourse.....	133
5.5.	Role of Expert Knowledge in the Review of the 1981 MMA .....	134
5.6.	Experts and Expertism in Legislative Negotiations.....	139
5.7.	Conclusion .....	148
CHAPTER SIX.....		150
STRATEGIES FOR MANAGING ENVIRONMENTAL ISSUES IN MINING: HIGHJACKED AGENDA AND CONTRADICTIONARY PROMISES .....		
		150
6.0.	Introduction.....	150
6.1.	Environmental Management Strategies Supported by NGOs .....	151
6.2.	Prevention of Environmental Harm .....	153
6.3.	Compensation for Environmental Harm.....	157
6.3.1.	Fair Compensation and Resettlement of Displaced Households .....	158
6.3.2	Community Development Agreement as a Mining Benefit Sharing Strategy .....	160
6.4.	Reforming Governance of the Mining Sector.....	167
6.4.1.	Establishment of Mineral Resources Committee .....	168
6.4.2.	Public Access to Mining Information .....	170
6.4.3.	Extractive Industry Transparency Initiative (EITI).....	172
6.5.	Conclusion .....	177
CHAPTER SEVEN .....		179
NGOs' INTERFACE WITH POLICY-MAKING AGENTS AND LOCAL COMMUNITIES DURING THE REVIEW OF THE 1981 MMA: BIFURCATED CO-OPTATION AND PERSUASIONS.....		
		179
7.0.	Introduction.....	179
7.1.	Forms of NGOs' Interface with the Policymaking Actors and Local Communities..	181
7.2.	NGOs-International Donors Interface: Giver versus Receiver Relationship.....	186

7.3.	NGOs-State Interface: Confrontation, Compromises and Bifurcated Co-optation ....	198
7.4.	NGOs-Community Relations: Expert Arbitrators and Reversal of the Promise .....	206
7.5.	NGOs Demands and Key Aspect of the 2018 Mines and Minerals Act.....	214
7.6.	Conclusion .....	217
CHAPTER EIGHT .....		219
ENVIRONMENTAL HARMS EXPERIENCED BY LOCAL COMMUNITIES IN MINING SITES: MANIFESTATIONS OF SOCIO-ECONOMIC VULNERABILITIES .....		219
8.0.	Introduction.....	219
8.1.	Environmental Issues Facing Communities at the Study Sites.....	220
8.1.1.	Land Degradation and Household Displacement.....	221
8.1.2.	Water Pollution .....	229
8.1.3.	Air Pollution.....	231
8.1.4.	Social Effects of Mining Activities.....	233
8.1.5.	Unsafe Working Conditions.....	234
8.2.	Contextualizing Environmental Issues into the Past Mining Legal Framework .....	240
8.3.	Conclusion .....	244
CHAPTER NINE.....		246
CONCLUSION AND RECOMMENDATIONS .....		246
9.0.	Introduction.....	246
9.1.	Key Findings and Conclusions of the Study.....	249
9.2.	Issues for Further Research.....	258
References.....		260
Appendix 1: Information Sheet for Interview/FGD/Verbal Consent .....		296
Appendix 2: Letter of Approval to Collect Data from Local Health Centres.....		300
Appendix 3: List of Respondents.....		302

## **List of Tables**

Table 1.1: Contribution of Mining to GDP in Malawi .....	4
Table 4.1: Classification of NGOs Involved in the Review of the 1981 MMA .....	116
Table 5.2: Members of Parliament Contributions on the 2018 Mines and Mineral Bill .....	144
Table 8.1: Initiatives Implemented in the Mining Sector in Malawi Since 2009 .....	193
Table 8.2: Mining Related Projects Implemented by NGOs in Malawi.....	196
Table 8.3: Legislative Provisions that Regulated Key Issues in Mining .....	241

## **List of Figures**

Figure 7.1: Training Manual on Mining Governance for Church and Society.....	210
Figure 7.2: Mining Governance Grievance Reporting Form for Church and Society.....	213
Figure 8.1a: Location of the Elland Coal Mine in Relation to Rice Fields .....	223
Figure 8.1b: Coal Mining Gully Close to Dwelling Houses.....	224
Figure 8.2: Rice Field Contaminated showing Coal Dusts.....	225
Figure 8.3 A Boy Herding a Cow near Gullies created by Coal Mining at Mwaulambo.....	228

**List of Maps**

Map 3.1. Mchenga and Mwaulambo Coal Mines.....72

## **LIST OF ABBREVIATIONS AND ACRONYMS**

ACB	Anti-Corruption Bureau
ADB	African Development Bank
ADCs	Area Development Committees
ADMARC	Agricultural Development and Marketing Corporation
AFORD	Alliance for Democracy
AVM	Africa Mining Vision
BNA	Blantyre Native Association
BSAC	British South Africa Company
CADECOM	Catholic Development Commission in Malawi
CBO	Community-Based Organisation
CCAM	Chitukuko Cha Amayi M'Malawi
CDA	Community Development Agreement
CCJP	Catholic Commission for Justice and Peace
CEPA	Centre for Environmental Policy Advocacy
CFPP	Coal Fired Power Plant
CLC	Customary Land Committee
CLT	Customary Land Tribunal
CONGOMA	Council for Non-Governmental Organisation in Malawi
CSC	Christian Service Committee
CSOs	Civil Society Organisations
CSR	Corporate Social responsibility
CURE	Coordination Unit for the Rehabilitation of the Environment
DC	District Commissioner
DPP	Democratic Progressive Party
EITI	Extractive Industry Transparency Initiative
EMA	Environment Management Act
ESIA	Environmental and Social Impact Assessment
EU	European Union
FGDs	Focus Group Discussions
FOCUS	Foundation for Community Support Services
FPIC	Free Prior Informed Consent

GDP	Gross Domestic Product
GHGs	Greenhouse Gases
GSI	Global Standard Institutions
GoM	Government of Malawi
GRO	Grassroots Organisations
GoM	Government of Malawi
GVH	Group Village Headman
ENGOs	Environmental Non-Governmental Organisation
IFIs	International Financial Institutions
IMF	International Financial Institution
MCP	Malawi Congress Party
MDC	Malawi development Corporation
MMA	Mines and Mineral Act
MPs	Members of Parliament
MRA	Malawi revenue Authority
MYP	Malawi Young Pioneer
NCA	Norwegian Church Aid
NGOs	Non-Governmental Organisations
NRJN	Natural Resources Justice Network
NSO	National Statistical Office
OSISA	Open Society Initiative for Southern Africa
PCNRCC	Parliamentary Committee on Natural Resources and Climate Change
PP	People's Party
SAPs	Structural Adjustment Programmes
UDF	United Democratic Party
UTM	United Transformation Party
VDCs	Village Development Committees
WACAM	Wassa Association of Communities Affected by Mining
WENELA	Witwatersrand Native Labour Association
WESM	Wildlife and Environmental Society of Malawi
WHO	World Health Organisations



## CHAPTER ONE

### BACKGROUND INFORMATION AND PROBLEM STATEMENT

#### 1.0. Introduction

Since the early 1990s, reforms surrounding utilization and management of natural resources, such as land and mining, have become an established policy goal in most sub-Saharan African countries. Driven by the promises of democratic governance in offering pro-poor economic development, these policy reforms aim at stimulating profitable utilisation of natural resources as well as addressing past unequal benefits from land-based large-scale investments between local communities, the state and the private sector (Hall, 2011; Cotula, 2009). For instance, by 2005 over ten African countries had implemented land tenure reforms aimed at improving natural resources utilisation and promoting land rights of marginalised smallholder farmers (SADC Land Reform Support Facility, 2008; Mihyo, 2014). In the mining sector, most mineral-rich African countries such as Mali, Ghana, South Africa, Zambia, Democratic Republic of Congo (DRC) had by 2013 initiated reforms aimed at attracting increased foreign direct investment (FDI) (Campbell, 2013).

Although these policy reforms have varied from country to country, one striking feature of these policy reforms relate to how various Non-Governmental Organisations (NGOs) have positioned themselves as working for the promotion of the interests of marginalised people (Bryant, 2002; 2009; Moyo, 2004). This study focuses on the review of the 1981 Mines and Minerals Act (MMA) in Malawi where a group of six NGOs took the Government of Malawi (GoM) to court, successfully halted commencement of uranium mining, and forced the government to review the 1981 MMA. These NGOs included: the Institute for Policy Interaction (IPI), Centre for Human Rights and Rehabilitation (CHRR), Foundation for Community Support Services (FOCUS), Citizens for Justice (CFJ), Catholic Commission for Justice and Peace (CCJP) and Uraha Foundation. The six NGOs argued that, apart from benefiting the nation, large-scale mineral investment in the country should benefit communities living within the mining areas (Hajat, 2008; CCJP, 2012). While Malawi has implemented natural resources management reforms in a number of sectors, the reforms in the mining sector

have become particularly significant in the wake of climate change that threatens the country's main economic sector, agriculture. Though limited mining activities are taking place in the country, the review of the 1981 MMA generated contentious debate relating to the economic benefits and environmental costs of mining to the country. The key feature of the review of the 1981 MMA was that it was ostensibly a horizontal, network-based consultative process where the state, private mining companies and NGOs worked to advance the interests of their domains.

While NGOs' involvement in policymaking processes in Malawi have brought new forms of checks and balances to government, policy reform processes in Malawi are interesting because they have received substantial support from international donors such as the World Bank and European Union (see Kachika, 2017; Chinsinga, 2002; World Bank, 2009). In the case of reviewing the 1981 MMA, the draft Mines and Minerals Bill was drafted by a World Bank hired consultant. After ten-years of endless negotiations over the Act, the Mines and Mineral Bill was suddenly passed into a law without much debate in Parliament and much change to the contents of the Bill. What is particularly interesting from the review of the 1981 MMA is the way the NGOs ultimately aligned their arguments on the Bill with those of the state and international donors. This situation raises questions relating to how, why and with what levels of influence from NGOs in Malawi was the Act reviewed.

Building on the emerging sentiments that the reviewed 1981 MMA has not responded to the interests of the communities in the mining areas (see Chimwala, 2018b; Kamlongera, 2020; NRJN & PWYP, 2018), the review of the Act presents a case for understanding the agency of NGOs in championing the interests of marginalised communities whom they claim to serve. The study takes the question of NGOs' involvement in policy processes as central to unpacking state-society contestations over mineral resources utilisation (Bryant, 2009; Bryant, 2002; Agrawal, 2005). It is particularly set out to understand factors that impacted NGOs that participated in the review of the 1981 MMA in shaping the Act around the interests of marginalised groups of people living in the mining areas. This study makes use of the advocacy action of four NGOs that were actively involved in reviewing the Act namely: Foundation for Community Support Services (FOCUS), Centre for Environmental Policy Advocacy, Livingstonia Church of Central Africa Synod Church and Society, and Catholic Commission for Justice and Peace (CCJP). All these organisations, explained further in section 1.4, were

formed during the road to and after advent of multiparty government in Malawi in 1993/4. My thesis traces a step-by-step account of the review of the 1981 MMA to better comprehend NGOs-state-local communities' relations and the gradual co-optation of NGOs into dominant mining discourse in the country.

### **1.1. Research Context: Mining and the Environmental Question in Malawi**

In this section, I contextualise the question of mining in Malawi's economic development agenda and spell out the contestations over environmental issues in the sector. The most debatable question on mining in Malawi centred around balancing the economic benefits versus the environmental cost of mining in the country. This debate was principally centred on defining the strategies that could reduce local communities' exposure to mining-induced environmental harm (Kamlongera, 2013; 2020; Hajat, 2008; NCA, 2016). Like in many other Sub-Saharan African countries with a history of extractives, the review of the 1981 MMA represent a policy contestation among different political actors holding different interests in mining. Policy contestation within the mining sector in Malawi should be understood from GoM's policy goal in mining, environmental issues that communities living in the mining sites experienced, and the dilemmas of balancing the complex interests of the state, local communities, private mining companies and international development partners and donors. The conflicting interests among the different stakeholders in the mining sector created mining-environmental politics that this study unpacks.

Historically, mining occupied a low profile in Malawi's economic development agenda and until 2009 the sector contributed less than 1% to the country's GDP (GoM, 2011). However, a myriad of climate-related challenges facing the country' key economic sector, agriculture, forced GoM to identify mining as an alternative source of government revenue, foreign exchange earnings and a catalyst for local economic development (GoM, 2011). Since the mid-2000s, Malawi registered an unprecedented increase in mining investments particularly following the commissioning of Kayelekera uranium mining in 2009 by Paladin (Africa) Ltd. In contrast to past records that indicated that the country has no significant mineral deposits, mineral exploration during this period revealed that the country has energy (uranium, coal), industrial (limestone, graphite), metallic (niobium, bauxite, nickel) and other mineral deposits such as gemstone. By 2012, the GoM granted nine uranium exploration licenses and six coal mining licenses (Kamlongera, 2013). The view that mining is important for achieving

economic growth in Malawi was also shared by NGOs that participated in the review of the 1981 MMA. The NGOs particularly argued that “as Malawi seeks to diversify its economy in accordance with the Malawi Growth and Development Strategy 2011-2016, mining is an important sector to contribute to the process” (NRJN, nd: 10).

The GoM’s policy commitment to developing the mining sector in the country has, however, been affected by falling global demand and prices for mineral commodities since 2013 (GoM, 2011; Sabola, 2020). For instance, Kayelekera Uranium Mine was put on care and maintenance and Mwaulambo Coal Mine closed in 2014 due to unfavourable market conditions. Nonetheless, there is continued interest in investing in the mining sector. For instance, a consortium of Malawian and Indian investors commissioned Kasikizi Coal Mine in 2018, the country’s largest coal investment with a production target of about 20, 000 tons/month. In addition to producing coal for the internal and external market, Kasikizi Coal Mine is also planning to build a Coal Fired Power Plant (CFPP) (Chimwala, 2018a). Table 1 below presents a summary of the contribution of the extractive sector to Malawi’s GDP between 2008 and 2016.

Table 1.1: Contribution of Mining to GDP in Malawi

Year	2008	2009	2010	2011	2012	2013	2014	2015	2016
GDP in %	0.8	0.8	4.7	4.4	5.0	1.11	1.0	0.9	0.9

Source: GoM, 2011; Neumann & Kumwenda, 2016; NCA et al., 2014

Table 1 shows that the contribution of mining to GDP increased from 0.8% in 2009 to 5.0% in 2012 after the opening of Kayelekera Uranium Mine, before falling back to pre-2010 levels from 2014. The shifting contribution of mining to Malawi’s GDP notwithstanding, mining in Malawi is implemented under contested imaginations, narratives, and counter-narratives. In the following section, I highlight how the contested narratives and controversies in Malawi’s mining sector set the context for environmental politics in the country. I then move on to explain why I chose to focus on the environmental dimension of mining.

Notwithstanding the increased investment, global mineral price volatility raised doubts about the dependability of mineral-led economic development to Malawi. For instance, within seven years of commissioning Kayelekera mine, the uranium ore price crashed by about 70% from around US\$70 per pound in 2009 to US\$22 in 2016 following Fukushima Nuclear disaster

(Paladin Energy Limited, 2017). Likewise, the coal industry faced stiff competition from the influx of cheaper coal imports from Mozambique's Moatize coalfield (Chimwala, 2017). This situation was worsened by the coal import ban in 2016 by Malawi's neighbour, Tanzania (Jacob & Pedersen, 2018). The mineral commodity price and market trends generated competing perspectives relating to the relationship between mining and economic development. For instance, while some GoM's official documents indicate that the mining sector contributed 10% to the country's GDP in 2010 (GoM, 2011), others show that mining contributed 10% to national exports and not to GDP (Ettah-Phoya & Malunga, 2019; Neumann & Kumwenda, 2016). A muted view expressed by some NGOs was that a figure of 10% contribution to GDP was adopted by the GoM to shore-up the mining sector that it is a viable alternative to the agriculture sector and that the country is set to achieve its mining policy performance objectives. The 2007 Mines and Mineral Policy was aimed at raising "the contribution of the minerals sector to the country's GDP from 1 percent to 10 percent over the next 10 years, and fully acknowledges that to achieve such aim, the private sector must play a leading role" (GoM, 2007: ix; see also World Bank, 2009). I return to the contested debate about the role of the private sector in the development of the mining sector in Malawi later in the findings chapters.

Socially, various groups of communities living within the mining areas were frustrated as mining was not bringing them the anticipated socio-economic benefits. Instead, mining projects were generating conflicts between mining investors and smallholder rural farmers as new mining activities were taking up land that was de facto under customary ownership. For instance, the High Court of Malawi determined in 2018 that smallholder farmers at Kanyika, one of areas under uranium exploration in the country, be compensated for loss of livelihood due to mining activities extending to their cultivated land (BHRRC, 2019b).

Environmentally, unprecedented increases in mining investment in Malawi brought widespread mining-induced environmental challenges to communities living around mining areas. Inter alia, these environmental challenges included degradation of farming land, contamination of rivers and streams, abandoned mining pits, increased rates of respiratory infections, forced land evictions and coal dust air pollution (Kamlongera, 2013; CCJP, 2012). For instance, Chareyon (2015: 1) reported that Kayelekera Uranium mine is polluting the local environment through "hot spots surrounding the mine and high uranium concentration in the water flowing from a stream located below the open pit and entering the *Sere* river". Human Rights Watch (2016) documented how coal extraction at Mwaulambo left some smallholder

female farmers destitute as their farming land and river streams from which they collect water for domestic use were degraded beyond use by coal waste. CCJP (2012) also reported that Mchenga Coal Mine produced 1.65 metric tonnes of dust daily and that lead metals and water acidity in all rivers surrounding the mine were beyond World Health Organisation (WHO) recommended levels. Though environmental effects from coal extraction directly affect a population of about 100, 000 people living in areas surrounding the Mchenga and Mwaulambo mining sites (NSO, 2018), effluents from coal extraction poses a serious environmental harm to Malawi. This is so as river tributaries within coal mines run parallel to coal seams and empty into Lake Malawi, which is Africa's third largest freshwater lake. Lake Malawi is also a source of livelihoods to about one third of Malawi's 17.5 million population (NSO, 2018). Coal mining has particularly raised heated debate on its relevance to Malawi considering its impact on climate and environmental change. According to Bank et al. (2009), Malawi ranks twelfth among countries most vulnerable to the adverse effects of climate change. Thus, the GoM's commitment to coal extraction and building Coal Fired Power Plants (CFPPs) as an alternative solution to hydroelectricity shortages (GoM, 2019; Hamer, 2016; Chimwala, 2017) does only belie global campaigns to end coal extraction (Cardoso & Turhan, 2018), but also contradicts the GoM commitment to promote green economy (GoM, 2015). Though Malawi has a GHG emission of around 1.4t CO<sub>2</sub>e per capita, coal extraction and use would potentially increase the level of anthropogenic GHG emissions. For instance, in 2015 it was estimated that GHG emissions in Malawi would increase from approximately 29,000 Gg CO<sub>2</sub> equivalents to 42,000 Gg CO<sub>2</sub> equivalents due increased industrial and manufacturing activity (GoM, 2015). Understanding the contestations relating to mining and environment in Malawi is important not only because over 80% of Malawi's population depend on land-based resources for their livelihoods (NSO, 2017), but also because mining-induced environmental harm has huge impact on Malawi's present and future ecological and farming systems. For instance, Mihyo et.al., (2014: vi) argued that Africa food situation is affected by ecological constraints as "land degradation affects 76% of African's land area".

## **1.2. Problem Statement and Research Questions**

The adverse environmental effects of mineral extraction on diverse groups of people living in the mining areas in Malawi generated high levels of grassroots and NGO activism and protests against mining. The key message in these protests was that local communities are not only being subjected to environmental harm, but also not equally benefitting from mining activities

carried out in the country. The NGOs argued that existing mining laws such as the 1981 MMA and the 1983 Petroleum (Exploration and Production) Act prioritised the interests of private investors thus inadequately protected local communities from environmental harm. In response to the calls by NGOs to review the mining laws, the GoM embarked on reviewing the 1981 MMA in 2007 (GoM, 2013b; World Bank, 2009). In a country where the state unequivocally underscored its interest in expanding the mining industry, the NGOs positioned themselves as representing and championing the interests of local communities surrounding the mining sites (Tiltonse, 2013). The NGOs in Malawi promised to stop exposure of communities to environmental harm and facilitate genuine participation of local communities in the governance of mining activities. The involvement of NGOs in the governance of extractives in Malawi epitomises the global “shift from government to governance in natural resource management ... characterised by a move away from bipartite government-industry negotiation to multi-stakeholderism” (Peterson St-Laurent & Billon, 2015: 591). The NGOs’ push for the review of the 1981 MMA in Malawi represents a case of NGO-backed mining reform initiatives in African countries that are intended to increase local communities’ benefits from mining activities (Murombo, 2013; Leonard, 2017; Nikolaou, 2019).

Despite over a decade of NGO activism and participation in the review of the 1981 MMA, there is growing concern that the reviewed Act has not adequately responded to the concerns of communities living in the mining areas (Chimwala, 2018b; Kamlongera, 2020; NRJN & PWYP, 2018). For instance, local communities have to wait for one year after commencement of commercial mining activities before they can access benefits from mining proceeds (GoM, 2018). During the waiting period, communities continue to be subjected to environmental harm arising from mining activities. There are also concerns that communities living in the mining areas suffer livelihood loss as the 2018 MMA prioritises commercial mining activities over subsistence farming activities (Kamlongera, 2020). While recognising the need for compensating communities experiencing land loss from mining activities, the market value<sup>1</sup> approach that is used as a compensation valuation basis in Malawi is ill-equipped to value customary land used by subsistence farmers in Malawi (see Kabanga & Mooya, 2017).

---

<sup>1</sup> Market value is defined as “the estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm’s length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion” (RICS Red Book, 2014: 53)

Furthermore, contrary to the expectation, large scale mining activities generate fewer jobs for communities displaced from their farming land (see Maconachie & Hilson, 2011). This situation requires understanding the way NGOs function within policymaking processes to advance the interests of the communities they claim to serve. In the case of reviewing the 1981 MMA, the above situation raises an important academic question relating to the factors that impacted NGOs that were involved in the review of the 1981 MMA in shaping the Act towards the interests of people living in the mining sites.

The view that the NGOs can champion the interests of local communities is theoretically linked to arguments in political pluralist and good governance literature that presents NGOs as agents of bottom-up policymaking processes and empowerment of the marginalised (Clark, 1991; Fisher, 1998; Edwards & Hulme, 1992; Stewart, 1997; Daugbjerg, 1998; Hoffman, 2001). At the centre of political pluralism is that society consists of a plurality of individual interests and interest groups are instruments through which individuals with similar interests associate to advance their interests (Eisfeld, 2011, see also Bratton, 1989; Chazan, 1992; Keane, 2009; Boulding, 2010; Joseph, 2012). However, formulation of mining law, just like any other policy instrument, is not only a political activity among policymaking agents holding different interests, ideologies and power, but also takes different forms under different institutional contexts (Dryzek, 2003; Kingdon, 1995; Kashwan, 2017; Bryant, 2009). The political pluralist assumptions that interest groups such as NGOs can influence government to alter policy, and not the other way around, and that negotiations will reconcile different interests among policymaking agents have been heavily critiqued and contested (Shivji, 2006; Kasfir, 1998; Comaroff & Comaroff, 1999; Mercer & Green, 2013). These scholars argue that the success of NGOs in shaping policy towards a preferred direction depends on the ability of NGOs to influence and transform unequal power relations among different policymaking agents. In the case of Malawi, this entails NGOs transforming unequal power relations among different policymaking agents (government bureaucrats, politician, international development partners, private mining companies, communities within the mining areas) that were involved in the review of the Act.

The factors that limit and shape the agency of NGOs to that end remain, however, inadequately explored. Understanding the factors that impacted NGOs to shape the review of the 1981 MMA in Malawi calls for a nuanced examination of the unequal power relations and political,



economic and ideological forces that limited the agency of NGOs. As I expound in section 2.6, a growing Foucauldian scholarship on governmentality has explained how particular policy positions are enforced and sustained in a political space through governance of mentalities by techniques of power (Foucault, 1979; Lemke, 2002; Dean, 2013). According to critical governmentality literature, “the governance of a mentality (a collectively held view that is communicated through a variety of discourses) is by way of techniques of power (calculated tactics that guide everyday citizen-subjects to act in accordance with societal norms)” (Ettlinger, 2011: 538). The argument is that the ability of political actors to enforce a particular policy involves “governing the forms of self-government, structuring and shaping the field of possible action of subjects” (Lemke, 2002: 3). According to a governmentality theoretical lens, the ability of NGOs to shape policy towards the interests of a particular group of people involves challenging existing discourses, norms, rationalities and mentalities, and not simply challenging entities or persons in hierarchical positions per se (Dean, 2013; Keane, 2009). Equally important, new institutionalist scholarship has, since the 1980s, also questioned political pluralist approaches for neglecting institutional and ideological factors in explaining policy outcomes (Steinmo et al., 1992; Mahoney & Thelen, 2009; Hall & Taylor, 1996; Gofas & Hay, 2010). Historical institutionalists have specifically argued that the nature of policies adopted depends on the institutional configurations that provide veto points<sup>2</sup> for influencing policy outcomes among different policy-making agents.

This thesis builds on insights from these analytical frameworks, explained in detail in section 2.6, that highlights how governance of particular rationalities and existing institutions enforce certain policy perspectives and shape interests that policymaking agents pursue. This literature explains how initiatives and activities intended at empowering communities extend control of and surveillance to marginal communities, resulting in subjection to, rather than autonomy from, the dominant powerful structures (Bryant, 2002: 286). The study specifically mobilises

---

<sup>2</sup> I adopt the definition of veto points from Thelen, Steinmo and Longstreth (1992: 7) as “points in policy process where mobilisation of opposition can thwart policy innovation”. Veto players are “individual or collective actors whose agreement is necessary for a change in the status quo” (Tsebelis, 2002: 19).

the environmentality framework within the governmentality Foucauldian literature to explain how NGOs that were involved in reviewing the 1981 MMA came to conceptualise the environmental issues in mining and their environmental advocacy objectives (Agrawal, 2005; Agrawal et al., 2005; Fletcher, 2010; Forsyth & Walker, 2014). As will be discussed further in chapter 2.6, environmentality is a framework for analysing environmental politics by paying attention to the formation and role of new expert knowledges, nature and functions of power, nature of institutions and regulatory practices that are put in place to manage the environment and the self-formation and subjectivities arising from regulation (Agrawal, 2005). While its usage is limited to analysing environmental politics, environmentality is a branch of governmentality. Broadly, governmentality is concerned with understanding how problems requiring government action come about, how power, techniques of government and new forms of knowledges to govern are generated, and the relationship between government regulation and subject formation and self-construction (Agrawal, 2005). In this way, environmentality provides the lens for explaining how transformation of political actors' interests and resulting subject formation ensues from their involvement in the institutional processes of policymaking (Bryant, 2002; Fletcher, 2010; Agrawal, 2005). A combination of environmentality and historical institutionalism helps to explain how NGOs working to influence the review of mining law in Malawi came to be enrolled into private sector-led mining discourse that commodified environmental issues in mining. While the calls to review environmental mining regulations were striking in Malawi (Kamlongera, 2013; CCJP, 2012; Human Rights Watch, 2016), there was a dearth of studies exploring the path to be travelled to that end.

### **1.3. Key Research Questions**

This study is built around five research questions that assist in investigating the factors that impacted the NGOs involved in the review of the 1981 MMA in Malawi in shaping the Act towards the interests of the communities living in mining areas. The five questions include:

1. How did a particular narrative about mining emerge to guide the review of the 1981 MMA out of the different narratives held by policymaking agents?
2. What economic, political and ideological forces shaped NGOs' support for particular strategies for addressing environmental issues in mining that communities living in the mining areas experienced?
3. To what extent did the contingent events (global mineral price, drought, and shortage of electricity supply) experienced over the period of reviewing the 1981 MMA affect

NGOs in shaping the mining interests of the local communities at Mchenga and Mwaulambo coal mining sites?

4. How did the NGOs' interface with different policymaking agents and communities at Mchenga and Mwaulambo coal mining sites affect their ability to shape the review of the 1981 MMA towards the interests of communities living in the mining area?
5. How did the environmental issues that the NGOs pursued during the review of the 1981 MMA compare with those that the local communities at Mchenga and Mwaulambo coal mining sites experienced?

These questions are important for this study as they provide insights for understanding how unequal power relations and political, economic and ideological forces shaped the decisions that NGOs made relating to the strategies required to address the environmental concerns of the communities living in the mining areas. Broadly, these questions help to understand not only how the NGOs in Malawi came to conceptualise environmental issues in mining that should be given priority, but also how NGOs' environmental advocacy agenda was entangled in the ideological, economic and political forces in which NGOs' work in Malawi were embedded. In this way, these questions shed light on the NGOs' claimed grassroots communities' empowerment agenda.

This focus is rewarding because mining activities generate conflicting interests between mining companies, the state and local communities (Oskarsson, 2018; Campbell, 2013). In Malawi, the process of reviewing the 1981 MMA rendered visible the contested interests of a gamut of actors in the mining sector, including the state, private mining companies, international donors and local communities. Thus, the review of the 1981 MMA represents a case in which reforms relating to large-scale natural resources investment and management in southern Africa were questioned. While most NGOs perceived the review of 1981 MMA as an opportunity to protect local communities from mining-induced environmental harm, the government saw it as an opportunity to put in place legislation which could support development of the mining sector. Moreover, others from within the NGOs that participated in the review of the 1981 MMA, along with international donors and government officials, viewed the objective of protecting local communities from environmental harm and developing the mining sector as not contradictory. For instance, the Department of Mining saw mining as an opportunity to diversify the country's agriculture-based economy through its contribution to economic

growth, development and poverty reduction (GoM, 2007). In the words of Hajat<sup>3</sup> (2008: 76), a then prominent CSO leader, “Malawi has the potential mineral wealth that could be tapped – with great benefits to the people, the economy, the infrastructure and the country as a whole – but only if proper legislative and monitoring infrastructure is put in place”.

All of the above perspectives mobilised past experiences in Malawi as the country’s role of supplying migrant labour to South Africa and Zimbabwe between 1870s to early 1990s generated both hopes for economic progress as well dilemmas over the environmental effects of mining (Johnson, 2017; Mkandawire in Meagher, 2019; Banda, 2018). Understanding the factors that impacted the NGOs in Malawi in shaping the review of the 1981 MMA towards the interests of communities living around the mining sites, therefore, requires paying attention to questions of why and how particular mining discourses in the country became dominant and gained traction over others. It particularly requires understanding not only how NGOs that were involved in the review of the Act conceptualised their interests over time, but also their subjectivity into private sector led mining policy direction.

This task entails unpacking how bureaucrats and actors from ministries and departments of mining, environmental affairs, the Parliamentary Committee on the Natural Resources and Climate Change (PCNRCC), representatives from mining private sector, international donors, NGOs, mining and environmental experts and academics (from hereafter simply referred as policymaking agents) competed to shape the 2018 MMA around their interests. This multi-actor analysis of the contested review of the 1981 MMA enables unpacking how policy struggles are bargained and adjudicated within a contested political terrain. Multi-actor analysis is also appropriate to the environmentality framework adopted in this study which sees the art of modern governing as not singularly undertaken by the state apparatus but by a network of agents (Dean, 2013; Sending & Neumann, 2006).

#### **1.4. Description of the 1981 Mines and Minerals Act**

Malawi’s Mines and Minerals Act of 1981 falls into 1980s first generational mining codes that promoted maximum exploitation of mineral resources through attracting foreign direct

---

<sup>3</sup> Hajat was the Executive Director of Institute for Policy Research and Interaction and highly active in civil society activism

investment (FDI). Pressurised by the IMF and World Bank, African countries reformed their mining codes along the ideals of free market and minimal state involvement in the running of mining sector (see Besada & Martin, 2015; Campbell, 2013; Ambe-Uva, 2017). NGOs that were involved in the review of the 1981 MMA considered the Act as serving the interests of private mining investors but neglected the rights of the communities in the mining areas. Four areas of the 1981 MMA were particularly a subject of contention. Firstly, the NGOs argued that instead of vesting the mineral rights in the Republic, the 1981 MMA vested the mineral rights in the President. The argument was that vesting the mineral rights in a single person is against the principles guiding the current democratic dispensation. Secondly, the NGOs argued that the 1981 MMA promotes secrecy in the management of the mining sector. The argument was that the 1981 MMA does not promote transparency and accountability as it gave more powers to the Minister responsible for mining regarding decision over mineral tenement and licences. Section 24(2) of the 1981 MMA specifically stipulated that “The Minister may, on application made to him by the holder of a reconnaissance licence, limit, reduce, vary or suspend any obligation arising pursuant to subsection (1) (a) or (b) either conditionally or unconditionally. Thirdly, the NGOs argued that the 1981 MMA did not provide mechanisms for the protection of the environment on which the local communities depended. For instance, conducting environmental impact assessment was not compulsory but at the discretion of the Minister responsible for mining. Section 94(3) of the 1981 MMA only stipulates that “The Minister may, pursuant to section 38 (3), require environmental impact studies to be carried out. Lastly, the NGOs argued that the 1981 MMA did not provide mechanisms for the participation of local communities in the management of mining activities, nor sharing of benefits to communities living in the mining areas. Instead, “Where the President considers that any land is required to secure the development or utilization of the mineral resources of Malawi, he may direct that the land be compulsorily acquired under the Lands Acquisition Act” (Section 120(1). Broadly, NGOs’ calls for the review of the 1981 MMA were based on the need to balance the economic benefits of mining to government and the environmental costs of mining, especially to communities living in the mining sites. In this way, the review of the 1981 MMA represent a case of economic versus environmental justice. I will return to discuss how these questions were resolved during the review of the 1981 MMA in chapters 6 and 7.

### **1.5. Description of the NGOs Involved in the Review of the 1981 MMA**

The NGOs selected for this study provide not only good cases of the NGO-grassroots empowerment agenda but also insights on the politics of development aid. This is so as all the NGOs studied here depended on international funding to carry out their advocacy activities. The study selected NGOs operating at three levels namely: local, regional and National. Local NGOs are NGOs that have strong presence at a district level, established governance structures in the local community, and have their Head Office within the district. In this study, FOCUS is the only NGO that falls into this category. Regional NGOs are NGOs that, though have structures at a local level, have their Head Offices at the country's regional level. Livingstonia CCAP Synod Church and Society, which has its Head Office in Mzuzu, a regional administrative city for Northern Malawi, is a regional-based NGO. National NGOs are NGOs that are operating at a national level and have their Head Offices either in Lilongwe, the Capital City of Malawi, or Blantyre. Two of the national NGOs included in this study are CEPA and CCJP. Though all these NGOs do not have structures at international level, they receive funding and at times technical expertise from international agencies. I now move on to describe these NGOs.

CEPA is a national NGO that was formed in 2002 with an objective of contributing to the “development of environment and natural resources management best practices in Malawi and the Southern Africa Region”<sup>4</sup>. It is a professional think-tank that provides evidence-based advice to government and other stakeholders with the aim of establishing transparency and accountability in the management of natural resources. Since the onset of mining, CEPA has implemented various mining governance projects across the country largely aimed at shaping the issues that the review of the 1981 MMA should prioritise. CEPA's mining governance advocacy focused on empowering local community members to benefit from mining activities in the country (NCA et al., 2014). Like many other NGOs working in the country, at times CEPA jointly implements community development projects with government, as will be discussed later. CEPA employs about 20 full-time staff and works with grassroots-based organisations. Except for secretarial and security staff, all CEPA staff are graduates specialised in a particular field.

---

<sup>4</sup> CEPA website <https://cepa.org.mw/> accessed 20 July 2020

FOCUS was one of the NGOs that was widely involved in the institutional processes of reviewing the 1981 MMA. The NGO was formed in 2000 with an initial objective of addressing “reproductive health issues affecting the youth, women and other vulnerable groups-commercial Sex Workers”<sup>5</sup>. Following increased uranium and coal mining activities in northern Malawi, FOCUS shifted its advocacy agenda to mining governance and community empowerment. FOCUS is based in Karonga District in northern Malawi, one of the district which experienced increased mining investments since the middle 2000s, including Kayelekera Uranium mining and Mwaulambo coal mining projects (Chareyon, 2015; CCJP, 2012). Unlike CEPA, FOCUS has established project management structures within the community where it works. These structures are largely run by volunteers who periodically receive training and motivational allowances from FOCUS. The NGO is run by 5 key graduate staff who are assisted by a network of community volunteers. Unlike other NGOs, FOCUS has a strong local presence and has predominantly been concerned with social injustices at a local/district level.

CCJP is a national Catholic Church affiliated NGO that was established in 1992 “to promote awareness of human rights, justice and peace in the communities the church serves”<sup>6</sup>. CCJP was born out of struggles between the Catholic Church in Malawi and the dictatorial one-party system. “The overall aim is to awaken God’s people, through the process of conscientization, to further understanding of Christians call with regard to social justice, leading to a greater awareness of human rights and consequent duties and forming a critical conscience which empowers people to challenge and act to overcome unjust situations”<sup>7</sup>. The aim was to provide advocacy mechanisms to end various forms of social injustices especially for the disadvantaged. Unlike CEPA and FOCUS, CCJP social justice agenda is strongly centered on theological and biblical perception of social justice and teaching of the Catholic Church. In addition to funding from international donor community, CCJP receives is funded by the Catholic Church within and outside Malawi. While run by educated elites like CEPA, FOCUS

---

5 FOCUS website [https://trickleout.net/index.php/directory-pilot/Malawi\\_/foundation-for-community-support-services-focus](https://trickleout.net/index.php/directory-pilot/Malawi_/foundation-for-community-support-services-focus) accessed 20 July 2020

6 CCJP website <https://www.ecmmw.org/new/commissions/ccjp/> accessed on 30 January 2021

<sup>7</sup> CCJP websites <https://communications.amecea.org/index.php/2018/01/26/malawi-ccjp-commended-to-uphold-mandate-and-objectives-of-the-commission/> accessed 20<sup>th</sup> July 2021

and CCAP Church and Society, CCJP is run by staff that are grounded in the teaching of the Catholic Church. The NGO has implemented mining governance advocacy projects in Karonga, Rumphi and Mzimba Districts which experienced increased mining activities since the early 2000s (CCJP, 2012). Like FOCUS, CCJP has established community structures in the communities where it is implementing mining advocacy projects. CCJP is run by employed staff, mostly graduates, who are under the supervision of Catholic Church clerics in Malawi.

Like CCJP, Livingstonia Synod Church and Society is a Church of Central Africa Presbyterian (CCAP) affiliated NGO that was “established in 1999 as an advocacy desk of the Synod on issues of human rights, governance and democracy”<sup>8</sup>. The aim of the NGO is to contribute to national economic development through the creation of a “vibrant and God-fearing society that upholds the fundamental principles of human rights, good governance, co-existence and democracy”<sup>9</sup>. While under the supervision of CCAP church clerics, Church and Society is run by a team of employed staff. Most of the staff, mostly based at the NGO head office in northern regional administrative city, Mzuzu, are University graduates with a lot of experience working with international donors. Like CCJP, Church and Society work with local communities through volunteers. Church and Society has implemented mining governance advocacy projects in Karonga, Rumphi and Mzimba Districts aimed at sensitising the communities in the coal and uranium mining areas about good mining governance practices.

Unlike CEPA and FOCUS which largely focus on the environmental and mining governance, CCJP and Livingstonia Church and Society have since the advent of multiparty politics in Malawi been involved in national policymaking and election processes. The NGOs have implemented community civic education programs aimed at empowering communities to challenge various forms of social injustices and demanding accountability from duty bearers. Notwithstanding their differences, the NGOs elected for this study have significant similarities. As will also be discussed in chapter 4, these NGOs are predominantly run by University education elites and at times former government bureaucrats. Local communities are connected

---

<sup>8</sup> Church and Society website <https://www.ccapsolinia.org/departments/church-society/> accessed 30 April 2021

<sup>9</sup> Church and Society website <https://www.ccapsolinia.org/departments/church-society/> accessed 30 April 2021



to these NGOs mostly as volunteers or targeted participants in their programs (Anderson, 2017; CCJP, 2012; Lwanda & Chanika, 2017). Except for CCJP which receives part of its funding from the Catholic Church within and outside Malawi, all the above NGOs largely depend on international organisations for funding. In the case of mining advocacy, these organisations have received directly or indirectly received funding from international donors such as World Bank, European Union (EU), Norwegian Church Aid. The characteristics of the NGOs involved in the review of the 1981 MMA reflect continuities in the elite organisation of non-state actors since the colonial period. Equally important, the description of NGOs that were involved in the review of the 1981 MMA above highlights how NGOs' dependence on international donor funding entangles them into global structures of power and politics of development aid. Thus, the agency of NGOs to shape policy direction is complicated by their position within the global structures of power.

Before the advent of multiparty democracy in 1994, public policymaking was highly centralised with the President exclusively dictating policy direction and Parliament rubber stamping his demands (Chinsinga, 2008). The advent of multiparty democracy signalled transformation from elite to pluralist public policymaking and enactment of laws. Section 5(2)b of 2016 EMA specifically makes it a requirement that the public participate in the formulation of environmental laws, stating that "every person has the right to participate in environmental decision-making processes directly or through representative bodies and mechanisms for effective, direct and indirect public participation shall be created". Notwithstanding the consultative requirement of public policymaking, the extent to which public policymaking is open and inclusive in Malawi is debatable. Existing studies on land and mining in Africa show that national-level policymaking relating to natural resources utilisation is wide open to politics of aid and development where international NGOs and donors largely influence policy direction (Chinsinga et al., 2013; Cotula, 2009; Murombo, 2013). Chinsinga (2008), for instance, argues that Malawi's development partners such as World Bank directly influence the Executive to prioritise preferred policies in exchange for budgetary support, or indirectly promote specific policy agenda through funding Parliamentary Committees (see also arguments by Chang, 2011). An increasing number of scholars have highlighted how Malawi's dependency on international donors for about 40% of its national budget has made public consultation on policy issues cosmetic and technically impracticable (Anders, 2010; Fozzard

& Simwaka, 2002; Mkandawire, 2004). Similarly, legacies of top-down public policymaking and clientelism still favour few elites such as local chiefs (Cammack, 2017; Chinsinga, 2002).

### **1.6. Justification of the Study**

The case of the review of the 1981 MMA was selected for this study because of the contradictions and inconsistencies that the review of the 1981 MMA presents to understanding of NGOs' empowerment agenda. The perception that the 2018 MMA has not adequately responded to the interests of communities living in the mining areas belies the arguments that NGOs, key players in democratic multi-stakeholderism, can shape policy towards the interests of marginalised groups of people. Malawi is particularly of interest to this study as, unlike most African countries with a colonial and post-colonial history of mining (see Murombo, 2013; Nevin, 2011; Lungu, 2008), mining is a recent economic activity in the country. Mining in Malawi gained popularity from the 2000s.

During one-party era, the state in Malawi had little motivation to make policies and laws that favour a large proportion of marginalised groups such as smallholder farmers (Mhone, 1992). This trend was expected to change with the advent of democracy in 1993/94 based on the understanding that democracy would generate demand for citizen participation in the policymaking process (Chingaibe Ng'oma, 2010). While NGOs in Malawi have since the advent of multiparty government emerged as an increasing form of public representation (Makuwira, 2011), existing scholarship questions their efficacy, theoretically and practically (Gabay, 2011, 2014; Anderson, 2017; Vondoepp, 2002). These studies have highlighted how the NGOs' pursuance of their instrumental interests that are entangled in their relations with international donors and the state render them ineffective in shaping public policies around the interests of marginalised groups.

Existing scholarship on the role NGOs play in democratic empowerment in Malawi, however, remains debatable. While some scholars document the contentious but enormous contribution of NGOs to democracy in the country (Hussein, 2003; Makuwira, 2011) others argue that the involvement of NGOs in public policymaking in democratic Malawi has not meaningfully reversed enactment of legislation that disenfranchise the interests of marginalised population (Chinig'o, 2016; Lwanda & Chanika, 2017; Zuka, 2019). The above discussion suggests that the question relating to the role of NGOs in the enactment of inclusive policies in democratic Malawi is thin and contested. More important, there is paucity of literature that has given

attention to understanding factors that impact on the agency of NGOs to bring about the claimed grassroots empowerment objectives. This situation forms the justification for this study.

This study sought to understand the factors that impacted NGOs in Malawi in shaping the review of the 1981 MMA towards the interests of marginalised people living in the mining areas. Unpacking this research objective requires going beyond the authoritarian-democratic explanations and engage mechanisms of intersection and intermediation among policymaking agents. In this way, the Malawian case contributes to the critical literature exploring the agency of NGOs in the question of grassroots empowerment in the mining sector (Lungu, 2008; Kamphuis, 2020; Wälde, 2002). Broadly, this study fits into the critical literature on natural resources management reforms in Africa that highlight how NGOs' empowerment agenda fail because of their subjection to the deeply situated privatization mining discourse (see Leonard, 2018; Büscher, 2015; Opong, 2018; Kolala & Bwalya Umar, 2019).

### **1.7. Key Arguments and Conclusions of the Study**

The focus of this thesis is on exploring factors that impact NGOs in shaping policy towards the interests of communities they claim to serve. Using the case study of the review of the 1981 MMA in Malawi, the study particularly examines factors that impacted NGOs that participated in the review of the 1981 MMA in Malawi in shaping the Act towards the interests of communities living in the mining areas. Driven by increasing scales of mining-induced environmental harm, the NGOs' advocacy agenda was aimed at stopping exposure of the communities living in the mining areas to environmental harm. The study's findings demonstrates not only how NGOs failed to achieve their set out objective, but also how NGOs' action during the review of the Act extended state and international donors' mining rationalities and mechanisms of control over local communities. The study shows how NGOs' involvement in the technocratic processes of policymaking resulted into NGOs' subjectivities into government and international donors' rationalities of mining governance that prioritised efficient mineral utilisation over local communities' livelihood loses and mining-induced health-risks. Mobilising the role that power, expert knowledges and institutions play in subject formation, the study explains how the NGOs in Malawi were entangled in the state and international donors' mechanisms of control that transformed their perceptions regarding strategies that were required to bring about environmental justice for the communities living in the mining areas. The study demonstrates how the NGOs' perceptions of environmental justice

for communities living in the mining areas was conflated with the state and international donors' framing of the benefits of private sector led mineral resource utilisation. Thus, this study demonstrates how NGOs' environmental advocacy agenda in Malawi simultaneously facilitated grassroots empowerment as well as subjugation of targeted communities to state and international donors structures of power. This thesis advances four key conclusions and arguments that together unveils how the process of NGOs subjectivities ensued.

The first relates to the understanding of the relationship between the interests of the different NGOs involved in the review of the 1981 MMA and those of the communities living in the mining areas. It highlights how various forms of compromises between the NGOs and the state during the review of the 1981 MMA challenge the promises of NGOs to emancipate local communities from state' control and offer pro-poor democratic governance. The thesis explains how the processes of reviewing the 1981 MMA were entangled in economic, knowledge and political mechanisms of control. These mechanisms of control, grounded in unequal power relations among the different policymaking agents, facilitated NGOs' subjectivities into the state and international donors' rationalities of mining governance. The study highlights how, overtime, the NGOs' perception about how to achieve environmental justice for the communities living in the mining areas got transformed and aligned to that of the state and international donors.

The study shows that current forms of NGOs' subjectivities into state and international donors' rationalities of natural resource utilisation are not limited to the period in question but dates back to the colonial period. Since colonial era, expansion of capitalist mode of production, particularly commercial farming, have generated fierce environmental struggles between the state and local communities. The bone of contention has been on how expansion of commercial farming activities facilitates not only appropriation of land belonging to local communities, but also how such activities interfere with the livelihoods and social lifestyles of rural subsistence farmers. While the state throughout these periods supported capitalist mode of farming as a means of generating government revenue, a greater proportion of the rural populace resisted loss of land and subjection to western scientific knowledge. The study demonstrates how varying degrees of non-state actors' involvement into policymaking processes resulted into various forms of non-state actors subjectivities into the state's modes of thought and policy stipulations.

Thus, current forms of community protests against environmental issues in mining in Malawi are not new but a continuation of the competing interests in natural resources utilisation between local communities, the private sector and the state (see arguments by Oskarsson, 2018). A historical analysis of the grassroots protests against the expansion of commercial farming in Malawi shows not only how the state used its coercive powers to expropriate land from smallholder subsistence farmers, but also enrol supporters of capitalist production from within the same local communities. The study shows how elites were gradually co-opted into the state-preferred western scientific rationalities of utilising natural resources in the country. The creation of subjects favouring commercial agriculture was facilitated by extending participation of progressive farmers in commercial agricultural activities that were founded on capitalistic styles of thoughts. The question of grassroots struggles against environmental issues in Malawi is, thus, not only a question of a united community fighting against the state and private capital, but also of disunity and divisions within the communities. This historical analysis of environmental struggles provides useful insights on understanding current (dis)continuities in natural (mineral) resource utilisation and grassroots environmental struggles.

The second conclusion of this study focuses on how the review of the 1981 MMA was predominantly a clash of contested discourses relating to the relationship between mining and development. It highlights how different NGOs and other policy-making agents framed environmental issues in mining requiring attention, contingent events requiring consideration, and environmental management strategies to be adopted to reduce environmental harm local communities were experiencing. Two dominant views existed regarding how to address environmental issues in mining. The first view, mostly advanced by the local NGO, argued that mining should not take place in areas where private mining companies cannot manage to control exposure of the communities living around those mining areas to environmental harm. It was centred around leaving the minerals in the ground if environmental issues cannot be controlled. The second view, advanced by some regional and national NGOs was that communities living in the mining areas should be compensated for suffering environmental harm from mining. It is this second view which became dominant and predominantly shaped the way environmental issues in mining are set to be governed within the new 2018 MMA.

This study demonstrates how, through mobilisation of epistemic community oriented to privatization, the GoM and international donors shaped the review of the 1981 MMA along a

privatization pathway. It shows how NGOs' participation into institutional processes of reviewing the 1981 MMA failed to stop communities living in the mining areas from experiencing mining-induced environmental harm. This is so as NGOs' selection of strategies for managing the environmental issues in mining in the country was not based on local communities perception of environmental justice, but on the one framed and promoted by international donors that funded NGOs' advocacy activities. In this way, NGOs that participated in the review of the 1981 MMA were not only disciplined into subjects of private sector led mining but were also enrolled as active promoters of privatization pathway to natural resources management in Malawi. For instance, key instruments for achieving environmental justice for communities in the mining areas such as Community Development Agreements (CDAs) and Corporate Social Responsibility (CSR) commodified environmental harm resulting from mining as an environmental harm that should be compensated. Thus, the way strategies for addressing the environmental harm from mining were framed demonstrates how environmental issues in mining in Malawi were framed as commodities for monetary compensation.

This study demonstrates that NGOs' empowerment agenda in Malawi was more ambiguous and at times reversing the objectives that the NGOs set out to achieve. This study's findings point to how NGOs facilitated the privatization approach to natural resources management and state and international donors mechanisms of control and surveillance. For instance, while commodifying the environmental harm local communities were experiencing, the reviewed 2018 MMA failed to address dissonance between statutory valuation of customary land appropriated by the state and the value subsistence farmers ascribe to their customary land. The 2018 MMA also adopted provisions for conducting ESIA that are predominantly based on western scientific knowledge and ignores indigenous knowledges and experiences of the communities living in the mining areas. This analysis demonstrates that, unlike the colonial and post-colonial periods when the state used force, power to control the framing of policy discourses is the means that a democratic state employs to shape policy stance.

The third conclusion of this study expounds the working relations between the NGOs and other policymaking agents and how such relations permitted the dominance of private sector led mining discourse and its corresponding environmental management strategies. It highlights how varying levels of NGOs' participation in the institutional processes of reviewing the 1981

MMA facilitated not only NGOs subjectivation into privatization rationalities in managing environmental issues in mining, but also short-term definition of the NGOs' moral and instrumental interests. The study observes how NGOs' financial dependence on international donors and competition for a seat in the national forums for governing the mining sector resulted into the gradual co-optation of the NGOs into the mining management perspectives of the state and international donors. Though the NGOs that were involved in the review of the 1981 MMA were organised under a loose network, the National Resources Justice Network in Malawi (NRJN), they competed for donors' resources, attribution and prominence. While some NGOs established closer relations with the state and international donors and even implemented community-development projects in partnership with some governments department, others remained outside these relations. This situation resulted into NGOs' divided royalties to local communities amidst co-optation into the state and international donors structures of power. In this way, the study shows how NGOs' grassroot emancipation agenda was entangled in unequal power relations within the processes of reviewing the Act.

The last conclusion of this study responds to the question of whether NGOs can act in the interests of marginalised communities through bottom-up policy-making practices. It highlights how NGOs involvement in the technocratic processes of reviewing the Act not only affected NGOs' autonomy from the state and international donors, but also NGOs relations with communities living in the mining areas. While advocating for bottom-up policymaking approach, this study demonstrates how NGOs reproduced top-down development approach by depicting communities living in the mining areas as vulnerable categories of people requiring outside guidance. Ironically, the processes of guiding communities living in the mining areas depicts how NGOs facilitated a privatization pathway to governing the mining sector that neglected the livelihoods of the people living in the mining areas. For instance, most of donor-funded projects that the NGOs implemented at a local level focused on sensitizing and equipping communities on how to achieve win-win negotiations with private mining companies. While local communities embraced the need to master the skills required in negotiating mining benefits, the framing of the instruments guiding community-private companies' negotiations was deeply situated in the promotion of private investment and thus served to legitimise the privatization approach to governing the extractives in the country.

I describe the relations that the NGOs developed with the state, international donors and communities living in the mining areas as bifurcated co-optation. Unlike other forms of NGOs' co-optation spelt out in other literatures (Hermansen et al., 2017; Baur & Schmitz, 2012; Sayer, 2007), the kind of NGOs' co-optation in Malawi was characterised by three features. Firstly, not all the NGOs who participated in the review of the 1981 MMA were co-opted in the existing structures of power. Instead, while some of the NGOs established strong working relationships with the state and international donors, others remained outside those relationships. Close relationship between some NGOs and the state was particularly a result of mutual dependence between the NGOs and the state in achieving their instrumental interests. The NGOs' close link with government departments gave them access to mining information and participation in national issues of mining governance. The government officials and politicians on the other hand valued good relations with the NGOs to legitimise government presence at the local level. Second, NGOs that established strong relationship with the state and international donors did not fully adopt ideas of the state and international donors. Instead, the NGOs endorsed some ideas and criticised others. However, NGOs' disapproval of some ideas of the state and international donors had insignificant effect in terms of shaping the review of the 1981 MMA.

Lastly, NGOs that participated in the review of the 1981 MMA pursued both moral and instrumental objectives. This situation divided NGOs' loyalties between the communities living in the mining areas and the state and international donors. Thus, the thesis highlights how existing structures of power in Malawi were not only confronted by the NGOs, but also how NGOs were variously co-opted into existing structures of power. The need to maintain careerism and organisational institutionalisation transformed NGOs that participated in the review of the 1981 MMA from agents for emancipation to transmitters of private sector rationalities to the communities living in the mining areas. The finding on the divided loyalties of NGOs to the international donors and the state on one hand and local communities on the other is an important contribution to the literature on governmentality. While some studies have presented techniques of government as shaping NGOs and communities into subjects of the dominant actors (see Bryant, 2002; Agrawal, 2005; Ulloa, 2004), this study shows how subject formation is entangled in the interests of safeguarding their conflicting instrumental interests. In the case of Malawi, NGOs that participated in the review of the 1981 MMA worked to maintain good relations with both international donors and local communities. Thus, this thesis suggests that NGOs' participation in public policymaking is not only a political process in



which pre-defined interests are adjudicated, but also a process in which the interests of policy-making agents are (re)constructed. In this way, this thesis contributes to the critical literature on democratic natural resources management by explaining how NGOs' involvement in processes of public policymaking results in NGOs being co-opted into and moulded by existing structures of power. In this way, this thesis contributes to the understanding of how technocratic processes of policymaking transform NGOs into political subjects that sustains the interests of the powerful political actors

### **1.8. Structure of thesis**

This thesis is structured in nine chapters. This chapter has presented the research problem and questions, broad literature guiding the study and the broad arguments that the study advances. Chapter two reviews the literature on environmental movements, the work of and debate about NGOs, perspectives on the relationship between mining and development, the debate about natural resources management in Africa and Malawi, and the theoretical framework guiding the study. The key observation from this literature is that while NGOs have emerged as significant actors in the debate surrounding natural resources reforms in southern Africa, the questions regarding their agency in shaping policy reforms remain contested. Chapter three presents and discusses the analytical and methodological frameworks and methods that guided data collection and analysis for this study.

Chapters four to eight present the findings of this study. Chapter four discusses how community struggles against environmental issues during colonial and post-colonial period was born out of competition for the local geographical space between the rural subsistence livelihoods and the expanding capitalistic mode of production. This history of community struggles against environmental issues in Malawi is important not only because it provides the official tone through which the environmental issues were articulated during these periods, but also assist in understanding how the institutions that were established disempowered communities that depended on natural resources for their livelihoods. Chapter five critically explores three key mining discourses relating to the relationship between mining and development in Malawi and situates the NGOs position on environmental issues in mining within these mining discourses. The chapter highlights how the NGOs' ambivalent mining discourse was born out of discursive politics over the benefits and costs of mining in the country. This chapter specifically highlights how NGOs that were initially opposed to the primacy of private interests came to embrace

good governance to be the arbiter between the interests of the private sector and those of the communities. In this way, the chapter elucidates the political processes through which NGOs' subjectivities into state and international donors' mining discourses ensued.

Chapter six relates the strategies for managing the environmental issues in mining that NGOs supported during the review of the 1981 MMA to the underlying environmental issues that local communities in the mining areas faced. This chapter argues that, while the NGOs rightly advanced the environmental issues that the communities in the mining sites experienced, the strategies that the NGOs endorsed did not address the underlying concerns of the communities. The chapter shows how the framing of strategies to address environmental issues in mining based on monetary calculations occasioned dissonance between the local communities' environmental concerns and the strategies designed to address environmental issues. Chapter seven responds to the issues raised in chapter six by discussing why and how the NGOs endorsed the strategies to address environmental issues in mining that reified the interests of the private capital. It does this by discussing the working relations that were developed between the NGOs, state, international donors, and communities living in the mining sites. This chapter highlights how the political and economic forces within which NGOs worked fashioned adoption of environmental strategies advanced by the state and international donors.

Through the case studies of Mchenga and Mwaulambo coal mining sites, chapter eight compares the environmental issues that the communities living in the mining sites experienced and those that the NGOs advanced during the review of the 1981 MMA. Thus, this chapter provides insights for understanding how the interests that NGOs pursued during the review of the 1981 MMA differed from those of the communities that NGOs claimed to represent. Chapter nine concludes the study by elaborating the key empirical issues and the theoretical implications of the study to the literature on NGOs and democratic policymaking processes in Malawi and other countries with similar political and economic context. It highlights how NGOs' participation in policymaking struggles are simultaneously avenues for subject formation, the co-optation and ongoing moulding of subjectivities, and policy continuities and discontinuities. In the next chapter, I move on to critically analyse the literature that is at the centre of this study.

## CHAPTER TWO

### LITERATURE REVIEW

#### 2.0. Introduction

This chapter reviews the literature on natural resources management reforms taking places in developing countries and the role of NGOs in shaping the reforms towards the interests of marginalised communities. It does this by inserting the academic debate relating to NGOs' agency into the broader scholarship on grassroot environmental movements and perspectives on the relationship between mining and economic development. This literature review observes that current scholarly interest in the work of NGOs is linked to the rise of good governance agenda in the early 1990s. Thus, the debates relating to NGOs' agency represent an ongoing academic project on the political economy of development relating to state-society relations and the place of NGOs in those relations. The key question within this literature centres on how the interests of the state and society converge or diverge and the pattern of power dynamics that is established within the state-society relations. One of the central observations from this literature is that the role that NGOs play in mediating the interests of the state and local communities is still debatable. While some scholars present the growing significance of NGOs in addressing the development challenges of the marginalised groups of people (Bratton, 1989; Chazan, 1992; Vakil, 1997), others argue that NGOs remain entangled in the interests of the elites (Hearn, 2007; Shivji, 2006; Comaroff & Comaroff, 1999; Bryant, 2002; Mercer and Green, 2013). I argue that this literature offers valuable insights for understanding the factors that impacted NGOs in Malawi in shaping the 2018 MMA around the interests of communities living in the mining areas.

The chapter has four main sections. Section 2.1 discusses the academic and policy scholarship on NGOs by highlighting the conceptual issues, schools of thought and contestations relating to NGOs' work. Section 2.2 locates the work of NGOs in public policymaking processes with the objective of understanding the agency of NGOs in the review of the 2018 MMA. Section 2.3 discusses literature on environmental justice in terms of its origin and objective with a view to understanding how local communities' environmental justice struggles in Malawi fit into these debates. This is followed by a discussion on the objectives and forms of environmental

movements in section 2.4. This section provides important insights for understanding the experiences of NGOs in addressing the environmental issues in the extractive industry thus critical to understanding the work of NGOs in Malawi. Section 2.5 focusses on convergence of environmental movements into a single mainstream environmental movement. Thereafter, the chapter discusses the factors that affect NGOs in shaping environmental policy and legislation. Finally, the chapter reviews literature on the relationship between mining and economic development with the view to explaining Malawi's mining agenda within contemporary global debates.

## **2.1. Definition of a NGO**

The concept of a NGO remains a contested term. NGOs consist of varied non-state organisations that defy broad generalizations. Vakil (1997: 2060) defines NGOs as “self-governing, private, not-for-profit organizations that are geared to improving the quality of life for disadvantaged people”. This study perceives NGOs as part of the larger civil society and specifically adopt Gramscian view of civil society as a “contested political space in which different groups, organisations and individuals seek to influence policy” (Lewis, 2002: 583). According to Mercer (2002: 6), NGOs are nationally based “organizations that are officially established, run by employed staff, well-supported (by domestic or, as is more often the case, international funding), and that are often relatively large and well-resourced”. In this study I specifically define NGOs as organisations that are non-state but officially registered by the GoM, run by employed staff and receive local or international funding. This definition is narrow enough for use in a study of this nature and relevant to the context in Malawi. My decision to focus on registered NGOs rather than Grassroots Organisations (GROs) is based on the fact that the former are legally recognised in Malawi to participate in the processes of public policymaking (Banda, 2018). However, this study pays attention to the interface between the targeted NGOs and the GROs as activities and interests of GROs do affect the decisions that NGOs make (see Bratton, 1989; Kashwan, 2017).

While adopting this definition, this study recognises that NGO is a contested term whose objectives and interests take diverse twists contingent on the global politics of aid in which NGOs are entangled (Lewis, 2010). The current work of NGOs in Africa is largely based on De Tocqueville theorization that people's associationalism and voluntarism curbs the power of centralised state and essential to establishing democratic polity (Bratton, 1989; Chazan, 1992).

The argument in the 1980s was that NGOs are not only efficient in delivering economic development services to the poor groups of people but also good at fostering political participation and empowerment of the marginalised (Fowler, 1988; Clark, 1991). To this extent, NGOs were conceptualised as magic bullets for disillusioned statist top-down development (Edward and Hulme, 1992). An increasing number of scholars have, however, questioned firstly the non-critical conceptualisation of NGOs, and secondly the NGOs' ability to fulfil the roles that they have been ascribed. While the term NGO is used to denote not-for-profit organizations that are independent of government and business, in Africa the term has normatively come to refer to recognisable, formalised and professionalised organisations that are organised around western liberal democracy (Lewis, 2005; Mercer and Green, 2013). This focus on professionalised organisations leaves out organisations that do not fit into the nomenclature of western liberal democracy. Equally important, while conceptualise as non-state some NGOs work with and receive funding from government agencies (Lewis, 2005). I return to this debate in the findings chapter where I show hoe some NGOs that were involved in the review of the 1981 MMA worked closely with the government.

NGOs' ability in fostering participation and political empowerment of the marginalised communities also remains deeply questioned. Critical literature on community empowerment show that, in Africa, NGOs are not only powerless to advance their set out agendas, but also facilitate local communities' subjectivity into the development discourse and interests of the outside actors (Bryant, 2002; Lewis, 2005, Kasfir, 1998). Mercer and Green (2013: 106) for instance, argues that "NGOs in Africa are shaped by a development donor civil society template that provides the resources and the training". Mercer (1999: 255) particularly show how "far from being a vehicle for the participation of the poorest, the NGO sector in Tanzania is emerging as a mechanism for the reproduction of inequality". In the words of Mercer & Green (2013: 112), "local civil society sectors play an interstitial role connecting national and international development priorities to local places". The two authors show how NGOs in Tanzania implemented development projects that had international donor funding but were not necessarily development priorities of the concerned communities. According to Markovitz (1998), generalisations about NGOs as agents of community empowerment fail to capture circumstances where urban educated elites in Africa create NGOs as new avenues for resource accumulation (see also Mercer, 2002).

Thus, while NGOs have since the 1980s occupied an important space in the state-society relations, there is need to unpack not only the nature of these spaces, but also how the spaces are negotiated with the state. According to Mercer (1999: 248), “the nature of state-society relations played out between governments and NGOs must be seen as a critical issue. While NGOs are essentially non-governmental actors, national governments set the context within which they must work and be effective”. The argument is that NGOs are less accountable to people they claim to serve because they have “become local project managers, facilitating development solutions by bringing together donor money and the relevant expertise in order to manage particular donor-designed interventions” (Mercer and Green, 2013: 110; see also Hearn, 2007). To this extent, “NGOs may pursue change, but they can equally work to maintain existing social and political systems” (Morris-Suzuki, 2000: 68). Tvedt (1998) specifically argues that NGOs shift attention from the government institutions towards privatized forms of public service delivery (see also Lewis, 2010).

The above discussion suggest that NGOs in Africa pursue diverse and at times competing interests, with most of them aligning their work with the objectives of their international and economically powerful donors (Shivji, 2006; Comaroff & Comaroff, 1999). Thus, local communities may lose out even if their viewpoints are credible. For instance, because of the supremacy of the pro-mining discourse within the Natural Resource Justice Network in Malawi (NRJN), a coalition of NGOs working in the extractive sector, most NGOs that participated in the review of the 1981 MMA accepted mining as one of the solutions to economic growth and poverty reduction in the country. This study, therefore, contributes to the literature on the role of NGOs in community empowerment by showing how NGOs’ activities may facilitate various forms of community subjugation to and control by the dominant structures of power. I will return to this debate in chapters 6 and 7 where I discuss how the NGOs came to accept and adopt private sector-led development of the mining sector in Malawi.

## **2.2 Locating NGOs’ Work into Public Policymaking Scholarship**

In this section, I briefly discuss the scholarship on the place of NGOs in shaping public policymaking processes and notes that debates in this subject have undergone various permutations since 1980s (Hearn, 2007; Mercer and Green, 2013; Shivji, 2006). Before the 1980s, NGOs were regarded as magic bullets to problems of economic development in developing countries . During this period, NGOs predominantly engaged in the provision of social service delivery and did not encumber themselves much with political empowerment

issues. The rise of NGOs as agents of political empowerment follows arguments that have presented NGOs as champions of bottom-up public policymaking and empowerment of marginalised groups. This has particularly been the case at the beginning of the third wave of democratization and after the implementation of the 1980s Structural Adjustment Programmes (SAPs) in developing countries (see Chazan, 1992; Bratton, 1989). However, a number of scholars have questioned both the ability of NGOs to effectively champion bottom-up policymaking processes and represent the marginalised groups of people (Mkandawire, 2004; Mercer, 2002).

The proposition that NGOs are agents for empowering marginalised groups of people is based on western liberal democracy and pluralist political systems where interest groups such as NGOs can wield considerable amount of power to veto government policy. This view has its foundation in classic (Dahl, 1957), reformed (Goodin, 1996; Jordan, 1987) and neo-pluralism (Lindblom, 1977) theoretical perspectives that view power as possessed by and dispersed among different political actors and that the political system is relatively open to all interest groups. Broadly, political pluralist literature perceives interest groups, such as NGOs, as providing organisational arrangements through which individuals pursuing group interests participate in a political process to influence public policies (Eisfeld, 2011; Vogel, 1996; Lindblom, 1977). This theoretical perspective, therefore, places NGOs as an interest group holding power to influence the direction of legislation. However, the instrumental interests of leaders and members of the interest groups may not always converge resulting in dissonance between the policy objectives pursued by interest groups and the people they serve (Eisfeld, 2011; Shivji, 2006).

Since the 1980s, considerable critical and theoretical literature on democratic governance, governmentality and historical institutionalism have strongly criticized the liberal political pluralists' view for emphasizing the relative power of interest groups in determining policy outcomes (see Smith, 1990). The governmentality literature particularly argues that contemporary practices and power of governing involves "governing the forms of self-government, structuring and shaping the field of possible action of subjects" (Lemke, 2002: 3). Thus, shaping policy involves challenging existing discourses, norms, rationalities and mentalities, and not entities or persons in hierarchical positions (Death, 2010). Similarly, historical institutionalists have criticized liberal political pluralists for neglecting institutional

and ideological factors as determinants of policy outcomes (Hall, 1988; Miller & Rose, 2008). According to historical institutionalists, the nature of policy adopted depends on the “the way institutional context shape the goals political actors pursue and the way they structure power relations among them, privileging some and putting others at a disadvantage” (Steinmo et al. 1992: 2; see also Streeck & Thelen, 2005; Mahoney & Thelen, 2009).

The above literature provides two important insights that are critical to the analysis of the factors that impacted NGOs in Malawi in shaping the review of the 1981 MMA along the interests of communities living in the mining areas. Firstly, the analysis requires paying attention to how NGOs challenged or were themselves influenced by dominant rationalities relating to the governance of the mining sector in the country. Second, it requires paying attention to how the institutional contexts in which the review was carried out limited the NGOs in challenging dominant rationalities. I return to this discussion in section 2.6, which highlights the theoretical framework that guided this study and explain how this literature fits into this study. In the next section, I discuss literature on the forms and objectives of environmental movements, a literature which is crucial to the analysis of NGOs’ work during the review of the 1981 MMA.

### **2.3. Forms and Objectives of Environmentalism Movements and NGOs**

Although environmental movements have taken different forms and ends, they are broadly defined as “socio-political movements which seek to ameliorate the relationship between human and their natural surrounding” (Temper, 2014: 16). Environmental movements aim at addressing environmental harm affecting the marginalised and impoverished groups of people. At the centre of environmental movements is the question of how power inequalities within the community is subjecting marginalised people to environmental harm (Álvarez & Coolsaet, 2020). While the objective of environmental movements and NGOs engaged in environmental advocacy are similar, the former are different from the later. NGOs are non-profit making organisations run by full-time staff, formal budget and operating office. Environmental movements on the other hand have no formal office, organisation and budget (Potter, 1996). The involvement of NGOs in environmental justice advocacy is founded on the idea that poverty is a political issue and entangled in unequal power relations (Edwards & Hulme, 1992).

While the early work of NGOs in Malawi was focussed on addressing the plight of the marginalised groups of people, including environmental struggles, the political and ideological



situation during this period did not allow NGOs to engage in advocacy programmes of political empowerment. During colonial period, Christian missionaries provided humanitarian, relief, education and health social services, but strong government control during this period restricted what the NGOs could do (Kadzamira & Kunje, 2002). As will be noted in chapter 4, state control of the activities of NGOs continued after independence. Meaningful NGOs' involvement in public policymaking in Malawi followed the advent of multi-party democracy in 1993 and especially after the adoption of the 1995 Republican Constitution that is based on liberal democracy. Makuwira (2011) documents that between 2001 and 2009, NGOs registered with Council for Non-Governmental Organisation Malawi (CONGOMA) increased more than twofold from 104 to 259. The rise of NGOs in Malawi, as will be shown in chapter 4, needs to be understood within the dynamics of public demands within the democratic politics. During the review of the 1981 MMA, for instance, NGOs working in the mining sector presented an agenda of protecting the interests of communities living within the mining areas from the malevolent interests of the state and private mining companies (Kamlongera, 2013).

While lobbying on the same term of environmental justice, environmentalism take different forms such as ecological modernisation, ecological Marxism, environmentalism of the poor and decolonial perspectives of environmentalism. The main thrust of ecological modernisation is that scientific knowledge, technological advancement, and efficient utilisation of resources is a solution to ecological crisis. In contrast to the ecological Marxism which contend that capital lead to environmental degradation as the state strive to sustain capitalist system of production (O'Connor, 1988), ecological modernisation sees state-capital relationship as contributing to environmental improvement. Again, contrary to ecological Marxist's perspective which sees environmental reform as being externally driven through social movements, ecological modernisation perceives such drive as both externally and internally driven. Internally, environmental reform is perceived to be driven by the capital's effort to benefit from consumers and shareholders' demand for growing greener production practices (MacKendrick & Davidson, 2007). Advanced within broader neoliberal perspectives and financed by IFIs such as World Bank, ecological modernisation sees technology as a magic-bullet to preventing environmental harm and surmounting limits to growth (Jänicke, 2008; Mol & Spaargaren, 2000). However, this position is an idealised perception and ignores that intensity of technological use has effect on investment costs, investors' profit and consequently motivation for its use. For instance, reducing mining-induced environmental harm through

technology increases extraction costs and consequently affects host-country investment's attractiveness (LeCain, 2009). In quest for economic wealth from extractives, most governments often ignore environmental harm affecting subaltern communities as was the case with the continued coal mining in Alberta, Canada (Lysack, 2015).

Equally important, despite local environmental impacts and global campaign against coal, consideration of FDI and energy self-sufficiency positioned coal mining as a priority development sector in countries such as Indonesia, Colombia, Turkey, India and Pakistan. Considerable extant literature, however, show that different groups of people within these countries are benefiting disproportionately from mining exploits and that much benefits accrue more to the private mining companies and the state elites (Cardoso & Turhan, 2018; Bell, 2016; Brown & Spiegel, 2017). This turn of events suggests that the conventional view that advanced use of technology in extractives will result in positive-sum benefit for everyone in the community is flawed (Whitmore, 2006). For instance, Bell & York (2012) argue that despite a long history of coal mining West Virginia remains comparatively poor compared to other non-coal producing states in USA. According to Martinez-Alier (2001), the neoliberal approach of valuing mining benefits does not only legitimise environmental destruction, but also fails to give space to other value-pluralism that are beneficial to other groups of people. This literature is insightful for this study as it suggests that the question of reviewing environmental laws is a political one requiring questioning who makes decisions regarding not only the justification for mining but also the approach to managing environmental issues in the sector.

Rather than being a post-materialist phenomenon, environmentalism of the poor, also known as subaltern environmentalism (Pulido et al. 2016) or post-colonial environmentalism (Williams & Mawdsley, 2006), is a materialist movement manifested as a clash over productive resources in the south (Guha & Alier, 2013). It highlights how poor groups of people depending on the ecosystem for their livelihood resist against the processes of resource capture by those outside the ecosystem. Unlike the distributive environmental justice movements that rose in the USA in the 1980s against unequal distribution of environmental waste-dumping between poor and rich communities (Agyeman et al. 2002, 2003; Schlosberg, 2002, 2013), environmentalism of the poor sees capitalistic expansion as destroying the environment on which indigenous communities depend for their livelihoods (Rodríguez-Labajos & Özkaynak, 2017). Examples of environmentalism of the poor can be traced to as far back as 1888 when miners and peasants in Andalusia protested against Rio Tinto for dioxide pollution resulting in

about 200 people being shot dead (Martinez-Alier, 2001), the Silent Valley and Chipko movement in India protesting against commoditization of indigenous forests (Chopra, 2017). One of the central features of environmentalism of the poor is that it does not just contest negative environmental effects of capitalist projects, but also how such projects, such as mining, interferes with livelihood platforms of indigenous communities because of community displacements and destruction of their ecosystem.

Lastly, decolonial perspectives of environmental justice have their origin in South American decolonial thought that “identifies mechanisms of subordination and marginalization in Eurocentric scientific and political world views” (Rodríguez & Inturias, 2018: 92). The argument is that conventional environmental justice perpetuates epistemic violence as conceptualisation of justice is bound to a hegemonic western idea of modernity. Thus, decolonial perspectives of environmental justice contend that invisible and subtle imposition of western environmental epistemology give rise to oppression and domination of the marginalised groups of people in the global south (Álvarez & Coolsaet, 2020). With regard to extractives, the central theme of decolonial forms of environmentalism is how imposition of western epistemology has not only resulted in the exposure of environmental harm to subaltern communities living around the extractives, but also how such knowledge have failed to recognise rights of indigenous people over nature (Mignolo, 2007; Escobar, 2007). For instance, capitalistic approaches to assessment of proposed mining projects are better suited to the valuation of the monetary contribution of the existing mineral tenements than valuating livelihoods losses for the people living in the proposed mining area (see for assessments by World Bank, 2009; Oxfam, 2016). According to decolonial environmentalism, emancipation from environmental harm for the marginalised group of people requires challenging conventional concepts defining mining governance and environmental justice such as the polluter pays principle and methods of valuating landed-based resources for compensation. Achieving environmental justice through decolonial environmentalism requires, therefore, learning from the lived experiences of the people suffering environmental harm (Mignolo, 2007).

The above discussion means that divergent forms of environmentalism exist in various places and at various times as shaped by different socio-economic context. In addition to the environmentalism discussed above, there is also deep ecology which recognises bio spherical

egalitarianism, diversity, and symbiosis of nature (Kober, 2013) and cult of wilderness concerned with pristine preservation of environment through reducing human interaction with nature (Temper, 2014). This literature is key in understanding how NGOs and other policymaking agents in Malawi perceived environmental harm requiring attention and the corresponding legislative statutes to addressing the problems.

#### **2.4. Economic Benefits of Mining versus the Environmental Struggles in Africa**

The question of environmental effect of mining in Africa has remained a thorny and divisive subject since the establishment of largescale mining during the colonial period. This is largely so not only because minerals exist in areas already occupied by farming communities, but also because most governments have for a long time prioritised the interests of private capital (Büscher, 2015; Murombo, 2013; Zulu & Wilson, 2012). Mining activities in Africa interfere with the natural environment such as water, land and forests on which local communities depend for their livelihoods. Coal mining, for example, degrades land for farming beyond use, causes numerous lung and chest infections, and pollutes surrounding river systems (Lockwood, 2012). Thus, balancing the economic benefits and environmental costs of mining has been a policy dilemma in African countries. The process of establishing mining legislation in Africa, therefore, remains divisive, contested and entangled in the tentacles of divided interests and unequal power relations (see Campbell, 2013; Kamlongera, 2020; Wälde, 2002). For instance, managing a myriad of environmental costs arising from gold mines of Zimbabwe, South Africa and Ghana (Murombo, 2013; Nevin, 2011) copper mining in Zambia (Lungu, 2008), and uranium mining in Namibia (Conde & Kallis, 2012) remains an unresolved policy question. Even where relocation of communities affected by mining is preferred, the promised compensation is not honoured. The cases of community relocation in the establishment of coal mines in Mozambique (Büscher, 2015), copper mines in Zambia and gold mines in Zimbabwe (Murombo, 2013) are good examples.

While communities and environmentalists have tried to block mining projects on account that mining destroys local communities 'livelihoods (Leonard, 2018; Conde & Le Billon, 2017; Kolala & Bwalya Umar, 2019), others see minerals as resources to be capitalised for achieving economic development in the region (Otto et al., 2006; World Bank, 1992; World Bank, 2012). Still more, others argue that "Mining can contribute to economic growth and development, but it must be appropriately and effectively regulated ... this could partly be done by strengthening

environmental regulation of mining activities and the rights of communities affected by mining” (Murombo, 2013: 29). Consequently, the task of establishing mining legislation in Africa has been a contentious process centring on the economic benefits versus environmental costs of mining. Environmentalists and local communities have over the years wrestled with private mining company-state duopolies over mining governance. While state force during colonial and post-colonial period kept local communities’ opposition to environmental impacts of mining at bay (Akabzaa, 2013), advent of multiparty democracy has opened spaces for intense grassroots’ opposition to mining activities.

Post-authoritarian African government have, however, not independently shaped legislative frameworks for managing the mining sector. Instead, international financial institutions such as the World Bank, IMF and EU have provided the framework upon which mining legislation have been developed (Murombo, 2013; Nevin, 2011). This situation was exacerbated by the desire of resource-rich African countries to attract FDI. Consequently, the fight against environmental harm arising from mining activities has since late 1980s been predominantly led by a network of NGOs. For instance, famous advocacy initiatives in the mining sector such as Extractives Industry Transparency Initiative (EITI), Publish What You Pay (PWYP), and The African Initiative on Mining, Environment and Society (AIMES) are all led by NGOs (Murombo, 2013; Kamlongera, 2020). These initiatives are linked to global structures of power as they are largely funded by international donors that are sympathetic to the capitalistic exploitation of mining. Thus, while NGOs have brought new activism in relation to addressing environmental issues in mining in Africa (Leonard, 2017; Oppong, 2018), their reliance on donor-backed good governance framework point to how new structures of control are being re-established through the power of discourse (see World Bank, 2012b; Humphreys et al., 2007). A number of studies highlight how the concept of good governance is a smokescreen that sustains private interests of the global world (Kamstra & Schulpen, 2015). Thus, the post authoritarian era in Africa demonstrates not only how hegemonic mining discourses from international donors become entrenched, but also how advocacy initiatives fail to transform deep-rooted unequal power relations that are embedded in mineral exploitation (Zulu & Wilson, 2012). Understanding the influence of NGOs in shaping mining laws, therefore, requires paying attention to the relations of power between NGOs and various policymaking agents. In the next section, I discuss how various environmental movements are converging on a single framework and the effects of convergence on NGOs’ environmental justice advocacy.

## **2.5. Convergence of Environmentalism Movements and its Potential Effects.**

There is increasing scholarly perception that environmental movements have transformed into a global environmental justice network that seek to address uneven distribution of resource benefits and costs, respect of indigenous and sacred territorial rights, and participation of indigenous communities in the management of natural resources (Martinez-Alier et al. 2016; Temper et al., 2015; Sikor & Newell, 2014; Mohai & Saha, 2007). Broadly, global environmental justice movements seek to address both distributive (equal access and entitlements) and procedural (fairness in decision making process) environmental justice struggles (Bullard, 2000). However, convergence of environmental justice movement into a single environmental justice movement creates the challenge of finding the right language which represents all the forms of environmentalism (Rodríguez-Labajos & Özkaynak, 2017; Agyeman et al. 2003). This is particularly imperative as though different environmental movements recognise the need to end environmental injustices, they have different explanations to its cause and solutions. For instance, while conventional environmental justice is a bottom-up struggle founded on the principles of ecological justice including anti-imperialist, anti-capitalist and inseparability of humans from non-humans environment (Pulido, 2017), mainstream environmentalism is top-down environmental agenda founded on principles of utilitarian and some elements of libertarian justice (Harrison, 2014; Kothari et al. 2015). Also, though mainstream environmental justice focuses on industry voluntary cooperation to reduce environmental harm, it is more committed to industry protection (Agyeman et al. 2002). This literature is insightful for this study as it suggests that, while mobilising the same language of environmental justice, NGOs may employ different perspectives on how to address the environmental harm facing communities living in the mining areas. Thus, understanding the legislative choices that the NGOs in Malawi made during the review of the 2018 MMA requires paying attention to the different environmentalisms that guided their choices.

One of the central insights on the integration of environmental movements into neoliberal-anchored environmental justice framework is that advocates of environmental justice are subjected to different mechanisms of control and capture by the state and private sector. For instance, Pulido et al. (2016) argue that inclusion of NGOs into state apparatus for reviewing environmental management laws in USA subjected NGOs to veto power within the Technical

Committees in which environmental laws were made (see also Hermansen et al. 2017; Jalali, 2013; Bryant, 2002). Drawing on this literature, this study takes environmental justice as a multidimensional concept whose corresponding environmental management strategies reflects different policymaking agents' negotiation over the diverse ideas within environmentalism.

## **2.6. Discourses on Mining and Development in Africa**

In this section, I discuss the various discourses on the link between mining and development and the interplay between the mining discourses and mining policy directions. The section examines not only how the mining discourses are dictating the nature of mining policy reforms carried out, but also the means through which such policies are advanced, negotiated, enforced, and finally established. As will be highlighted in chapter 5, different policymaking agents and communities living in the mining areas in Malawi held different discourses on mining. It is, therefore, important to understand which discourse on mining was given priority and how did that discourse gain supremacy over others. In this way, this literature helps to understand how subjectivities of NGOs into a state and private sector-led mining discourse became dominant in Malawi. The section underscores the fact that policymaking processes cannot be adequately understood without considering the key discourses and narratives guiding them. Discourses on the relationship between mining and development reflect the mining interests of different stakeholders and the level of priority accorded to specific issues, such as environment, in the sector. Although there are some variations within them, five key discourses on mining and economic development in developing countries can be identified namely: capitalistic optimistic, pessimistic dependency, resource curse, neoliberal optimistic and the critical sceptical discourses. I review this literature because it is important to understand how such discourses are related to mining in Malawi and how the nature of the reviewed 2018 MMA was shaped by these mining discourses.

Capitalistic optimistic discourse, predominant during the colonial to late colonial period, explained the role of mining in capital accumulation of the dominate imperial powers then. This discourse did not explicitly discuss the relationship of mining to economic development of developing countries. This was so as the analysis of development in developing countries was by then implicitly attached to the economic progress of their imperial masters (Jevons, 1866; Hurd, 1898; Graulau, 2008). The relationship between mining and development was applied to developing countries by development economists after colonial territories gained independence in the 1960s. For instance, W.W. Rostow stages of economic growth was based

on applying yielding changes to national productive resources, including minerals (Rostow, 1962). Thus, the presence of minerals was perceived as a resource that provides rents that could massively contribute to the economic development of the host country. Capitalistic optimistic discourse was largely advanced and controlled by international donors and investors that viewed existence of minerals in developing countries as a precious resource for economic development. The mining laws that were formulated during this period were largely aimed at promoting economic growth. This discourse, however, largely ignored the environmental cost that arises from mining which was a cause for conflict between different groups of people living within the mining areas and the mining companies, whether private or state owned (Girvan, 1976; Graulau, 2008; LeCain, 2009; Kirsch, 2010).

The second mining discourse, pessimistic dependency, rose due to failure of the extractive sector to considerably benefit countries in the global south (Frank, 1967; Cardoso & Faletto, 1979; Prebisch, 1980). It particularly highlighted how the declining terms of trade between primary commodities such as agricultural commodities and mineral resources disadvantaged countries in the global south that specialised in these commodities. This literature also highlighted how mining enterprises resulted into the exploitation of poor groups of people living within the mining areas through forced land expropriation, payment of low wages and mining induced environmental degradation (Baran, 1957). However, economic policy strategies implemented to address these problems, including nationalisation of mineral rights, did not bring about the expected economic growth nor address environmental problems that the various groups of people living in the mining areas experienced (Girvan, 1976). This situation ensued from the challenges of balancing the conflicting economic and environmental interests of the state, private mining companies and local communities living in the mining areas (Graulau, 2008; Martinez-Alier, 2001). This literature is insightful for this study as it reveals that different mining stakeholders pursue different interests which may be problematic to balance.

Another key mining discourse that arose in the 1980s is related to a term which highlights that rather than being a blessing, abundance of mineral resource is a curse (Bannon & Collier, 2003; Sachs & Warner, 1995). The concept of mineral curse describes a tendency for mineral-rich countries to perform worse on a variety of economic, social, environmental, and political measures than mineral-poor countries. Resource curse explains that overdependence on the



non-renewable nature of mineral resource leads to under-investment in social sectors such as education, and results in economic volatility due variations in rate of mineral extraction, prices and rents. Resource curse is also associated with a Dutch disease, which explains the decline in manufacturing output and employment due to reduced competitiveness of manufactured commodities (Humphreys, Sachs and Stiglitz, 2007, Rosser, 2006b). Reduced competitiveness of the country's manufactured commodities sets in as the country's exchange rate appreciates and wage levels rise from mining rents. The argument is that the manufacturing sector faces the "spending effect" in which exchange rate appreciation does not only make exportation of manufacturing commodities difficult but the sector also faces increased competition from imports. Similarly, mineral resource boom set in "resource pull effect" as rising labour demand and wage rates in the mining sector shifts labor to the sector (Rosser, 2006; Humphreys, Sachs and Stiglitz, 2007). These processes affect the performance of other economic sectors and potentially increase income inequalities. For instance, Sachs and Warner's studies (1995, 2001) revealed that a greater proportion of mineral resource-rich countries experienced stagnated economic growth between 1970 and 1989. Inter alia, mineral-rich countries with slow economic growth correlations included Chad, Niger, Nigeria, Venezuela, Algeria, Zambia, Cote D'Ivoire, Guyana Kuwait, and United Arab Emirates.

In terms of political outcomes, interrelated forces lead mineral resource-rich countries to adopt economic growth restricting policies, engage in corruption and increased ethnic civil conflicts and become authoritarian (Skocpol, 1982; Collier and Hoeffler, 2000; 2005). Using rentier state theoretical lenses, these scholars argue that high levels of rent during mineral resource booms attracts rent-seeking and corruption resulting in reduced long-term investment (Carbonier, Brugger and Krause, 2011, Ross, 2001). The interplay of high rent for the state and corruption leads to low taxation of the citizens thus lowering state capacity and legitimacy such as in Nigeria, Democratic Republic of Congo and Chile (Girvan 1976, Thorp et al. 2012). While resource curse literature heightened the question of environmental degradation in the extractives, it has since early 1980s faced strong criticism from the neoliberal optimistic literature which argues that resource curse is not an iron law (Humphreys et al. 2007). Based on countries that have achieved considerable economic growth performance without experiencing resource curses, such as Botswana and Norway, this neoliberal optimistic literature calls for a better explanation for resource curse occurrences (Rosser, 2006). The main argument from this perspectives is that the presence of good institutions matters in mediating

the achievement of positive development outcomes (see Acemoglu & Robinson, 2019).

However, good institutions have typically defined in terms of Global Standard Institutions (GSI) that maximize market freedoms, establish strong private property rights, flexible labour markets and minimize state intervention. Optimistic mining literature particularly highlights how regulatory institutions are organized to minimize opportunities for corruption within the sector (World Bank, 1992; Kolstad & Wiig, 2009). The understanding that free market mechanisms are the missing-link for a successful mineral resource-led development implies that governments develop cooperative state-business relations in order to achieve economic development (see critiques by Campbell, 2013). This literature highlights how neoliberal mining reforms can be achieved through promotion of market-oriented mechanisms that commodify natural resources (Fletcher, 2010). The discussion above also suggests that the state and private mining companies may at times pursue converging interests in mining which may impact on other policymaking agents. This is so as “regulation always demands new knowledge. But the production of new knowledge is intimately connected to the shaping of practices and human subjectivities in relation to the environment” (Agrawal, 2005: 226).

Finally, since late 1990s critical mining literature have challenged the repositioning of the extractive industry as a strategy for achieving economic development in the global south. In particular, increasing number of studies indicate that mining, especially coal mining, is not a viable path for economic development within current environmental and climate change challenges (Mitchell, 2013; Wolf, 2015; Büscher, 2015). To this end, global environmental pressures are driving divestiture in unclean energy in western countries and fast shaking up the leverage conventional IFIs have had on broader mining regimes. Despite general global agreement and activism to reduce extraction and use of coal, local trends show no sign of abatement. Instead, new sources of mining investment in the east with less environmental restrictions is shifting existing coal extraction power dynamics (Brown & Spiegel, 2017; Roberts, 2015). This literature reveals how mining discourses are not only constructed from histories of extractives, but also entangled in the micro and macro-politics of energy sufficiency and environmental struggles (Oskarsson & Lahiri-Dutt, 2019; Erickson, 2020). For instance, Mkandawire in Meagher (2019) argues that efforts to minimize environmental costs should correspond with efforts to bring about economic development and improve human welfare. Mining discourses as presented in the preceding discussion have many faces that are motivated by competing interests.

## **2.7. Natural Resources Management Reforms in Southern Africa**

During the last three decades (1980s to 2010s), a number of African countries have implemented fundamental reforms designed to improve efficiency and transparency in natural resources utilisation and management (Campbell, 2013; Mihyo, 2014). In the land and mining sectors, the reforms have focused on establishing profitable utilisation of Africa's abundant natural resources through promotion of the private sector and attraction of FDI. Inter alia, DRC, Ghana, Malawi, Namibia, Mali, South Africa have put in place new land and mining statutes purported at establishing efficient natural resource production and management. In the land sector, new legislation granting lease of customary/tribunal land to private individuals and corporate entities have promoted private sector acquisition of large tracts of land, a phenomenon that has popularly been termed as land grabs (Mihyo, 2014; Chinsinga, 2013; Hall, 2011). Land grabs refers to the leasing or purchasing of vast tracts of land by private investors and wealthier nations from poor developing countries (Shepard and Mittal, 2009). It is estimated that "as much as 56 million hectares of land have been appropriated by large-scale investors across Africa since the turn of the new millennium" (Chinsinga et.al., 2014: 67; see also Zoomers, 2010). Daley (2011) reports that 62% of the land deals involve foreign investors. Consequently, land reforms aimed at promoting large scale land investments have generated highly polarized debate that has centred on land grabs.

One key characteristics of land grabs is that production on such land is largely for export to markets outside the host countries and involves a gamut of local, national and international actors. While some scholars "presents land deals as a path to sustainable and transformative rural development through capital accumulation, infrastructural development, technology transfer, and job creation, the alternative view sees land grabs as a new wave of neo-colonization, exploitation, and domination (Chinsinga, 2013: 1065). Pointing out how land grabs are negatively impacting on the livelihoods and food security of indigenous population, Mihyo, (2014: ix), argues that existing "case studies indicate that with current land reforms and deals Africa is moving in the opposite direction" (see also Chinsinga et.al, 2014). Internationally, large scale land investment have received considerable policy support from international development and financial institutions such as World Bank, European Union (EU) and FAO. For instance, FAO "has developed voluntary guidelines on responsible governance of tenure of land and other natural resources; the World Bank has come up with principles for responsible agricultural investment ..." (Chinsinga et.al. 2014: 72). The discussion above

reveals how natural resources management reforms in Africa are entangled in the global politics of aid and development. Aarts (2009), for instance, argues that conceptualising land grab in terms of coercive possession of land ignores the reality that some land deals are properly acquired, legal and having the support of host countries. To this extent, some stakeholders in the land reforms agenda such as International Institute for Sustainable Development refers to large-scale land deals as foreign investment in land and not land grabs (Chinsinga et.al. 2013).

In the mining sector, which is the concern of this study, the reforms have centred on putting in place statutes that attract private mining investors through reduction of investment risks, establishment of stable mineral property rights and transparent administration of mining contracts. According to Campbell (2013: 17), “reforms of the mining sector in Africa over the last two decades have been closely linked to, and in fact flow from, the International Finance Institution (IFI) sponsored structural adjustment programs of the 1980s and 1990s”. The foremost goal of IMF programmes were to promote the role of the private sector and markets in the running of the national economies. The World Bank has since the 1980s particularly facilitated private investment in indebted mineral-rich countries in Africa as a way of restoring financial equilibrium in the concerned countries. The World Bank and other international donors such as the European Union have not only financed the mining reforms, but also provided the knowledge base and expertise for structuring those reforms. According to the World Bank (1992: xiii), “the private sector should take the lead. Private investors should own and operate the mines. ... Existing state mining companies should be privatized at the earliest opportunity ... to give a clear signal to investors with respect to the government's intention to follow a private-sector-based strategy”. Mineral-rich countries were advised to maximise tax revenues by pursuing least-cost production policies such as tax relief and predictable tax regimes that increases incentives to invest and reduces risks (see Besada & Martin, 2015; Campbell, 2013; Kamlongera, 2020).

Current reforms in the mining sector are, however, being implemented against a backdrop of enduring local communities’ resentment against largescale mining in Africa. The history of protests against largescale mining in mineral-rich countries in Africa, such as DRC (Murombo, 2013), Zambia, (Lungu, 2008), Namibia (Conde & Kallis, 2012) and South Africa (Leonard, 2017) attest to the growing resentment (see Conde & Kallis, 2012; Conde & Le Billon, 2017). Amidst this society-state-private mining companies struggles; NGOs have come to play a mediating role by advocating for mining benefit-sharing, transparent management of mining

revenue and efficient undertaking of social and environmental management procedures (Arond, Bebbington & Dammert, 2019; Oppong, 2018; Ofori & Lujala, 2015, O’Faircheallaigh, 2013). The NGOs have not only sought greater community consultation under Free Prior Informed Consent, but also greater enjoyment of mining benefits (Dunlap, 2018; Mahanty & Mcdermott, 2013). On the face value, the above discussion points to a divergence between the interests of the state and international donors on one hand and those of the NGOs and local communities on the other. While the state and international donors focus on gainful utilisation of natural resources utilisation through the private sector, the NGOs focus on community empowerment to demand a fair share of the mining proceeds.

The divergence between the interests of the state, international donors and NGOs in natural resources utilisation is premised to be reconciled through good governance of the mining sector. To this extent, current reforms involving natural resources management have been framed around the notion of good governance (World Bank, 1992; Kolstad & Wiig, 2009); Acemoglu, 2012). The concept of good governance entails “the introduction of a set of prescriptions concerning the manner in which resources are managed for development” (Campbell, 2013: 4; see also World Bank, 1992). The argument is that mining based on sound governance and regulatory frameworks benefit the country by preventing rent-seeking, clientelism and political patronage. Existing studies, however, argue that the notion of governance as advanced by international donors is problematic as it largely focuses on technocratic and managerial approaches and monolithic practices of governing (see Campbell at al., 2013; Gabay, 2011; Mkandawire, 2004, 2010).

Good governance has since the 1980s provided the framework to reforming natural resources utilisation in many countries in Africa. In Malawi, as will be discussed in chapters 6 and 7, all the NGOs that were involved in the review of the 1981 MMA framed their advocacy initiatives around the concept of good mining governance. The mining review processes in Malawi, therefore, epitomises mining reforms in many other mineral-rich countries in Africa. In order to distance from the criticisms surrounding good governance, this study extends the concept of governance to the one advanced by Campbell’s modes of governance (2013). Modes of governance considers “particular forms of regulation (the mining regime, the fiscal regime, the environmental legislation, the labour legislation, and so on) that determine the conditions of exploitation of mineral resources for any particular project” (Campbell, 2013: 5). Inter alia,

this focus stresses on the role of local and international actors and relations that shape the forms of regulation and institutional arrangements.

The above discussion highlights that mining policies in Africa are a product of contestation over different mining discourses and interests. Generally, these discourses have centered on the conflicting boundary between pursuance of economic and environmental justice. Increasing number of studies highlight how the review of mining law in Africa revolves around the complex question of economic versus environmental justice, including the concern for safeguarding the livelihoods for the poor smallholder farmers (Campbell, 2013; 2011; Kamlongera, 2020; Wälde, 2002; Lungu, 2008). The arguments for and against mining underline the fact that mining remains a deeply contested phenomenon in developing countries such as Malawi. Consequently, narratives over mining are strongly entangled in the structures of power. For instance, the dominant argument from international financial institutions that private led mining will unlock the required capital to achieve economic development in Africa belies historical experiences of mining under private mining companies (see Bell, 2016; Campbell, 2013; Leonard, 2017). Though the question regarding the different perspectives of mining reforms in southern Africa have been increasingly studied, there is paucity of studies exploring factors that have impacted interest groups, such as NGOs, in shaping mining reforms to a particular direction. Extensive research in mining is also concentrated on countries with a history of mining and not those where mining is a new phenomenon, such as Malawi. This study will, therefore, contribute to furthering this debate. I will return to these debates in chapters 6, 7 and 8, which discusses the strategies that were adopted in managing the environmental harm arising from mining activities and the agency of NGOs in the definition of those strategies. In the next section, I discuss general factors that impact agency of NGOs to shape public policy and legislation to a desired direction.

## **2.8. Factors Limiting NGOs' Impact on Public Policy Advocacy**

Since the 1990s, there has been an increasing scholarship discussing the agency of NGOs in shaping public policymaking towards the interests of marginalised communities (Shivji, 1991; 2006; Chazan, 1992; Makuwira, 2011; Lwanda & Chanika, 2017). These studies have not only highlighted the innovations that NGOs have brought to public policymaking processes, but also factors that limit their agency to achieve their set out their policy objectives (Arond et al., 2019). In this section, I explore the motivations and (in)abilities of NGOs to shape public policy relating to the use and management of natural resources in Africa, as presented in the

literature. This discussion provides insights for analysing key themes in this study i.e., interests of NGOs in the review of the 1981 MMA, interaction of NGOs with other policymaking agents (government officials, politicians, international donors), influence of NGOs on policymaking processes, and challenges limiting NGOs' agency in their policy advocacy agenda.

One set of literature on natural resources governance in Africa sees NGOs as bringing significant innovations in promoting grassroots empowerment (Clark, 1991; Ayana et al., 2018; Martinez-Alier et al., 2016). The argument is that NGOs can challenge the dominance of the state and private companies in defining natural resources management strategies. Thus, this literature sees NGOs as capable of balancing the interests of the state and private mining companies by mobilising knowledge, social and political capital accessible to them (Hirata, 2002; Dai & Spires, 2018). For instance, Ayana et al., (2018) demonstrates how environmental nongovernmental organisations (ENGOs) in semi-authoritarian Ethiopia shaped the Forestry Policy by publicising to the state evidence-based best practices in environmental management. Arond et al., (2019: 673) also concludes that in Colombia and Peru, "sustained NGO involvement in EITI has delivered significant (perhaps even transformative) innovation".

Extant institutional and political ecology literature, however, argue that the ability of political actors, such as NGOs, to shape policy is not straight-forward. Instead, the success of policymaking actors to shape policy direction depends upon political, economic, ideational, and ideological factors that limit their agency (Gofas & Hay, 2010; Boswell & Hampshire, 2017; Agrawal, 2005; Bryant, 2009). These studies highlight how conflicting interests within unequal power relations result not only in transformation of interests that political actors pursue, but also facilitate their ultimate subjectivity into dominant rationalities. Extant scholarship on NGOs and natural resources management in Africa particularly explains how institutional, financial, and political factors transform the advocacy work of NGOs. It is to this discussion that I now turn to.

### **Institutional factors**

Institutional literature from historical institutionalism has explained dynamics of policy formation, maintenance and change in pluralist system of government (Steinmo et al., 1992; Mahoney & Thelen, 2009). The argument is that existing institutions structure the way the political battle over policy formation and change is fought. According to historical institutionalism, analysing the evolution and outcomes of institutions such as mining laws

requires paying attention to how political struggles and forces are “mediated by the institutional setting in which they take place” and enable or constrain the choices of policymaking actors (Ikenberry, 1998 cited in Steinmo et al. 1992: 2). At the centre of historical institutionalism is the idea that institutional origin and change is a product of complex historical interplay of policymaking agents’ interests, their veto power abilities, existing institutions and contingent events. Institutions determine who has power to make a particular decision at a particular time and consequently how conflicts among policymaking agents are mediated (Immergut, 1992; Weir, 1992). For instance, despite NGOs’ joint efforts to force the GoM to reveal the contents of the contract government signed with Paladin Africa Ltd, a uranium mining company in the country, a “Confidentiality Clause” in the contract restricted the Executive to do so (Hajat, 2008). This literature is helpful for this study as it suggests that the effectiveness of NGOs in shaping the 2018 MMA in Malawi cannot be understood without understanding the role that institutions play in structuring the policy spaces open to NGOs. The key insight from this literature is that in unpacking factors that impacted NGOs in Malawi in shaping the review of the 1981 Act towards the interests of the communities living in the mining areas, there is need to pay attention to how their NGOs’ agency was enabled or constrained by the existing institutions guiding the review of legislation in Malawi.

Another important concept from historical institutionalism which provides insights to understanding policy change in natural resources management in post-colonial Africa is path dependency. Path dependency explains the role of historical contexts and events in determining institutional stability and continuities. The original consensus among major variants of institutionalism i.e. rational choice, sociological and historical institutionalism, was that continuity and lock-in are common features of institutional evolution, with rare institutional change contingent upon exogenous forces (Pierson, 2004; Steinmo et al. 1992; March & Olsen, 1984). Continuity was explained in terms of inherent self-reinforcing lock-in properties that are driven by positive feedback (Pierson, 2004), logic of appropriateness (March & Olsen, 1984) and cognitive isomorphism (Zucker, 1983). For instance, Krasner et al. (1984) model of punctuated equilibrium, Paul Pierson’s (2004) concept of path dependency, and Capocchia & Kelemen’s (2007) concept of critical junctures, all explain how institutions become stable until subjected to external crisis. Path dependency explains how policy feedbacks and returns prevent certain policy ideas to be adopted (Pierson, 2004). For instance, Kashwan (2017) show how past natural resources management institutions dictated the nature of land rights laws put



in place in Tanzania, India and Mexico. New insights from seminal works of key historical institutionalists show that endogenous institutional change does take place, though by small shifts (Streeck & Thelen, 2005; Mahoney & Thelen, 2009). This study utilises path dependency to show how a capitalistic approach to natural resource utilisation attained hegemony and established path dependent resource management practices.

### **Limited Financial Capacity and Autonomy**

Limited financial capacity and autonomy is one of the key factors that impacted NGOs in shaping the review of the 1981 MMA towards the interests of local communities. By limited financial capacity and autonomy, I refer to the ability of NGOs to advance their environmental justice viewpoint without interference from the demands and knowledges of other policymaking agents. This consideration is important as donor funding limit NGOs' autonomy by subjecting them to the international donors' institutional power and expertism. For instance, Hearn (2007) highlights how donor-funding forces NGOs into acts of pleasing the interests of donors rather than promoting the interests of the communities they claim to serve (see also Mercer & Green, 2013; Lwanda & Chanika, 2017; Makuwira, 2011). Nyang'oro (1993 cited in Hearn (2007: 1107) particularly argues that "many African NGOs have become local managers of foreign aid money, not managers of local African development process". Contrary to what Clark (1991), therefore, argues that NGOs promote bottom-up democracy, NGOs' dependency on external donor support may perpetuate practices that are against the interests of marginalised people. In developing countries, state-business nexus is strong resulting in policies being made in favour of business (Potter, 1996). Consequently, politics of aid and development between donors and recipient countries result in establishment of pro-business resource utilisation policies (see Zulu & Wilson, 2012; Moyo, 2004; Mkandawire, 2010).

The discussion above points to how NGOs' dependency on international donor aid results into subjectivities of the former into rationalities of the latter (Bryant, 2009; 2002; Agrawal et al., 2005). According to governmentality literature, participation in institutional process of policymaking subject some policymaking actors to forces of subjectivities. This literature explains how practices of governing are exercised by a network of governing agents, including the state, without using coercive force (Sending & Neumann, 2006). The concept of governmentality, as expounded within Foucauldian framing, refers to "the governance of a mentality (a collectively held view that is communicated through a variety of discourses) by

way of "techniques of power" - calculated tactics that guide everyday citizen-subjects to act in accordance with societal norms" (Ettlinger, 2011: 538; see also Foucault, 1979; Lemke, 2002; Dean, 2013; Death, 2010). For instance, in extending their control over indigenous populations European colonial powers in Africa exclusively involved disabling existing forms of life by redefining local communities' way of life (Adebanwi, 2017; Mamdani, 1996). Equally important, during Malawi's one-party rule, NGOs worked with the state on the rationality of modernising the utilisation of natural resources (Mulwafu, 2011). Though most NGOs were against dictatorial practices of the ruling party, their activities enforced state rule. In this way, governmentality expounds how the "modern state and autonomous individual co-determine each other's emergence" (Lemke, 2002: 2-3). Governmentality highlights that the "role of non-state actors in shaping and carrying out global governance-functions is not an instance of transfer of power from the state to non-state actors" (Sending & Neumann, 2006: 652; see also Bryant, 2002, Death, 2010). In other words, rather than being a negative sum game, governmentality sees power in positive sum perspective.

As will be discussed in chapter 7, the dilemma facing NGOs in Malawi in promoting bottom-up policymaking processes is real considering the NGOs' dependence on external donor funding. For instance, Anderson (2017) documents how the presence of financial capital modifies projects that NGOs in Malawi prioritise (see also Banks & Hulme, 2012). In relation to mining, Campbell (2013) opens the black-box by highlighting how the same interests of government and donors are complexly enmeshed through the mechanisms of what is considered apolitical, technical and expert advice. Mkandawire (2004) also shows how the packaging of development ideas by international donors conceals the convergence of interests between the state and private sector (see also Kamstra & Schulpen, 2015; Sakue-Collins, 2020). This literature is insightful for this study as it does not only point to contestation over conflicting interests and discourses relating to natural resources management in Africa, but also the politics of aid and development on NGOs agency.

### **Political Regime**

Politics, as comprising all the activities and processes of conflict, co-operation and negotiation on taking decisions about how resources are to be produced, owned, used, and distributed (Leftwich, 2004), affect decisions that policymaking agents make. The attention is on how the nature of the existing political regime opens or closes policy spaces for interest group to

advance their interest (Makuwira, 2011). According to Acemoglu & Robinson (2012) political institutions can broadly be classified into a continuum of democratic versus authoritarian regimes with the latter being characterised by extractive while the former with inclusive institutions. Extractive political institutions are institutions where political power is concentrated in the hands of few elites, lack pluralism and are ineffective while inclusive institutions are institutions with broad distribution of political power and have checks and balances of the states based on legitimate force. Through inclusive political institutions, democratic regimes are considered to provide some spaces for interest groups' engagement with the state in policy formulation than authoritarian regimes. For instance, Leonard (2018) describes how advent of democracy in South Africa opened spaces for the NGOs to speak out against the negative impact of mining in the country. He specifically argues that "During Apartheid, the mining industry operated without restraint and compromised the ecology, the health of mining workers and local communities" (Leonard, 2018:1). The significance of this literature to this thesis is understanding whether democratic political regimes offer NGOs opportunity to shape policy towards the interests of marginalised groups of people. This question is important because some critical literature on democratic governance argue that inclusive institutions do not always work in favour of marginalised people but open spaces in which competing interests are adjudicated (see arguments by Kalim; Li, 2009; Hilson and Maconancie, 2009). The tendency for different interest groups to compete within a pluralist political regime is long recognised in political science (see Dahl, 1959; Lindblom, 1977; Vogel, 1996). For instance, while recognising the freedom of NGOs to advocate for the interests of mining workers, Leonard (2018) highlights how political connections and collusions between the state actors and the private mining companies in South Africa have sustained mining development that has excluded genuine voices of the people in the mining areas. On the other hand, Asamoah et. (2018) shows how Wassa Association of Communities Affected by Mining (WACAM) in democratic Ghana mitigated the negative impact of mining through advocacy. Thus, the relationship between the type of political regime and the ability of NGOs to influence policy is not a binary one but varies in time and space. Insights from this literature suggest that the analysis of factors that impacted NGOs in Malawi in shaping the review of the 1981 MMA towards the interests of the people living in the mining areas is an empirical one.

Similarly, arguments linking democracy to inclusive public policymaking perceive democracy as serving the interests of the majority while respecting the interests of the minority. The

understanding is that participation of interest groups in public policymaking processes motivate state officials to seek policies that command wide representation (Acemoglu and Robinson, 2012; Makuwira, 2011). However, the definition of a policy choice that constitute representation is not a straightforward one but depends on the framing of what constitute a representative policy. In this way, how environmental issues in Malawi and their solutions were framed depends on what constitute a representative policy (Lakoff, 2010). For instance, Bryant (2002: 268) shows how, through the power of framing, the government in Philippines and international donors mobilised NGO-led conservation into “persuading indigenous people to internalize state control through self-regulation”. Local communities are most often just informed and not given earnest space to air their views (Hearn (2007). In Malawi, Chinsinga (2006) shows how some of the important decisions relating to local communities are made by local chiefs who are historically strongly connected to the state and most often work to justify the policy stance of government (see also Chiweza, 2007). According to Hildyard et al. (2001: 69) NGOs’ participation in environmental policy-making may “strengthen elites and local power relationships” rather than empower the marginalised people.

The discussion above suggests that analysis of policy outcomes, including the review of 1981 MMA, must go beyond democratic-authoritarian dichotomy as such outcomes are not given nor deterministic. The discussion above highlights how choices of policymaking agents are affected by political forces that are themselves subject to different ways of thinking. The above insights are important because they shed light on how political forces and power of framing enabled or constrained NGOs that were involved in the review of the Act to shape the reviews processes. As highlighted in chapter 1, the ability of NGOs to tackle environmental injustices experienced by marginalised groups of people remains debatable. In some cases, NGOs and environmental movements have halted new projects such as Chipko movements in India (Guha & Alier, 2013; Chopra, 2017). In other cases, NGOs have suffered major losses such as the cases of South American extractive industry (Martinez-Alier, 2001). Therefore, the success of NGOs and environmental activists to achieve their set out objectives depends on the interplay of institutional, political and economic factors. It is important, however, highlighting that the way environmental struggles involving grassroots movement and NGOs are fought have taken a new form since the 1990s. In line with the political shift towards democratic rule, the new form put participation of local communities as a means to striking balance between the competing interests of the state, local communities and the private sector. To this end, NGOs

have mostly adopted a non-violent approach in influencing policy outcome that involves negotiation, though with minimal impact (Pulido et al. 2016; Bullard, 2000). In contrast to forceful coercion model dominant before the 1990s, the current environmental struggles places negotiation over environmental ideas as central in influencing policy direction.

## **2.9. Theoretical Framework of Analysis**

My study presents a case where NGOs in Malawi are drawn into relationship of negotiation with the state, international donors, private mining companies and local communities over the nature the review of the 1981 MMA should take. Since 1980s, reforms surrounding natural resources management in Africa have generated contentious debate, especially over striking a balance between the economic benefits versus the environmental costs of natural resources use. In the context of this study, this debate relates to how economic benefits from mining, such as mining rents, CSR, Community Development Agreements, can be enjoyed without exacerbating the environmental costs to communities living in the mining areas. To this extent, consensus over and establishment of mining laws in Africa has involved negotiations about the way specific natural resources should be managed. At the heart of these negotiations has been the power of discourses, ideas, institutions and expertism that were mobilised by different policymaking agents (international donors, state, NGOs) to advance a particular viewpoint (Campbell, 2013; Graulau, 2008; Besada & Martin, 2015). The role played by discourses, ideas, expert knowledge and institutions in shaping mining laws in Africa, therefore, provides significant theoretical insights for examining the agency of NGOs in Malawi in shaping the review of the 1981 MMA towards the interests of communities living in the mining areas. This study shows how the interests that NGOs in Malawi pursued during the review of the 1981 MMA were transformed through their participation in the institutional processes of reviewing the Act. The solutions to environmental harm generated by mining activities in Malawi were preferred not because they originated from NGOs, but because they were embedded within the structures of international donors' funding to NGOs' advocacy. Thus, understanding factors that impacted NGOs in shaping the 1981 MMA towards the interests of communities in the mining areas requires paying attention not only to the dominant rationalities on mining, but also how NGOs engaged with dominant policymaking agents (see Bryant, 2002; 2009; Agrawal, 2005).

The theoretical framework adopted in this study specifically follows Agrawal (2005) and Bryant (2002) perspective on governmentality, who explain how the involvement of political actors in institutional processes of policymaking facilitate situated thoughts of conceptualising environmental problems and their solutions. It is building on insights from governmentality literature that explains how discourses over environmental management are deployed to a particular end and how participation in these policy processes shape the interests that different actors pursue (Agrawal et al., 2005). The environmentality framework within governmentality literature particularly underscores how market-based thoughts about natural-resources management are created among actors who are involved in institutional processes of policymaking (Agrawal, 2005; Harrison, 2014; Fletcher, 2010). Environmentality provides insights for understanding how state and market-based practices of managing the mining sector in Malawi gained traction and limited NGOs' agency to shape the review of the 1981 MMA.

This theoretical framework commends paying attention to the styles of thinking and rationalities relating to the rationalisation of a particular phenomenon. In this way, environmentality helps in understanding how NGOs' involvement in the review of the 1981 MMA in Malawi facilitated their subjectivities to the state and private sector's technologies of managing the mining sector. The centrality of interests, rationalities, power and institutions in environmentality makes this concept relevant theory to guide this study. According to Gofas & Hay (2010) the underlying path to influencing policy direction requires sticking to the ideas that one sets out to advance (see also Boswell & Hampshire, 2017). Environmentality allows examining not only how reforms are shaped by dominant discourses, but also how the interests of different policymaking agents change overtime. It explains how subject formation among political actors is achieved through involvement in the institutional processes of policymaking results and consequent transformation of the interests (Bryant, 2002; Fletcher, 2010; Agrawal, 2005; Forsyth & Walker, 2014). This is important in the context of this study as the review of the 1981 MMA in Malawi was born out of ideational contestations over the economic benefits and negative environmental effects of mining.

Three ideas from the concept of governmentality in general and environmentality in particular are relevant to this study. Firstly, power and authority is created through connections and relations among actors holding different interests rather than actors working as isolated nodes (Foucault, 1979; Lemke, 2002; Dean, 2013; Agrawal, 2005). Secondly, analysing technologies

of power within a particular group requires understanding the mode of thought and rationalities that underpin them (Fletcher, 2010; Agrawal, 2005). Governmentality literature view power as involving “governing the forms of self-government, structuring and shaping the field of possible action of subjects” (Lemke, 2002: 3). In defining environmentality in terms of conduct of conduct, the focus is on how environmental issues in mining in Malawi were framed by different policymaking agents and how NGOs’ participation in reviewing the 1981 MMA was a process of subject formation. In this way, environmentality sees power as operating through practices of freedom and consensus purported at winning the consent of the governed towards new kind of thinking (Bryant, 2002; Agrawal, 2005; Death, 2010). Lastly, resistance to existing regime as counter-conducts encompasses challenging existing discourses, norms, rationalities and mentalities, and not just entities or persons in hierarchical positions (Fletcher, 2010; Forsyth & Walker, 2014).

As will be discussed in Chapter 6 and 7, environmentality helps to explain how NGOs that previously blocked commencement of mining activities at Kayelekera uranium mining site were overtime transformed into cooperating partners with the Government of Malawi and international donors. In this way, environmentality helps understand not only how different policymaking agents involved in the review of the 1981 MMA rationalised specific mining management strategies, but also how such strategies resonated with and gained traction among a gamut of competing policymaking agents. According to Hamann (2009), establishment of neoliberal economic framework in Africa involved teaching and fusion of autonomous rational choice market values. The focus on rationalities helps to unpack how mining discourses in Malawi, described in detail in chapter 5, were on themselves forms of power configuring contours of mining governance (see Gabay, 2011; Hay, 2002). This focus is cognizant of the scholarly development in institutional literature which has shown that the political pluralist’s perception of power as making someone do something that s/he would not otherwise do, – “A has power over B to the extent that s/he can get B to do something that B would not otherwise do” (Dahl, 1957: 201), is simplistic (see also Hay, 2002). Rather than being a negative sum, existing studies show that power is a positive sum that facilitates co-production of knowledge and conduct of conduct. Extant studies, for instance, show that conflict over ideas during colonialism created bifurcated publics and institutions in Africa through the processes of co-production of policy stances (Mamdani, 1996; Adebaniwi, 2017).

Notwithstanding the vital role that mining ideas and modes of thought have played in the formulation of mining legislation in Africa, it is worthwhile underlining that environmental issues in Malawi are regulated by a set of complementary legislations. In addition to the principal Environmental Management Act (EMA), sector-specific issues such as those in the mining sector, are governed by sectoral laws. Thus, understanding the full picture of the nature of mining legislation put in place in a particular institutional context entails paying attention to other complementary laws that guide management of environmental issues (see Lockwood et al. 2017). As will be highlighted in chapter 7, the 2018 MMA refers all issues of Environmental and Social Impact Assessment (ESIA) and compensation of customary land appropriated for mining activities to the 2017 Environmental Management Act (EMA) and 2016 Land Act respectively. While the framework of environmentality permits understanding how specific policy ideas and rationalities gained traction among competing policymaking agents (state, ENGOs, international donors), it does not adequately explain how existing institutional context in which legislative battles are fought enabled or constrained the agency of NGOs to shape the review of the 1981 MMA towards the interests of communities living in the mining areas.

To elucidate the impact of existing institutions on the agency of NGOs during the review of the 1981 MMA, this study also adopted historical institutionalism. Historical institutionalism explains how political struggles and forces are “mediated by the institutional setting in which they take place” (Ikenberry, 1998 cited in Steinmo et al. 1992: 2). Thus, historical institutionalism assisted in explaining how existing institutions enabled or constrained the choices that NGOs that were involved in the review of the 1981 MMA made (see Streeck & Thelen, 2005; Mahoney & Thelen, 2009). As highlighted in chapter 1, the underlying argument for the review of the 1981 MMA was that certain stipulations within the Act required to be changed to better serve the interests of the local communities. At the centre of historical institutionalism is the idea that institutional origin and change is a product of complex historical interplay of policymaking agents’ interests, their veto power abilities, existing institutions, and contingent events.

There are generally four key premises on which historical institutionalism is founded. Firstly, while political actors are self-interested, they are much more rule-following and norm-abiding actors (Mahoney & Thelen, 2009). Second, goals that policymaking agents pursue are endogenously shaped by the institutional context and rule-structure in which they interact



(Streeck & Thelen, 2005). Therefore, understanding the goals of policymaking agents requires paying attention to the rule-structures which shape interests that the policymaking agents pursue. This premise suggests that the ability of NGOs in Malawi to shape the 2018 MMA was contingent on how the institutional context in which the 1981 MMA was reviewed enabled or constrained NGOs' alternative choices. Third, rather than snapshots, historical institutionalism recognises that history forms a set of interdependent events (Mahoney & Thelen, 2009). Lastly, a study employing historical institutionalism is guided by an empirical puzzle (Steinmo et al. 1992) such as the one raised in this study relating to the perpetuation of a natural resources management regime that disadvantages local communities in Malawi (Kanyongolo, 2008; Chinig'o, 2016).

Three concepts from historical institutionalism are particularly useful for this study namely: path dependency, veto points and power. Path dependency explains how "legacies of the past always weigh on choices and changes in the present" (Streeck & Thelen, 2005: 6). Thus, path dependency proposes that past institutional legacies limit the options available to present institutional innovation (Tambulasi, 2015; Kashwan, 2017; Capoccia & Kelemen, 2007). Path dependency helped to explain how past institutions of managing natural resources in Malawi limited NGOs' agency in shaping the review of the 1981 MMA towards the interests of communities living in the mining areas. Veto points are "arenas of institutional vulnerability that is, points in the policy process where the mobilisation of opposition can thwart policy innovation" (Steinmo et al., 1992; 7). Each veto point has individuals who hold veto power to block the decisions of other policymaking agents. Veto players are "individuals or collective decision makers whose agreement is required for the change of the status quo" (Tsebelis, 2000: 442). In the context of this study, the legislature and different points of consultation during the review of the Act form the veto points while the individuals within these institutions hold the veto power.

While the key foundations of historical institutionalism have remained constant, new insights have refined the theory overtime. The original consensus among major variants of institutionalism i.e. rational choice, sociological and historical institutionalism, was that continuity and lock-in are common features of institutional evolution, with rare institutional change contingent upon exogenous forces (Pierson, 2004; Steinmo et al. 1992; March & Olsen, 1984). Continuity was explained in terms of inherent self-reinforcing lock-in properties that

are driven by positive feedback (Pierson, 2004), logic of appropriateness (March & Olsen, 1984) and cognitive isomorphism (Zucker, 1983). For instance, Krasner et al. (1984) model of punctuated equilibrium, Paul Pierson's (2004) concept of path dependency, and Capocchia & Kelemen's (2007) concept of critical junctures, all explain how institutions become stable until subjected to external crisis. In the following discussion, I provide the key analytical variables from environmentality and historical institutionalism and tie them to my topic of study.

## **2.10. Key Analytical Concepts from Environmentality and Historical Institutionalism**

The literature review conducted for this study has shown that the interplay of five main variables is key in shaping the nature of the environmental mining legislation adopted in a country namely: rationalities guiding policymaking agents, interests of mining stakeholders, power asymmetries, existing institutions and organisation, and the contingent events (Campbell, 2013; Thorp et al. 2012; Bell, 2016; Girvan, 1976).

### **Rationalities and Technologies**

A review of literature on mining in Africa has shown that the nature of mining regimes established broadly reflects the rationalisations and discourses that were mobilised regarding the goals that mining in a country should serve (see Campbell, 2013; Graulau, 2008; Mitchell, 2013). Thus, the task of formulating mining laws is rooted in ideas about what benefits should mining bring, what strategies should be employed in achieving those objectives, and how unintended impact, such as environmental harm, should be managed. These questions focus on particular ways of thinking, questioning, contestation and subject formation (Agrawal et al., 2005; Bryant, 2009). In Malawi, these questions centred on contested ideas about the role of mining in the country's economic development agenda. Therefore, the analysis of mining laws in Malawi requires paying attention to the knowledge and rationalities that were mobilised in achieving the objectives that mining was set to serve. According to Campbell (2013), rationalities and discourses provide the lens through which mining perspectives are not only operationalised, but also justified.

According to the Foucauldian concept of environmentality, to govern means to define appropriate conduct of conduct for individuals (Dean, 2013; Lemke, 2002). Miller and Rose (2008: 14) defines rationalities as "styles of thinking, ways of rendering reality thinkable in such a way that it was amenable to calculation and programming". The argument is that rationalisation of certain ideas creates "a 'subject' who partly governs him or her self –

someone who is both 'subject to someone else by control and dependence, and tied to his [or her] own identity by a conscience or self-knowledge' (Bryant, 2002: 269). In the context of reviewing the 1981 MMA, rationalities of mining agenda functioned to discipline the way NGOs understood how mining contributed to the welfare of communities living in the mining areas. While NGOs in Malawi represented a message of emancipation to marginalised people from the malevolent interests of the state, environmentality explains how freedom can reflect a form of power achieved through the ideals of responsabilisation (Fletcher, 2010; Sending & Neumann, 2006, Death, 2010; Agrawal, 2005). Thus, a focus on rationalities entails unpacking how NGOs positioned themselves within the different mining discourses and rationalities, and how such positioning enabled or constrained them in shaping the 1981 MMA towards the interests of communities living within the mining areas.

Technologies of government are "all devices, tools, techniques, personnel, materials, apparatuses, that enabled authorities to imagine and act upon the conduct of persons individually and collectively, and in locales that were often very distant (Miller and Rose, 2008: 16). In other words, technologies are the ways and instruments through which rationalities are made operable and realised. Gabay (2011), for instance, narrates how the manner epistemic knowledge around Millennium Development Goals (MGDs) in Malawi was presented to local development stakeholders promoted practices of framing development along a neoliberal path. In the case of this study, understanding the strategies selected for addressing environmental harm experienced by communities living in the mining areas required paying attention to the mining rationalities that guided NGOs' advocacy. For instance, Bryant (2002) explains how, by analysing the hidden impact of environmental teaching and training programmes in Philippines, political subjection materialised simultaneously with political empowerment. Bryant demonstrated that, by tutoring indigenous population on expected correct behaviour, NGOs in Philippines were instrument through which government extended its power (see also Gabay, 2011). Thus, there is need to go beyond identifying how the interests of NGOs correspond to those of local communities by unpacking what interests and how their activities implicitly serve those interests.

### **Interests of Policy-Making Agents**

A number of scholars have highlighted how different stakeholders in the extractive sector contest to put in place mining laws that maximises their interests (Campbell, 2013; Thorp,

2012). Generally, private mining companies strive to establish mining laws that accord them high profit returns and reduce cost of investment. On the other hand, governments aim at reducing investment cost so as to attract mining investments (Kirsch, 2014; Campbell, 2013; 2004). According to Campbell (2011), mining reforms championed by IFIs since the 1980s have given more attention to the interests of private capital than those of local communities. She argues that the focus of IFIs have been on profit returns to private investors than increasing the mining benefits to local communities. Kashwan (2017) also notes that most African governments' policies on natural resources management have historically not been driven by the need to serve the interests of local communities, but to achieve the diverse economic and political interests of the state elites. Thus, by advocating for environmental justice for communities living around the mining areas, the NGOs' interests conflicted with those of the state and private mining companies.

According to the concept of environmentality, the interests of policymaking agents are anchored in the discourses that they advance (Agrawal, 2005). Environmentality sees environmental policymaking as shaped the practices that commodify environmental issues through market-based environmental management strategies (Fletcher, 2010). The argument is that delineation and justification of concepts limits the formation of interests to those that are associated with particular rationalities (Glenn, 2019; Gabay, 2011). Thus, unpacking the interests that NGOs pursued during the review of the 1981 MMA in Malawi required paying attention to the interaction of NGOs with the different mining discourses advanced. As political actors, the goals that NGOs pursue are not fixed. According to historical institutionalism, political actors such as environmental activists, are rule-following and norm-abiding actors that pursue mutable interests that are shaped by the existing institutional context in which they operate (Immergut, 1992; Mahoney & Thelen, 2009).

The ability of NGOs to pursue pre-defined interests depends on their veto capabilities to enforce their interests within the institutional context in which they operate (Thelen, 1999, 2004, 2002). This perspective means that the environmental issues that the NGOs pursued during the review of the 1981 MMA depended on how the existing rules, procedures, and practices for reviewing the Act enabled or constrained NGOs' agency to advance their viewpoints. This theoretical insight is fundamental to explaining convergence and divergence between environmental issues communities in the mining sites faced and those that NGOs

pursued during the review of 1981 MMA. There is a recognition that NGOs in Africa pursue complex interests depending on politics of aid within context-specific institutional, economic and political forces (Hearn, 2007). Bell & York (2012), for instance, explained how changes in preference by middle-class professional representatives of Environmental Policy Center and Sierra Club resulted in the passing of a weak 1977 Mining Control and Reclamation Act (SMCRA) that controls surface mining in USA. Thus, the ability for NGOs in Malawi to shape policy towards along the interests of communities within the mining areas is an empirical one.

### **Power and Power Asymmetry**

The role that power associated with different stakeholders in the mining sector play in determining the nature of mining legislation adopted in a country has been highlighted by a considerable number of studies on extractives (Thorp et al. 2012; Mitchell, 2013; Graulau, 2008; Cardoso & Turhan, 2018). Campbell (2013), for instances, argue that the World Bank infrastructural power has resulted in many African countries adopting weak environmental mining legislation since the 1980s (see also Girvan, 1976). The argument is that where policymaking agents harbour conflicting interests, power shapes the contours of the negotiations and agreement over mining policy choices. While the review of the 1981 MMA in Malawi was a response to inadequacies of the Act in tackling mining vices, there was no agreement over the nature of the new Act (Kamlongera, 2020). Thus, the nature of 2018 MMA in Malawi reflects the balance of power between the state, private mining companies, international donors and NGOs, political actors who held competing interests over the required provisions in the Act.

According to the environmentality framework, power works through the techniques of directing the conduct of conduct, whereby epistemic boundaries within the hegemonic mining discourses constrain certain actors, including NGOs, to pursue their preferred goals. This involves mobilisation of situated rationalities and mechanisms aimed at shaping the lifestyle of individuals and the resulting subject formation (Agrawal, 2005; Bryant, 2002; Miller & Rose, 2008). Therefore, unpacking factors that impacted NGOs in Malawi in shaping the review of the 1981 MMA towards the interests of communities in the mining areas requires paying attention to how particular ways of framing the environmental issues in mining subjected NGOs to particular forms of control by other policymaking agents (see Glenn, 2019; Dean, 2013). The underlying argument is that policymaking agents mobilise particular

rationalities, norms and beliefs to achieve desired behaviour and subjectivity (Dean, 2013). For example, Iseri et al. (2018) show how the narratives and rationalities of energy self-sufficiency were mobilised by the Turkish government to not only establish a pro-mining narrative but also control resistance to mining. On his part, Sending & Neumann (2006) show how epistemic boundary are employed to produce consenting than dissenting subjects by limiting what is possible within a particular epistemic knowledge (see also Bryant, 2002; Gabay, 2011). In Malawi, the practices of policymaking show that the state has since colonial era mobilised capitalistic rationalities to promote a preferred trajectory to the country's economic development. For instance, Chinsinga (2008) documents how international donors in the country promote neoliberal oriented policy trajectories through funding Parliamentary Committees to act as conduits for promoting preferred policy viewpoints (see also Chinsinga & Chasukwa, 2018).

In historical institutionalism, unpacking how power asymmetries impacted NGOs in Malawi in shaping the direction of 2018 MMA entails understanding how the institutions guiding the review of the Act distributed power among policymaking agents. This task requires unpacking how the institutions guiding the review of the Act enabled or constrained NGOs to voice and enforce their viewpoint. I adopt Bachran and Barattz (1962) agenda setting concept of power as the ability of policymaking actors to create social and political expectations and institutional practices that limit public policy processes to specifically preferred issues. This form of power includes the ways in which existing rules favours the ability of some actors to advance their concerns than others (Fioretos et al. 2016). For instance, Bodenhamer (2016) shows how institutions that provided spaces to elites in West Virginia Appalachian coal industry enabled them to emphasize a pro-coal mining ideology to legitimize coal mining despite communities facing visible negative environmental and health effects (see also Lysack, 2015). In this way, certain rationalities and hegemonic discourses are promoted over others. Mkandawire (2010: 1159), for instance, argues that macroeconomic populism was constrained in Africa by “persuading key actors that the Washington Consensus was “the only game in town” and then empowering such actors”.

### **Institutions and Organisations**

The literature review section has highlighted the critical role that institutions and organisations play in shaping the nature of mining legislation that governments in Africa adopt (Campbell, 2011; Thorp et al. 2012). Institutions are a set of formal and informal rules that structure and

govern human interactions (North, 1990). Though rational choice uses a similar definition, historical institutionalism differs from the former on the origin of institutions and how they affect political behaviour. While rational institutionalism view institutions as imposing constraints on rational self-interested actors, historical institutionalism see institutions as shaping the interests that political actors pursue as self-interested but more also as norm-abiding actors (Steinmo et al. 1992; Mahoney & Thelen, 2009). In this study, I focus on both formal and informal institutions as existing studies have shown that “rules of the game that structure political life in developing countries are created, communicated and enforced outside of officially sanctioned channels” (Helmke & Levitsky, 2004: 725). I adopt Helmke & Levitsky (2004: 727) definition of formal institutions as “rules and procedures that are created, communicated, and enforced through the channels widely accepted as official” while informal institutions as “socially shared rules, usually unwritten, that are created, communicated and enforced outside of official sanctioned channels”.

The formal institutions related to review of the 1981 MMA in Malawi include the National Republican Constitution<sup>10</sup>, Department of Mines rules and procedures for reviewing departmental-housed Acts, and parliamentary procedures for enacting laws. Examples of informal institutions related to the review of MMA include social networks among policymaking agents, their personal relations of reciprocity trust, clientelism, corruption and shared expectations of engagement among policymaking agents. As will discussed in chapter 6, for instance, leaders of NGOs depended on their personal relations with some Members of Parliament (MPs) to influence Parliamentary debate on the review of the 1981 MMA.

Organisations are defined as durable and purposive entities with formally recognised members created to maximise wealth, income, and other objectives (Chingaibe Ng’oma, 2010; Harriss, 2006). Organisations involved in the review of 1981 MMA include government agencies responsible for mining and environmental management, the Parliament, the Courts, the NGOs IFIs (World Bank, European Union, African Development Bank, Norwegian Church Aid) and private mining companies. The behaviour of members within the organisations is also governed by organisational rules which aim at attaining specific organisational goals. In the case of

---

<sup>10</sup> Section13(d) requires the government to progressively adopt and implement laws and policies aimed at managing the environment responsibly

reviewing the 1981 MMA, organisation rules for the NGOs involved in the review processes included rules of engagement with policymaking agents within and outside the organisations. NGOs as organisations have also rules that guide members towards the attainment of their organisational goals, which may at times constrain the ability of their members to advance certain interests. For instance, NGOs' objective of legitimizing their presence through government approval may prevent them from pursuing interests of local communities that clashes with those of the state (see arguments by Hearn, 2007).

The idea that institutions configure interaction among policymaking agents and shape goals that policymaking agents pursue is insightful for this study. This is so as it enables understanding how existing institutions may advantage or disadvantage some NGOs in shaping the review of the 1981 MMA. According to governmentality literature, liberal governments such as the democratic Malawi, use a network of organisations to facilitate transfer of certain norms and achieve subjectivity of targeted population to particular thoughts (Lemke, 2002; Glenn, 2019). According to Dean (2013), the sovereign power of the contemporary liberal democracies is exercised through a complex network of governance. This entails that government policy agenda is not shaped by the state only, but a network of organisations. This situation demands paying attention to the role of different organisations in the process of formulating or reviewing the laws. For instance, Bell (2016) documents how parliamentary house rules in Virginia State prevented the adoption of wind power over coal use even after an advocacy groups gained local political-support for the project. Bell showed how the way legislative battles were structured enabled prioritisation of the of the interests of powerful business entities.

### **Contingency and mining regime change**

Contingent events have enormous impact on the nature of policies adopted by policymaking agents through changing the perception of policymaking agents about the existing problems (Hudson & Leftwich, 2014). Girvan (1976), for instance, showed how contingent economic and political events enabled nationalization of mineral rights in Peru (see also Aico Sipriano Nogueira, 2017). This literature entails that the interests of policymaking agents can change during the period of reviewing legislation as they face new challenges. This study focused on three contingent events (mineral commodity price crash, shortage of electricity, climate change related droughts) because these events ignited heightened social dialogue regarding the



relevancy of mining, especially coal mining in Malawi. The focus of the analysis was on how these events restructured the discourse over mining and balance of power among policymaking agents that participated in the review of the 1981 MMA. For instance, Weir (1992) argues that contingent events can cause political actors to reconsider their interests and facilitate certain coalitions while disabling others (see also Hall, 1992; LeCain, 2009). This theoretical argument is insightful for this study as it helps to unpack how the contingent events related to mining in the country reconfigured the discourses over mining and hence changed the power dynamics among the policymaking agents overtime.

## **2.11. Conclusion**

This chapter has shown that the ability of NGOs to promote the rights of a particular group of people is not given but contingent on micro and macro political, economic, and institutional factors that structure the dynamics of policy choices. While advent of democracy in Malawi opened spaces for the participation of NGOs in policymaking, the successes of the NGOs are contingent upon country-specific context. In particular, the ability for NGOs to shape policy and legislation towards a desired end is affected by how country-specific political conditions affects processes of bargain over the divided interests of mining stakeholders.

The discussion in this chapter suggests that mining is riddled with complex interests, competing discourses and multidimensional faces of environmentalisms. Thus, understanding factors that impacted NGOs in Malawi in shaping the review of the 1981 MMA towards the interests of local communities requires paying attention to how such competing interests and discourses were adjudicated within the institutional context in which the Act was reviewed. Achieving this task requires interrogating four topical areas. First, it requires unpacking the relationship between the interests that NGOs pursued during the review of the Act to those of the local communities. Second, it requires understanding how NGOs interfaced with the local communities in the mining sites and with other policymaking agents such as the state and international donors. Equally important, achieving this task requires analysing prevailing mining discourses in Malawi and how a particular mining discourse emerged from the competing discourses to guide the review of the 1981 MMA. Lastly, this task calls for understanding how contingent events, described in chapter 1, affected the choice of environmental issues that were given attention by NGOs and other policymaking agents. The empirical chapters of this thesis (chapters 5-8) is organised around these topical areas.

Current literature on NGOs in Malawi have concentrated on the role of NGOs and CSOs on political empowerment (Makuwira, 2011; Vondoepp, 2002; Lwanda and Chanika, 2017) and socio-economic transformation (Kadzamira & Kunje, 2002; Chinsinga, 2007). Except for Kamlongera (2013) who documented the engagement NGOs with mining issues, there is dearth of studies exploring NGOs and environmental policymaking processes in the mining sector in the country. Existing literature on the role of NGOs in shaping policy towards a particular end remains explorative without exploring case-specific NGOs' actions relating to specific legislation. This study fills this gap. The next chapter is a description of the methodology employed in this study.

## CHAPTER THREE

### ANALYTICAL AND METHODOLOGICAL FRAMEWORK

#### 3.0. Introduction

This chapter presents the analytical and methodological approaches that were employed to guide the collection and analysis of data for this study. The aim of the study is to explore factors that impacted NGOs in shaping the review of the 1981 MMA towards the interests of the communities living within the mining areas in Malawi. As highlighted in chapter 2, the study adopted two theoretical frameworks namely: environmentality as expounded by Agrawal (2005) and historical institutionalism. Environmentality theory explains how involvement of political actors in institutional processes of policymaking results in subject formation and subjectivities of actors into existing dominant discourses (Bryant, 2002; Fletcher, 2010; Agrawal, 2005; Forsyth & Walker, 2014). This analytical framework helped to understand how NGOs that were involved in the review of the 1981 MMA in Malawi were impacted by the state and international donors' mining discourses. Historical institutionalism explains how political struggles and forces are “mediated by the institutional setting in which they take place” (Ikenberry, 1998 cited in Steinmo et al. 1992: 2). Historical institutionalism helped to explain how existing institutions enabled or constrained the choices of NGOs that were involved in the review of the 1981 MMA (see Streeck & Thelen, 2005; Mahoney & Thelen, 2009).

The advantages of deploying environmentality and historical institutionalism frameworks to this study are that both frameworks adequately deal with the question of policy origin and change, are historical in nature, and adequately explain the role of politics in resource-use contestation and policy negotiation. Both environmentality and historical institutionalism are also inductive middle-range frameworks that take the relationship between state and society as central and provides “theoretical leverage for understanding policy dis/continuities over time within countries” (Steinmo et al. 1992: 10). Furthermore, these analytical approaches escape the growing criticisms that political analysis has become reductionist, technocratic, apolitical, and relativist thus inadequate to uncover salient contested political issues in policy formulation (see Steinmo et al., 1992; Dean, 2013; Fioretos et al. 2016; Capoccia, 2016). These theories

also help to cross the binary agency-structure limitations that are commonly faulted in political struggle analysis (Miller & Rose, 2008). While historical institutionalism and governmentality has been predominantly applied in developed economies (Steinmo et al. 1992; Fioretos et al. 2016; Dean, 2013), increasing studies have applied environmentality and historical institutionalism in understanding practices of governance in the developing countries (see Kashwan, 2017; Gabay, 2011; Bryant, 2002; Thorp et al. 2012; Agrawal et al., 2005). This study follows these scholars and perceives that application of these analytical frameworks outside developed economies is central to explaining why and how dynamics of governance extend and reproduce themselves within the globalised world.

Employing the conceptual variables from the analytical frameworks of environmentality and historical institutionalism described above, this study collected five sets of data. Firstly, the study gathered data relating to how NGOs that participated in the review of the 1981 MMA effectively represented the environmental issues that the communities at Mchenga and Mwaulambo coal mining sites were facing. This aspect involved asking different groups of people at Mchenga and Mwaulambo if they were consulted by the NGOs during the period the 1981 MMA was reviewed, the kind of consultations that were conducted, and the experiences and perceptions of the different groups of local communities about the consultation processes. The aim of collecting this data was to find out whether the environmental issues that the NGOs pursued during the review of the 2018 MMA reflected those that the different groups of people in the areas surrounding the mining sites experienced, such as contamination of surrounding rivers and streams, air and noise pollution, degradation of agricultural land and community forests. A focus on different groups of people is particularly rewarding for this study as existing studies have shown that mining affects different groups of people differently (Jenkins, 2014; Kolala & Bwalya Umar, 2019). This study also collected data on the specific environmental issues in mining that the NGOs advanced during the review of Act and why they prioritised those environmental issues. This data helped me in responding to the research question about how environmental issues that NGOs pursued during the review of the 1981 MMA compared with those that local communities at Mchenga and Mwaulambo coal mining sites faced.

Secondly, this study collected data relating to formal and informal relationships, associations, connections, and social networks that NGOs that participated in the review of 1981 MMA established. The aim of collecting this data was to understand how the NGOs interfaced with

different policymaking agents and different groups of people living in the mining communities during the review of the 1981 MMA. This data helped me to understand how NGOs that participated in the review of the 1981 MMA interfaced with different policymaking agents, including international donors and local communities, and how such interface enabled or constrained NGOs in shaping the 1981 MMA towards the interests of communities in the mining areas.

The third category of data focused on discourses on the relationship between mining and economic development in Malawi. The data was disaggregated into discourses representing local communities in mining areas, NGOs, politicians, government bureaucrats, international donors, private mining companies, academia, and independent consultants. Discourses about mining do not only reveal different stakeholders' interests in mining, but also how such interests are to be actualised. Inter alia, the study collected data on whether different policymaking agents and local communities approved or disapproved different activities of mining in Malawi, their reasons for their approval or disapproval, and their perception regarding whether mining, including coal mining, in Malawi is a viable economic activity. Furthermore, data collection on mining discourses focused on how differences over mining discourses were resolved. This task involved paying attention to how policymaking agents aligned themselves around a particular discourse and how the institutional, political, and economic context in which the review of the 1981 MMA was conducted enabled or constrained certain discourse to emerge to guide the review of the Act.

Considering the effect that NGOs' relationship to the state and international donors have on the NGOs' autonomy (see Mkandawire, 2010; Matanga, 2010), this study collected data on the nature of working relationships that the NGOs established with the state and the international donors. The study collected data about the main donors of the NGOs and the models of funding that was employed in financing NGOs' advocacy initiatives. By analysing policymaking agents' association with the existing mining discourses and the underlying power structures within them, the study aimed to uncover the mining discourse which gained traction. The analysis of this data permitted me to respond to the research question on how a particular discourse about responsible coal mining emerged to guide the review of 1981 MMA from the different discourses held by different policy-making agents.

Lastly, this study collected data on the impact of contingent events, discussed in section 2.7 (global mineral commodity price crash, increased incidences of droughts and frequent shortages of electricity supply) on the ability of NGOs to shape the 1981 MMA towards the interests of local communities. The focus was on contingent events that were considered during the review of the Act, why those events were considered, the group of policymaking agents that proposed consideration of the events, and the reasons that were advanced in support of their consideration. The aim was to understand how consideration of such events altered the interests of policymaking agents that were involved in the review of the 1981 MMA and the resultant balance of power among policymaking agents. This category of data was aimed at responding to the research question dealing with the extent to which contingent events experienced over the period of reviewing 1981 MMA impacted NGOs in shaping the review of the 1981 MMA towards the interests of communities at Mchenga and Mwaulambo coal mining sites. In the next section I discuss methods and tools that were employed to collect the data specified above.

### **3.1. Methodological Approach and Research Philosophy**

This study employed a qualitative research design which allowed in-depth understanding of the factors and relationships that mediated the effectiveness of NGOs in Malawi in shaping the 2018 MMA towards the interests of local communities living in the mining areas. Specifically, this study was set out to achieve five objectives namely: How did a particular narrative about mining emerge to guide the review of 1981 MMA out of the different narratives held by policymaking agents? What economic, political and ideological forces shaped NGOs' support for particular strategies for addressing environmental issues in mining that communities living in the mining areas experienced? To what extent did the contingent events (global mineral price, drought, and shortage of electricity supply) experienced over the period of reviewing 1981 MMA affect NGOs in shaping the mining interests of the local communities at Mchenga and Mwaulambo coal mining sites? How did the NGOs' interface with different policymaking agents and communities at Mchenga and Mwaulambo coal mining sites affect NGOs' ability to shape the review of the 1981 MMA towards the interests of communities living in the mining area? How did the environmental issues that the NGOs pursued during the review of the 1981 MMA compare with those that the local communities at Mchenga and Mwaulambo coal mining sites experienced?

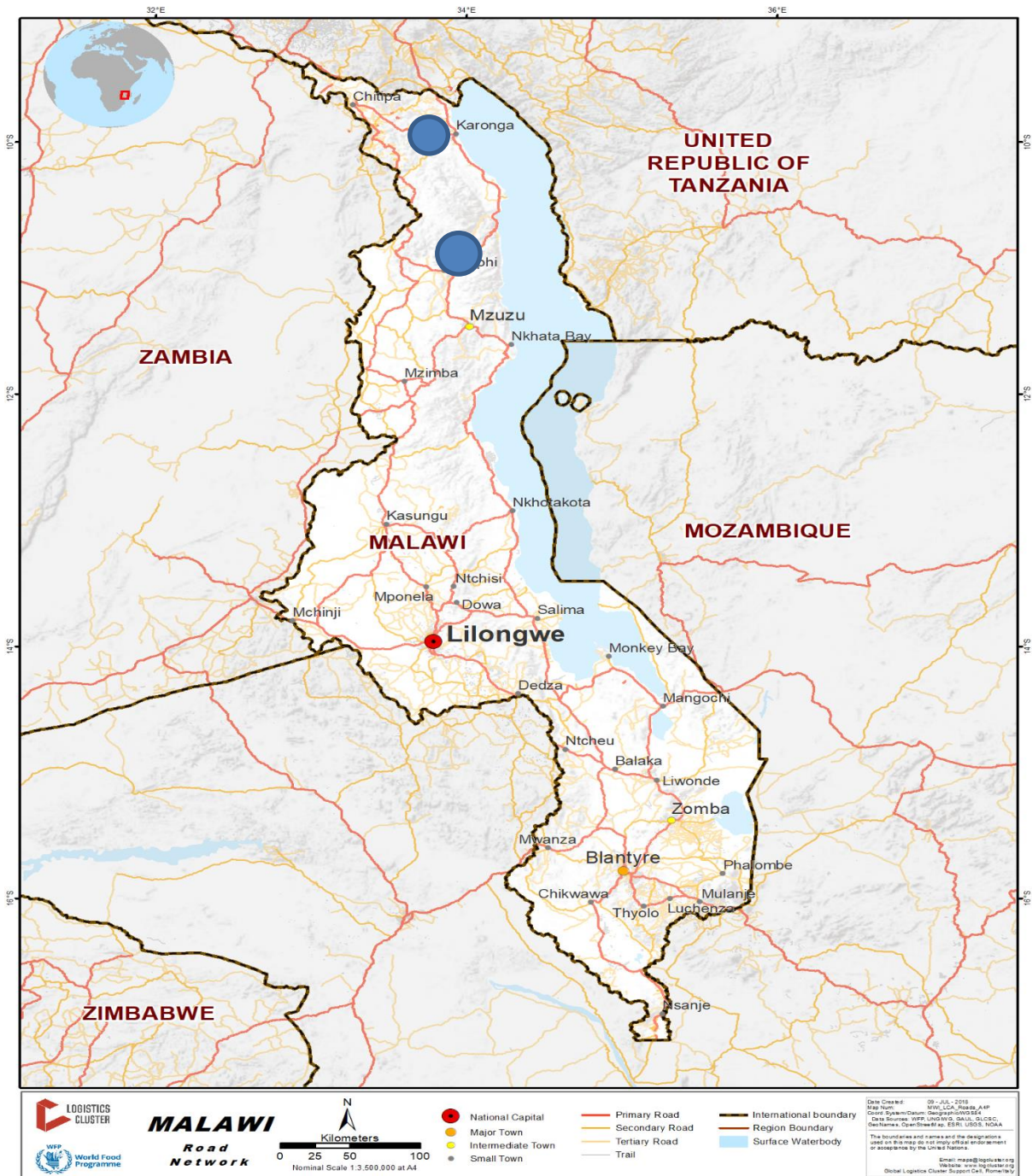
The methodology for this study was guided by a constructionist ontological approach, which sees the social world and reality as being constructed, revoked, and revised by social actors. To this end, this methodological approach involves collecting data about the targeted population's differing perceptions, experiences, narratives, interpretations, and subjectivities. Constructionist ontological approach is based on the premise that realities of phenomena are constructed within a context-specific situation, hence reality and knowledge is not objective (Bryman, 2015). It is based on that idea that the subjective expressions, words and opinions of the targeted population are valuable in analysing phenomena within specific social contexts and institutions (Campbell, 2002).

The constructionist ontological approach matched the objectives of this study and the theoretical frameworks adopted in this study. This is so as applying environmentality and historical institutionalism analytical frameworks involves focusing on expressions, experiences, institutions and narratives that explain phenomena through a nuanced empirical description of their causal chains (Miller & Rose, 2008; Pierson, 2004). Unpacking the sub-research questions outlined in section 1.3 specifically required understanding the subjective individual and group experiences, perceptions, motivations, justifications, and explanations. This study also dealt with lived experiences of the local communities' exposure to mining-induced environmental harm. The study, therefore, gives credence to the importance of understanding the subjective construction of knowledge in the generation of context-specific knowledge.

### **3.2. Geographical Coverage and Field Sites**

This study was conducted in Malawi between February and December 2019 and targeted both national and local governance levels. At national level, the study was conducted with representatives of key institutions that participated in the review of 1981 MMA. These included NGOs, Members of Parliament (MPs), members of academia, representatives from international donors, government officials from departments responsible for mines, environmental affairs, health, labour, local government, lands, and forestry. At a local level, the fieldwork was conducted at Mwaulambo and Mchenga coal mining areas that NGOs used as laboratories for understanding the impact of mining on communities living within the mining sites. It is through the experiences of the communities living in the mining areas that the NGOs defined their advocacy agenda relating to the review of the 1981 MMA. Mwaulambo and Mchenga coal mining sites are among the few mining areas where NGOs implemented

advocacy projects on mining governance. The study also collected data from local government staff in Karonga and Rumphi Districts where Mwaulambo and Mchenga coal mining sites were located respectively, representatives from the private mining companies, and different groups of people living at the two mining sites. Map 3.1. below shows location of Mwaulambo and Mchenga coal mining sites.



Map 3.1. Mchenga and Mwaulambo Coal Mines

 = Coal Mining Sites



Mchenga Coal Mine, owned by a local mining company, Coal Products Limited, is located in Senior Chief Mwachenga in Rumphi District. It covers a distance of about 45km<sup>2</sup> within Livingstonia Coal Fields and owns mine concession covering 17km by 5km which has a known coal reserve of about 4.5 million tonnes (Jere, 2017). Extraction of coal at Mchenga started in 1987 by a GoM mining company, Mining Investment and Development Corporation (MIDCOR). In 1995, the company was bought by Malawi Development Corporation (MDC) and Indebank Consortium. The company was finally sold to Coal Products Limited in 1999 as part of the GoM's policy to privatise most of the state-owned enterprises. Currently, Mchenga Coal Mining company employs about 300 workers and produces about 3500-4000 tons of coal a month (Jere, 2017; CCJP, 2012). Over 90% of the people who live around the mine depend on subsistence farming and fishing for their livelihoods. According to NSO (2017), about 60% of the people in the area live below the poverty line of US\$1.25 per day. Thus, the threat of environmental harm to the local communities is real as they depend on land-based resources and river streams for both domestic water-use and farming. The river tributaries run parallel to excavated coal seams before flowing into the valley and emptying into Lake Malawi.

Mwaurambo is located 30km north of Karonga District in Traditional Authority Kilupula and occupies an area of 6 km<sup>2</sup> within Lufira Coal field. Eland Coal Mining Company, a subsidiary of Cyprus-based Independent Oil & Resources PLC, started mining coal at Mwaulambo in 2007. Eland Coal Mining Company had its biggest market in Tanzania, especially Lafarge Cement Producer. However, Government of Tanzania's decision to ban coal importation and unfavourable coal market conditions forced the company to close-down coal extraction in 2015 (Human Rights Watch, 2016; CCJP, 2012). Unlike Mchenga coal mining site, coal extraction at Mwaulambo was established remarkably close to villages of the local communities with coal seams running parallel to river tributaries used by the local communities for domestic use and irrigation farming. Over 85% of the rural population in Karonga District depend on farming for their livelihoods and about 60% of the population live below the poverty line (NSO, 2017). Though not operational, Mwaulambo Coal Mine provides a good case for understanding how post-mining environmental issues have been considered by policy-making agents that reviewed the 2018 MMA. In the following section I discuss the methods that were used to collect data.

### **3.3. Methods, Sampling and Tools of Data Collection**

This study employed three main qualitative methods of data collection namely: key informant interviews, focus group discussions (FGDs) and document analysis. These methods are

appropriate in understanding individual as well as group experiences, meanings, motivations, perspectives and narratives central to this study (Bryman, 2015; Hammarberg et al. 2016). The following sections explain in detail how each of these methods was used in collecting data.

### **Key Informant Interviews**

The study conducted semi-structured interviews with key-informants selected from governments ministries and departments, NGOs that participated in the review of the 1981 MMA, academia, independent mining and environmental consultants, representatives of mining companies, and traditional leaders. The interviews were conducted between February and September 2019, and between November and December 2019. The initial key-informants were purposively sampled while subsequent informants were recruited using snowball sampling based on suggestions from the initial sampled respondents. Purposive and snowball sampling techniques were appropriate for these respondents because they were considered information-rich cases in relation to this study (Bryman, 2008). In Malawi, the responsibility of formulating and reviewing mining statutes falls under the Department of Mining. In carrying this task, the Department of Mines works in consultation with other departments, including Environmental Affairs, Forestry and Energy.

In line with the 1995 Republican Constitution of ensuring that laws are enacted in the interests of the public, the review of the 1981 MMA was reviewed with the participation of diverse groups of people. The key stakeholders that represented the local communities were the NGOs and Traditional Authorities. The study conducted a total of 34 semi-structured interviews spread out as follows (see Appendix 4 for a List of Semi-Structured Interview Respondents).

- Government bureaucrats from the ministries and departments of Mines, Environmental Affairs, Health, Labour, Lands, Karonga and Rumphi Local Government Councils
- Public Servants from parastatal organisations dealing with mining and environmental issues particularly Geological Survey of Malawi and Malawi Bureau of Standards
- NGOs' Directors and Project Staff dealing with environmental issues in mining (CEPA, CCJP, FOCUS, and Livingstonia Church and Society)
- Local and International donor organisations – Oxfam, Norwegian Church Aid, Tilitonse Fund
- Independent Consultants in mining and environment
- Academia and journalists working on mining and the environment

- Representatives of Mchenga Mining Company working at a Managerial level and selected mining workers
- Village Development Committee (VDC) leaders at Mchenga and Mwaulambo coal mining sites
- Traditional leaders from Mchenga and Mwaulambo coal mining sites

The study prepared a separate interview topic guide for each category of respondents that was based on their role in the process of reviewing the 1981 MMA (Appendix 5). Depending on the profile of the respondent and their choice, the interviews were conducted either in English, Chichewa or Tumbuka, vernacular languages in the area. In addition to detailed notes taken during the field study and interviews, the study audio-recorded 80% of the interviews conducted. Each interview was transcribed before analysis.

The choice of semi-structured interviews as one method of data collection was based on the following reasons. First, individual interviews with actors responsible for formulating laws has been empirically proven to be one of the most effective ways of understanding the nuances of the policymaking processes such the one under this study (see Kingdon, 1995; Mercer, 2006). This method is also in line with the qualitative approach adopted in this study as it enables soliciting data relating to perceptions and observations of the targeted respondents (Bryman, 2008). Secondly, semi-structured interviews are suitable for an inductive research approach adopted in this study as they allow detailed exploration of the issues under examination (Bryman, 2008). Inter alia, these issues include different policymaking agents' interests, perspectives, and experiences with mining. The study employed open-ended questions to elicit deeper dialogue into the key themes of the study. These themes included how different and at times conflicting interests of policymaking agents were negotiated and reconciled, strategies that were adopted to manage the environmental issues in mining, the rationalities that guided the framing of different strategies for managing the environmental issues that the local communities faced, and the mechanisms through which specific strategies for managing the environmental issues in mining gained traction. Understanding these themes required that I use interview topic guide as it allowed me to incorporate follow up questions and where possible rephrase the question. To avoid losing issues emerging from the interviews, I recorded the interviews where permission was granted and transcribed the discussions therefore after.

## **Focus Group Discussion**

This study conducted 9 focus group discussions (FGDs) with diverse groups of local people at Mchenga and Mwaulambo coal mines who participated in the processes relating to the review of the 1981 MMA. The FGDs were conducted between February and September 2019. Two criteria were employed in selecting specific villages where to conduct FGDs namely: achieving geographical coverage of the villages affected by environmental issues in coal mining, and intensity of communities' exposure to environmental harm arising from coal mining. As Malawi is highly patriarchal and that mining affects men and women disproportionately (Ballard & Banks, 2003, Kolala & Bwalya Umar, 2019), FGDs for men and women were conducted separately. This is particularly important in patrilineal societies such as Malawi where women are not expected to speak in the presence of men or discuss sensitive issues in the presence of men (Kitzinger, 1995; Jakobsen, 2012).

All influential local people such as local chiefs and VDCs leaders were excluded in the FGDs as they tend to dominate during such discussions. Instead, I conducted in-depth interviews with these groups of people. There is a rival relationship between VDCs and local chiefs in Malawi centring on the lawful political representative of the people at local level. By interviewing both of these authorities, the study collected data from potentially conflicting political structures that have at times divergent and conflicting interests (Hajat, 2008). Each FGDs was composed of about 8-10 participants to ensure maximum contribution by all members and allow probing of the participants' contribution. Limiting the number of participants in the FGDs to 10 also allowed me to avoid the discussions being dominated by a few participants (Agee, 2009). The use of FGDs was relevant and critical for this study as it enabled me to understand the perceptions and positions of the different groups of people in the communities on how the environmental issues in mining should be governed. The study conducted 4 FGDs in each site. At Mchenga, the study also conducted 1 FGDs with the mining workers.

Before conducting FGDs with the local communities, I got permission from the District Commissioner and local chiefs (Appendix 6). At Mwaulambo, the NGOs worked with the VDCs while at Mchenga the NGOs worked with a local Community-Based Organisation (CBO). This information suggests that the NGOs had some degree of freedom to choose which local institutions to work with and did not stick to decentralised local governance structures as provided for by the 1998 (amended 2016) Local Government Act. According to the 1998 Local

Government Act (Amended 2016) (GoM, 2013), VDCs are recognised local government structures that represent the interests of the people at a local area. However, I was cautious of uncritically getting all the data from the VDCs as it is usually entangled in local politics and composed of dominant local political elites. Existing studies have indicated that VDCs in Malawi are profoundly local centres of political contestation among powerful political parties (Tambulasi, 2011).

I also complemented data from FGDs with participant observation in the two sites. Participant observation involved participating in community activities with the aim of understanding community perceptions, conflicts and agreements over environmental issues in mining and the work of NGOs. I particularly spent time with different groups of people running small scale businesses such as those selling fresh fish and rice. These groups of people were important sources of community perspectives over mining in the study areas as they included people of diverse backgrounds who had diverse views on mining. The aim of conducting the FGDs and participant observation was to delve into the dynamics of the way the environmental issues in mining and strategies required in managing them were framed by different groups of people in the two mining areas. Throughout the fieldwork, I used a reflective diary to keep focus of the issues arising from the interviews, FGDs and participants' observations.

### **Qualitative Document Analysis**

The study gathered and analysed primary documentary evidence relating to the review of the 1981 MMA. These documents and grey literature included official government documents, Parliamentary Hansards, media, academic reports, NGOs' projects manuals, reports and NGOs' position papers on the Mines and Minerals Bill. These documents were accessed from NGOs' libraries, print and online media outlets, government offices, websites, and libraries. Document analysis paid particular attention to sources of the published reports, the framing of environmental issues in mining and the extent to which information in the documents provided a benchmark for the review of the Act. According to Prior (2003), official documents contain critical official position of organisations that can be missed during interviews and is useful in triangulating and scrutinising data obtained from interviews (see also Olson, 2009). The following is a classification of the documents that were consulted:

- Original communication between private coal mining investors and local communities.

- NGOs' projects reports and written submissions and position papers on mining and environmental issues
- Various government policies such as mining and environmental policies
- Private mining company reports
- Parliamentary Hansard relating to the enactment of the 2018 MMA
- International donors' funding strategies relating to mining and environment
- Academic and mining expert reports

### **3.4. Data Analysis**

The study used qualitative content and discourse analysis as the main method of data analysis, which involved systematic search for emerging themes from the data. Content analysis involved grouping respondents' responses and coding the scripts and spoken words in relation to the themes that, inter alia, captured respondents' words, the manner the words were spoken, individual and collective viewpoints and actions. Discourse analysis involved scrutinising "who said what, about what, to whom and in what format" (Rugg, 2007: 159). In this way, it was critical in understanding how and why some mining ideas presented gave meaning to the way of governing the mining sector in Malawi. It also involved scrutinising why and how some mining discourses became dominant over others (Gasper & Apthorpe, 1996). Thus, discourse analysis enabled me to unpack how different perspectives over mining in Malawi were constructed, framed, presented, and sustained during the period the 1981 MMA was reviewed. A focus on different framings is rewarding for this study as language is not only a means of communicating ideas, but more important contributes to constructing reality (Hudson & Martin, 2009; Jorgensen & Phillips, 2002). Thus, discourse analysis helps to understand how particular knowledge, practices and policymaking processes during the review of the 1981 MMA enabled or constrained NGOs' agency (Miller & Rose, 2008).

Practically, data analysis focused on unpacking the key questions of the study outlined in chapter one. Firstly, the analysis focused on comparing the environmental issues in mining that different groups of people living in the mining areas experienced to those that the different NGOs prioritised during the review of the 1981 MMA. This analysis also involved understanding how and why certain environmental issues in mining found their way into the new 2018 MMA while others did not. Secondly, the analysis aimed at establishing the dominant mining discourse/s prevalent among the local communities, NGOs, state, private

mining companies, academia, international donors and financial institutions; and how such discourses related to the nature of the 2018 MMA that was promulgated. Thirdly, the analysis sought to establish working relationships that the NGOs established with other policymaking agents, international donors, and the local communities during the review of 1981 MMA. The aim was to understand how such relations impacted NGOs' ability to shape the review of the 1981 MMA towards the interests of communities in the mining areas. The analysis also focussed on identifying the political, economic and institutional factors that limited NGOs ability to shape the review processes. Finally, the analysis paid attention to the way environmental issues in mining and the strategies for managing them were articulated and framed by different policymaking agents and the nature of working relationship that developed between NGOs and other policy-making agents.

### **3.5. Ethical Consideration**

Conducting research on a sensitive topic such as the environmental challenges originating from mining generates social tension because different mining stakeholders hold different interests in mining. While the GoM expressed unequivocal support for mining, different groups of people in the communities where mining was carried out reacted differently to mining activities based on their perceptions of the benefits and costs of mining. Researching on the environmental issues in mining, therefore, posed risks to both respondents and myself. For instance, speaking out openly against the views of the powerful people in the local community might have attracted hostile verbal remarks, social disapproval, or even extrajudicial violence. Those employed in the mines may also be sacked if they spoke out against the mining companies. I, therefore, took the following steps to mitigate these potential risks.

Firstly, my research was approved by the Ethical Committee in the School of Social and Political Science (SSPS) at the University of Edinburgh. By being approved by the SSPS, my research met the standard set by the National Research Council of Malawi. I also sought permission from Karonga and Rumphi District Councils to conduct my research in Traditional Authority Kilipura in Karonga and Mwachenga in Rumphi. As I was also collecting data on health-related issues arising from coal mining, I also got permission from Rumphi District Hospital Research and Ethical Committee. Before each interview session, I obtained Informed Consent in form of either written consent for those who could read and write or verbal consent for those who could not. This process involved explaining to the respondents that the aim of

my study was to collect data for my PhD studies at the University of Edinburgh and that their participation in the study was voluntary. Those who were reluctant to participate in the study were allowed to withdraw their participation. This step was important as it created an environment where my respondents viewed themselves as providers of information and not learners. The aim was to build trust with the respondents and minimise the power barrier that is often created by the researcher-respondent relationship (Temple, 2016).

Ethical consideration also involved assuring all targeted respondents that the data provided during the study would strictly be used for the intended purpose and that their identities would be anonymised. To this end, I signed Confidentiality Agreements with respondents to assure them that their views would not be used for any purpose other than the stated purpose. Furthermore, I assured study participants that they can have access to anonymised study findings if they so wish. To maintain confidentiality, I assigned pseudonyms and anonymised all personal data. All personal data was stored separately from all other data and a secret password was used to store electronic personal data.

### **3.6. Positionality**

Research process and outcomes can be affected by a researcher's positionality, which centres on how a researcher's beliefs, identity and values in relation to the study's participants may affect the process of conducting the research and interpreting the findings (Temple, 2016, Brookfield, 2017). Positionality is very important in qualitative research designs, like this one, which aim to give meanings to voices of the study participants. This is so because positionality affects researcher's access to, rapport with and trust of respondents. Furthermore, positionality affects interpretation of issues communicated during interviews and consultations. It is with this idea in mind that I had to consider my positionality regarding the respondents that were targeted in this study. I am interpretivist social scientist who believe that social reality is subjective and better knowledge is the one constructed by the people themselves. However, the ability to effectively obtain this knowledge from the people may be affected by how my respondent perceive me either as an insider or an outsider to their world. Insiders are socially, culturally, economically or politically identified with the study participants while outsiders are not.

In the section below I provide a reflection of my values and consider them on whether my respondents viewed me as outsider or insider to their life, and what I did to collect reliable data.



I come from Northern Malawi where both Mchenga and Mwaulambo coal mining sites targeted for this study are located. Having spent my childhood in this area, I understand most of the local socio-economic activities, religious and cultural practices and local languages. Politically, there is a strong perception that the Northern Region of Malawi has been under domination not only by the colonial state, but also by the independent governments that followed and that resource extraction from the region has not benefited the people of the region. These characteristics positioned me as an insider and assisted me better access and build rapport and trust with the respondents that I targeted. However, by attaining university education in a community where less than 3% of the population have attained that some sort of tertiary education (NSO, 2017), I was socially an outsider. Usually, local communities see educated individuals as working for outsiders such as the state and private companies. Equally important, females perceived me as an outsider to the environmental justice struggles that they fight. This is so as females suffer disproportionately from environmental issues in mining (Ballard & Banks, 2003).

In terms of policy-making agents whom I held interviews with, I considered myself to be an insider as most of them have attained University education. It was easier to build rapport with this group of people. However, policy-making agents comprise people with different social, economic and political interests. While some of them perceived me as belonging to their social class, some of them considered me as belonging to an outsider group. I was, therefore, cautious in ensuring that I build a good rapport with the interviewees by adequately preparing for the interviews. Secondly, I was alert to my personal bias so that I should not unconsciously engage respondents with my personal biases. Thirdly, I recorded verbatim respondents' responses and sought clarification where I did not understand properly. All in all, I made sure that I negotiated my access, built rapport and trust with the respondents and paid attention to my diverse positionalities in the setting that I carried out my research. The succeeding chapters present the empirical observations and findings of this study. The next chapter discusses the historical development of NGOs' advocacy work aimed at empowering groups of people in Malawi.

## CHAPTER FOUR

### HISTORY OF ENVIRONMENTAL NON-GOVERNMENTAL ORGANISATIONS IN MALAWI: THE MAKING OF A NEOLIBERAL BOURGEOIS

#### 4.0. Introduction

This chapter analyses the historical origin and growth of NGOs in general, and NGOs in particular, in Malawi since the colonial period. It sets out to map the place of NGOs in Malawi's political economy by interrogating the social, economic and political forces that explain their emergence and role in development initiatives. The chapter aims to establish the political and socio-economic forces that explain the political spaces that NGOs have come to occupy and the key forces that have configured their ephemeral objectives over the years (Anderson, 2017; Lwanda & Chanika, 2017). The historical approach adopted in this chapter enables me to contextualise the work of NGOs in Malawi's political economy as well as understand why NGOs emerged in the country at the time they did, why they are engaged in the activities that they do, and why certain forms of knowledge, ideas and activism underlie their actions (see Bebbington, 2004; Gabay, 2014). Furthermore, the chapter highlights how some institutions established at a particular point in the history of Malawi enabled or constrained NGOs to shape the 1981 MMA around the interests of the communities in the mining sites. In this way, the chapter sets the tone for discussing the issues raised in the next chapters. This chapter analyses the activities of NGOs and NGOs in three distinctive political periods in Malawi namely: the colonial, post-colonial and multiparty democracy periods. This is important as it helps to understand the evolving social, economic and political forces that have shaped the behaviour of NGOs.

A common theme running through this chapter is how the struggle over ownership, utilisation, distribution of resource use benefit, and management of natural resources created unending struggles between the state, the business sector and local communities. At the heart of these struggles was the epistemological dissonance in property rights and approach to natural resources management between the state and local communities. While the state preferred private property right arrangement based on ecological-modernisation, the rural subsistence farmers preferred customary property rights and indigenous methods of natural resources

management (see Mulwafu, 2011; Mandala, 1990). Through this discussion, the chapter highlights how the state's pursuance of economic development through capitalist production and western science was vehemently resented by most rural subsistence farmers. In line with the modernisation development framework, the state in all the periods advocated western scientific knowledge as a guide to natural resources utilisation and management. By highlighting how both the colonial and post-colonial governments depended on natural resource for its revenue, the chapter situates the role of natural resources in Malawi's question of economic development. Faced with resistance from the rural subsistence farmers over adoption of western scientific methods of managing natural resources such as soil and trees, both the colonial and independent state employed coercive resource management strategies to enforce adoption of recommended methods. The chapter highlights that the review of the 1981 MMA took place within this history of struggle between the state and local communities (Mandala, 1990; Mulwafu, 2011).

This chapter makes three significant observations. Firstly, the chapter highlights that the momentous rise in CSOs' and NGOs' activities during colonial, post-colonial and democratic periods dovetailed with an upsurge in popular movements and protests for political and economic change. The chapter particularly notes that NGOs focusing on political empowerment have throughout these periods aligned their activities explicitly or implicitly alongside popular movements and supported populist change agendas. However, Malawi presents an excellent case where critical junctures for changes in state-society relations, highlighted in detail in section 4.1, complexly evolve without achieving some of the key expected changes. The attainment of self-rule in 1961, for instance, was a major critical juncture which raised expectations for improved relations between the state and the local communities, especially the subsistence farmers (Mhone, 1992; Baker, 2001). Likewise, the advent of multiparty democracy in 1993/4 was a critical juncture that momentarily raised public expectations that public policy would be made in the interests of the majority without trampling down on the rights of the minority (Chingaipe Ng'oma, 2010; Makuwira, 2011). The emergence of civil society and other interest groups was particularly seen as a path to inclusive policy-making process (Lwanda & Chanika, 2017). However, while these critical junctures had dynamic and far reaching political discontinuities in terms of political structures and practice, they also set in motion complex continuities of domination of the marginalised rural masses by a gamut of few politically connected elites (see Chingaipe Ng'oma, 2010). In relation to natural

resources utilisation in particular, the country has witnessed the formulation of public policies that conflicted with the interests of rural subsistence farmers.

Secondly, this chapter observes that NGOs in Malawi have historically been led by educated urban elites who pursue multiple interests that are generally concealed from the people they claim to represent (see Mhone, 1992; Lwanda & Chanika, 2017). Notwithstanding this common feature, the chapter highlights that NGOs in Malawi are not a unified entity with harmonised objectives but consists of actors that are in constant competition for prominence, attribution and resources. This situation was complicated by the fact that the growth of NGOs during multiparty era dovetailed government adoption of neoliberal economic policies. As will be highlighted later in this chapter, the challenging economic situation that ensued during this period, especially shrinking employment opportunities, convoluted the moral and instrumental dimensions of NGOs as working for the NGO became largely a career rather than a focus to influence policy<sup>11</sup> (Anders, 2010). The chapter particularly observes that the activities of NGOs have not only been ephemeral in line with the changing funding opportunities (see Anderson, 2017), but have also largely mirrored neoliberal overtones (see Gabay, 2011).

While the relationship between NGOs and donors is complex, with some donors requiring strict adherence to their policy stance and others being more open, NGOs' dependence on donor aid in Malawi has impacted on their broad policy advocacy agenda. For instance, Anderson (2017: 915), observed that "when development trends and issues in the country change [Malawi], at donors' wishes, organizations proactively strategize to vie for donor funds". To this end, NGOs' advocacy in the mining sector is imbued with internal contradictions where on one hand private investment is presented as the problem for environmental harm while on the other is regarded as a solution. As this will be pointed out in chapter 5, NGOs dependency on international donors that are implicitly or explicitly sympathetic to neoliberal policies left them ambivalent agents working to preserve their working relationship with their financiers but without alienating themselves from the local communities. This situation marked the genesis

---

<sup>11</sup> For a detailed analysis of the impact of the adoption of liberal economic policies in Malawi see Anders, G. (2010). *In the shadow of good governance: An ethnography of civil service reform in Africa*.

of the bifurcated co-optation of NGOs into existing state and business hegemonies, explained in detail in Chapter 7.

Finally, this chapter observes that the struggle over environmental issues in mining in Malawi is not a new phenomenon, but a continuation of the conflict between the expanding capitalistic and indigenous mode of production. While mining is a new phenomenon in Malawi, current mining exploitation initiatives has important parallels to the historical question of natural resources utilisation, especially land, in the country. Although cash crop farming was practised more in southern Malawi, concentration of mining in the northern region represents an extension of capitalistic mode of production to this region. This is so as the current state-society struggles over environmental issues in mining in Malawi is principally a contestation over rationalities that should guide utilisation and management of natural resources in the country (Mulwafu, 2011; Kalipeni & Feder, 1999). While the state has persistently advanced capitalist and neoliberal policies that promote western science in natural resources utilisation, rural subsistence farmers have been resisting the extension of state control into their social-political space (see Mandala, 1990). The chapter highlights that since colonial rule, a number of legislative have been enacted to settle and manage these battles (Mandala, 1990; Mulwafu, 2011; Chinsinga et al. 2013; Kanyongolo, 2008). The chapter observes that the way these laws were formulated, such as 1967 Chiefs Act, 1967 Land Act, 2016 Customary Land Act, 1996/2016 Local Government Act, and 2017 EMA constrained the agency of NGOs to shape the review of the 1981 MMA to a particular end.

The analysis in this chapter is sequenced as follows: Section 4.1. discusses the emergence of community protest movements and forms of tribal and national CSOs. It highlights the role of educated elites in defining the direction of protests movement and CSOs. Section 4.2. and 4.3. discusses the changing organisation of NGOs during one-party dictatorial rule and how the work of NGOs was subjected to strict state control. Section 4.4. deliberates on the role of NGOs in democratic Malawi. It shows how, while free from coercive state control, NGOs' work became entangled in the interests of international donors the state and local communities. Section 4.5. analyses NGOs' work during democratic Malawi by especially highlighting the diversity and contradictions within NGOs work and objectives. This is followed by an analysis of the rise of NGOs in section 4.6. The penultimate section discusses the reasons for NGOs' involvement with environmental issues in the extractive sector, which is then followed by a conclusion.

#### **4.1. Grassroots Movements and the State During Colonial Period: Path Dependency**

The birth of current forms of NGOs in Malawi can be situated in the protest movements of the 1900s native welfare associations against social, economic, and political conditions. Malawi, then Nyasaland, was declared a British Protectorate in 1891 following successful persuasion from European settlers for the protection of British corporate and Christian religious interests in the country (Chingaipe Ng'oma, 2010; Pachai, 1973; Chanock, 1975). Although commercial farming by European settlers affected communities across Malawi in uneven way, colonial occupation of Malawi negatively impacted indigenous economies of the country (McCracken, 2012; Mandala, 1990). Long distance trade practised by the Yao was strangled and the Lomwe in Southern Malawi lost considerable amount of land to commercial farmers. The Ngoni also suffered defeat from the British colonial forces and experiences a set of natural disasters. Furthermore, the introduction of a hut tax, a direct tax on indigenous poor households, incorporated poor grassroots communities in the country into colonial economy. These economic activities following establishment of British colonial rule generated grassroots resentment against the economic and social costs of the expanding capitalistic economy. For instance, the percentage of locally generated revenues in the protectorate increased from 34% in 1900 to 61% in 1914 (McCracken, 2012). In the words of Major Pearce, the British Protectorate Administrator in 1913:

“The natives at present contribute no less than 70% of our revenue and they contribute it largely by direct taxation from which the European community is almost wholly exempt ...On the other hand the great bulk of local expenditure is devoted to purposes which may or may not be incidentally useful to natives, but which primarily serve the needs of Europeans”<sup>12</sup>

Early organised form of grassroot protests in colonial Malawi, therefore, depict a struggle between native welfare associations and the colonial state. This struggle was more pronounced following the enactment of the District Administration (Native) Ordinance in 1912 “which provided for the appointment of Principal and Village Headmen who were to become, in effect, the executive agents of the Protectorate Administration”(Tangri, 1971: 86). By being incorporated into and working under the colonial government administration, native educated elites perceived traditional chiefs as no longer representing the interests of local communities.

---

<sup>12</sup> Pearce to CO, 14 July 1913, TNA CO 525/47 reported in (McCracken, 2012: 99)

Educated African elites formed North Nyasa Native Association, West Nyasa Native Association, Mombera Native Association and Southern Province Nation Association in 1912, 1914, 1920 and 1923 respectively as mouth piece for the native populations (Kalinga, 1996; McCracken, 2012; Pachai, 1973). Native welfare associations were a mouthpiece for local Malawians by conveying interests and grievances of the natives to the colonial government. At first, native welfare associations were mostly non-political organisation that, inter alia, demanded creation of more economic opportunities and better government hospitals and educational facilities. However, the extent to which these association represented the interests of general communities has remained contentious, with some arguing they mainly advanced short-term non-political interests which had little effect in transforming the political landscape (see Tangri, 1971; Kalinga, 1996; 1985). According to Tangri (1971: 89),

“Although Native Associations operated like pressure groups on behalf of their members, they never succeeded in commanding a mass following. Many unskilled workers may have attended meetings, but Associations remained essentially elitist bodies, and never tried to base themselves on wider sections of the African community”.

Native welfare associations are not only the precursors of current NGOs’ advocacy work in Malawi but have left path dependent tendencies on the way NGOs are organised. As will be discussed in chapter six, NGOs in Malawi (and in many other countries see Shivji, 2006; Mercer & Green, 2013; Hearn, 2007) are run by educated elites whose interests sometimes diverge from the people they claim to serve (see Lwanda & Chanika, 2017; Anderson, 2017). The role of native welfare associations in grassroots protest in colonial Malawi increased with the expansion of capitalist commercial farming into the territories of local communities in Southern Malawi (Tangri, 1971; Mandala, 1990; Kalinga, 1996). Customary land users, especially in southern Malawi, protested commercial agriculture takeover of the country’s customary fertile land and exploitation of native labour. Devoid of known high-value mineral resources, commercial European settlers were attracted to fertile arable land in the lower Shire highlands (Kalinga, 1996; Pachai, 1973). For instance, the British South African Company (BSAC) met the cost of administering the Protectorate in return for the protection of their commercial interests in land (Tindall, 1968). This corporate objective, on which the colonial state depended for its revenue to run the protectorate did not sit well with indigenous people’s economic, social and political expectations (see Chingaipe Ng’oma, 2010).

While most of the rural subsistence farmers depended on land for their livelihoods, the colonial government was actively engaged in facilitating customary land-take over by private white settlers. Besides introducing new claims to customary land based on private property ownership, colonial government agricultural policies and practices subjected local communities to economic exploitation through introduction of private ownership land tenure and unfair labour practices (Kalinga, 1996; Pachai, 1973). Consequently, commercial farming practices in southern Malawi generated widespread grassroots protests against colonial government. These community movements, highlighted later in this chapter, were essentially contestations over land ownership, utilisation, tax and above all preferred trajectory to natural resource utilisation and economic development (Tangri, 1971; Mandala, 1990; Zuka, 2019). It should, however, be pointed out that the colonial government and Christian missionaries did not always agree on the commercial interests of British settlers. For instance, in 1893, the colonial office refused to back up a BSAC proposal to transfer crown land to the company (Pachai, 1973; Chingaipe Ng'oma, 2010).

The narration above highlights how the government approach to land issues in Malawi was entangled between the conflicting interests of the business sector, the Christian missionaries and the local communities. The above discussion demonstrates how economic activities established during the colonial period in Malawi did not only transform local economies, but also heightened state-society relations. For instance, it shows how the colonial state actively prioritised the objective of revenue generation over others. What is of interest in these colonial-state-society relations is how a capitalistic way of governing natural resources attained hegemony and established path dependency resource governmentality. I argue that state-society relations during this period is key to understanding current impact of NGOs on policy formulation. During the colonial Malawi, environmental management based on western scientific knowledge became the centre of conflict between the state and business on one hand and subsistence farmers on the other. An account of the nature of the struggle between the colonial government and subsistence farmers in Malawi was plainly documented by the then Agricultural Officer for Thyolo, A. P. Forbes in 1947,

“the opposition is much greater in the Lower River than has yet been experienced in any of the areas in the province where, after preliminary difficulties, the



inhabitants gradually took to ridging ... What must be faced is that the African cultivator does not want ridge cultivation”<sup>13</sup> (Mandala, 1990: 227-228).

Kalinga (1996) particularly documents how during the colonial period the indigenous rural population vehemently resented appropriation of land by white business settlers and imposition of a western scientific methods of soil management (see also Mulwafu, 2011). Balancing the conflicting interests of the business sector and local communities was, therefore, one of the challenging tasks facing the colonial administration. Faced with little budgetary support from Britain and dependence on business sector for financial support to run the government, the colonial government implemented policies that predominantly served the interests of the business sector (Chingaipe Ng’oma, 2010). In particular, weak revenue-base of the colonial government left it critically dependant on financial grant from BSAC and often supported the demands of the BSAC and European business community (see Tindall, 1968; Pachai, 1973). For instance, Baker (1991: 23-24), documents the irony that Harry Johnson, the Governor of Nyasaland from 1889 to 1904, “was pleased with his settlement, which registered 66 Certificates of Claim covering 3, 705, 255 acres, saying it was well accepted by the Europeans, gave distinct satisfaction to Africans, and was agreed without modification by the British government”. The transfer of customary land to private settlers was made through the local chiefs who signed the transfer agreement on the Certificates of Claims.

The above narration particularly highlights how traditional chiefs during colonial period were used to make decisions that were potentially against their subjects (see Mamdani, 1996; Mandala, 1990). Mandala (1990) particularly documents how peasant farmers in Malawi’s Lower Shire passionately resented the colonial government’s intrusion into their economic, social and political space of life. He argues that peasant farmers in Malawi actively resented foreign intrusion and have been “continuous initiators in political relations among themselves and non-peasants” (Mandala, 1990: 275). According to Pachai's (1973) by 1893, 40% of the land in the Protectorate of Nyasaland was owned by the European business community.

This grassroots resistance did not only provide the political base upon which nationalist movements for independence in Malawi were founded (McCracken, 2012; Tangri, 1971) but

---

<sup>13</sup> Ridge cultivation involves planting crops on elevated lines as opposed to planting them on a flat land. The aim is to control the speed of run off during rains.

also generated the agenda for the nationalist movement (see Chingaipe Ng'oma, 2010; Mhone, 1992). A case in point is how nationalist leaders adopted *nkhondo ya mtumbira*<sup>14</sup> (*war against ridges*), *thangata system*<sup>15</sup> and unfair land policies as key grievances for mobilising rural masses against the colonial government (Mandala, 1990; Mhone, 1992). The intricate link between environmental struggles of smallholder subsistence farmers and activities of nationalism in Malawi have been nicely summarised by (Thomas, 1975: 35) who documented that:

“Fines and imprisonment were the penalties for not obeying the National Resource Ordinances, which made ridge cultivation and erosion bunding compulsory, set planting and uprooting dates and even required the cultivation of cassava as an insurance against maize shortages. In many areas a degree of technological success was achieved, but at the cost of political unrest. The general dislike of the regulations, especially the bunding, made an ideal basis for the development of the rural campaign of the nationalist movement”.

The role played by educated elitist leaders in the empowerment of grassroots communities in colonial Malawi remains important today. Understanding activities of welfare native associations overtime can provide significant insights to understanding current NGOs' agency on public policy direction. This history is particularly important in unpacking the divided loyalties that NGOs that participated in the review of the 1981 MMA displayed towards the government and business sector on one hand and local communities on the other. There was a principal-agent relationship between native association/nationalist leaders and rural communities with the former positioning themselves as fighting for the interests of the later against the intruding state and corporate sector. During the period when Malawi was fighting for independence from the colonial government, the nationalist leaders in the country were incentivised to act in the interests of their political base. For example, over 15 tribal-based

---

<sup>14</sup> Nkhondo ya mtumbira refers to smallholder farmers' opposition to the practice of planting crops in ridges as opposed to planting on a flat land during colonial Malawi. Colonial government forced smallholder farmers to make ridges when planting crops to control soil erosion (see Mandala, 1990).

<sup>15</sup> Thangata system was a tenancy system in which all household heads were forced to work on the farms of colonial commercial farms for about four to six months in order to pay for the tax that was exerted on all households residing within the land claimed by white commercial farmers. It was mainly aimed at generating revenue for the colonial government (see Pachai, 1973, Kalinga, 1996).

Native Associations that amalgamated to form Nyasaland African Congress in 1944 focused on land, labour and environmental issues which were the key struggles of the rural subsistence masses (Pachai, 1973; Kalinga, 1996; Mandala, 1990). The incentives for native association leaders to seek the support of rural peasant farmers in their fight against colonial government is understandable considering that over 95% of the Malawi's population was rural (NSO, 1966). It was based on this backing that the Nyasaland African Congress, then renamed the Malawi Congress Party, led Malawi into independence in 1964.

However, the narrative of a united nationalist movement during colonial Malawi masks multiple tensions between rural farmers and native association/nationalist leaders and also within subaltern communities themselves. While the literature discussing interaction between the nationalist leaders and subsistence farmers highlights important forms of unity between them (see Pachai, 1973), the dominant narrative hides profound social and political differences that existed amongst them. There is considerable literature that shows that native association and nationalist leaders were socially different from the crowds that provided them the political force. For instance, tribal native associations, such as North Nyasa Native Association, were predominantly led by a urban-based educated elites such as the mission-educated elites, civil servants and rural entrepreneurs (Mhone, 1992; Kalinga, 1996; Mandala, 1990). As will be discussed in Chapter 6, insights from this discussion demonstrate that grassroots movement is not a homogeneous entity that can be simplified to identical characteristics and interests. Instead, interests within communities are not only varied but also conflicting.

Economically, rural populations during the colonial period were engaged in different forms of livelihood activities including smallholder subsistence farming, tenancy-farming, fishing, cattle herding, and wage employment in commercial farms. Thus, political and economic changes that resulted from collective grassroot demands for change affected diverse groups in the rural communities differently. For instance, Mandala (1990) documents how, while negatively affecting wage earners, cattle owners benefited from the collapse of commercial cotton agriculture by turning communal lands into grazing land. Mandala also show how Malawi's independence from colonial government positively turned the economic might of cattle owners into political might by becoming lead farmers during the reign of Malawi Congress Party.

Politically, there were limits to unity among rural subsistence farmers as the same issues that were mobilised to garner unity played out as a source of conflict amongst them. As highlighted in the preceding paragraph, native association leaders mobilised subsistence farmers' struggles for better agricultural and labour policies as key issues within their emancipation agenda. Through this approach, native association leaders were able to win over to their side a large following of rural subsistence farmers (see McCracken, 2012; Pachai, 1973; Mulwafu, 2011). However, not all people in rural communities were against the colonial labour and agricultural policies. Mandala (1990) particularly expounds how Mollen Tengani, a Mang'anja chief in Chikwawa District, used "*nkhondo ya mtumbira*" to secure protection from colonial government by supporting its policy stance and implementation. Mandala further expounds how, through the support from the Chief Mollen Tengani, the colonial government was able to aggressively enforce the practice of making box ridges (*mitumbira*) for a long time. Similarly, Kalinga (1996) show how local chiefs Ntondeza and Chitera of the Thyolo district were attacked by his own subjects in 1953 for supporting Federation of Rhodesia and Nyasaland against the popular demand for independence. While highlighting significant cases of division among local communities, this observation needs to be taken with caution as local chiefs in Malawi display multiple identities. For instance, P.M. Lewis, a British Administrator of Port Herald from 1947 to 1953, who married a local woman from the area, noted the "discrepancy between the actual and legal responses of native authorities to *mitumbira* and other agricultural rules" (Mandala, 1990: 229). Commenting on the unsuccessful implementation of agriculture rules among the subsistence farmers, P.M. Lewis argued that:

"Years of this propaganda have broken down the African's expressed hostility to more enlightened methods, but this has merely been replaced by invidious lip service which no more raises the hope than did the old hostility. The greatest exponents of this lip service are the chiefs themselves who at meetings give almost enthusiastic response to new ideas but later fail miserably to produce one example of work accomplished" (Mandala, 1990: 230)

The above examples suggest that relations between the state, local chiefs and local communities during colonial Malawi were complex. It particularly suggests that certain state policies did not only divide different groups of people in a community but were also enforced against the interests of the majority. While the above incidents occurred under a dictatorial form of government, they suggest that there is need to unpack how the state can use community

leaders, such as local chiefs, to implement policies that are fundamentally against the majority of the population (see Mamdani, 1996; Mandala, 1990; Kalinga, 1996). In this study, the above examples particularly entail unpacking how the state's use of local chiefs as negotiating agents in coal mining projects in contemporary Malawi can not only disfranchise local chiefs from their subjects, but also impose the mining projects on the local communities.

As will be highlighted in Chapter 5, the institution of local chiefs and the legislation enacted around it since colonial rule have had significant impact on the extent to which NGOs could shape the processes surrounding the review of the 1981 MMA. For instance, the Chiefs Act of 1967, is still in force, weakened NGOs' argument that local chiefs cannot act as representative of the local communities in community consultations over mining. This is so as the 1967 Chiefs Act, almost wholly adopted from colonial government, recognises a tier of Paramount Chief, Chief, Sub-Chief, Group Village Headman and Village Headman as the supreme authorities in local community administration and policymaking. While the 1998 Local Government Act introduced elected Councillors as principal policymaking agents at a local level, multiple political factors including absence of elected Councillors<sup>16</sup> and politician preference for local chiefs have resulted in Paramount Chiefs and Sub-Chiefs<sup>17</sup> in the country maintaining local governance functions (Englund, 2002; Tambulasi, 2011). The cases of chiefs Mollen Tengani, Ntondeza and Chitera also suggest that while co-dependency may support the development of collaborative relations between the state and local chiefs, it disenfranchises local chiefs from their subjects.

The contemporary relevance of colonial state-society relations to this study will be discussed further in chapters 5 and 6. While 1990s political changes from dictatorship to democracy was expected to transform the governance roles for non-state actors, state-society relations are still imbued with contradictions as past institutional and legal provisions guiding these relations co-exist with democratic institutions<sup>18</sup>. For instance, though legal provisions require local chiefs

---

<sup>16</sup> Malawi stayed for 9 years without Local Councillors. The mandate of local councillors ended in March 2005 and were elected on 20 May 2014 (see Tambulasi, 2011)

<sup>17</sup> Paramount Chief and Sub-chief are ex-official members of the Local Assembly

<sup>18</sup> According to the Chiefs Act, 1967 Chapter 2203, local chiefs are supposed to serve government of the day. The President has powers to remove a chief if s/he thinks he is not behaving according to the required law and that he is not commanding support from the majority of her/his subjects

to support government of the day, they do not automatically transform them into genuine supporters of the incumbent government. Thus, though local chiefs' conjured support may uphold government policies (see Mandala, 1990), chiefs find themselves entangled if policy stances glaringly conflicts the interests of the state and those of the people in their jurisdiction.

Equally important, Baker (2001: 89) also challenges the conventional narrative that depicts nationalists leadership in Nyasaland as a united entity who "under the leadership of the Prime Minister (Dr Hastings Kamuzu Banda) .... the unity of the country is beyond challenge" (see also Mhone, 1992). Baker (2001: 91) specifically documents how

"Banda was dissatisfied with the opposition from some of his ministers, particularly Bwanausi and Cameron, towards major companies whose investment he saw as vital to the country's economic future" (see also Kayuni & Tambulasi, 2010).

Malawi's Cabinet Crisis of 1964<sup>19</sup> was also triggered by deep divisions between Dr Hastings Banda and six of his cabinet ministers. The divisions centred on the Prime Minister's preferential treatment given to European expatriates and the continuation of colonial administrative practices after independence. One of the critical subjects that finally led to the crisis and fall out of the six cabinet ministers with Dr Banda was the continuation of the colonial government's agreement with Witwatersrand Native Labour Association (WENELA). Under this agreement, about 30,000 Malawians were recruited each year to work in the mines of South Africa in return for an annual grant of £120,000 to government (Baker, 2001). While some of the cabinet ministers saw it as a source of employment for the rural men faced with extremely limited employment opportunities, others resented formalizing this agreement due to apartheid laws in South Africa. Again, while migrant labour to the mines was strongly supported by rural men who lacked employment opportunities, it was not supported by rural women who expressed worry over the long period their husbands stayed away from them (Banda, 2018).

The history of mass protest movements during colonial Malawi suggests that the state responded differently to the demands of different groups of people. While some scholars have

---

<sup>19</sup> Malawi's historical Cabinet Crisis occurred in 1964, just within three months of Malawi becoming independent. Six Cabinet Minister (Kanyama Chiume, Orton Chilwa, Yatuta Chisiza, Colin Cameron, Willie Chokani, Dr. Harry Bwanausi) collided with the Dr Hasting Banda because they were opposed to a set of Dr Banda's foreign and local policies, including with Apartheid South Africa and continuation of mining labour supply to South Africa (see Baker, 2001).

documented incidences where the colonial government used violent force to enforce some agricultural and environmental policies (Mandala, 1990; Kalinga, 1996), others have highlighted how the colonial state accommodated the demands of some groups of people (see Chipeta, 1992). For instance, following a wave of nationalists protests and calls for greater participation in policymaking processes, the colonial government selectively registered and granted formal licences to some associations to operate in the country. The Trade Union Legislation Act of 1949 and 1951 particularly granted licenses to the following unions: Transport and Allied Workers Union, Commercial and General Workers Union, Railway Union, Local Government Union, Construction and Building Workers Union, Hotelier and Carters Workers Union, National Agriculture and Plantation Workers Union, Malawi Council of Labour and Nyasaland Trade Union Congress (Chipeta, 1992).

Notwithstanding the fact that the central issues that triggered civil protests in the country during this period were centred on labour and agriculture policies that predominantly affected smallholder farmers (Mhone, 1992; Mandala, 1990), the colonial government granted licenses to associations and unions that predominantly focused on issues of the educated urban working class. Ironically, during the same period the colonial government promulgated laws that profoundly suppressed the social, economic and political voice and rights of smallholder farmers. For instance, colonial government enacted environmental legislations that did not only subject subsistence farmers to strict scientific farming techniques, but also disempowered them of any choice in their preferred farming methods. Some of these legislations include Natural Resources Ordinance in 1946 and in 1951 and the Land Use and Protection Ordinance of 1962, which were coercively enforced on smallholder subsistence farmers. This differential treatment ensued largely because government misdiagnosed the cause of soil erosion by placing it squarely on peasant farmers' farming practices (Mulwafu, 2011; Mandala, 1990). The observations above suggest how different groups of people during colonial period bargained with the state and the extent to which the state granted the demands of one group of people and not others.

The examples presented in the foregoing section also suggest that though rural communities and their leaders from the welfare native associations and nationalist movements pursued broader empowerment agenda, they also pursued varied interests. That educated native association in the 1950/60s managed to capture grassroot protests to achieve their objective of

securing Malawi's independence demonstrates the entrepreneurial strategies of the former in advancing their interests within the popular protests (see Shivji, 2006). For instance, Kalinga (1996) showed how educated elites during the fight for independence steered a massive wave of community protests against colonial government by articulating technical arguments against agricultural and labour laws (see also Mandala, 1990; Mhone, 1992; Lwanda & Chanika, 2017).

The relevancy of the colonial period relations between the state, grassroot associations and local communities to this study relates to how a coalescence of interests and power dynamics established a particular form of governing natural resources. These early state-society relations in natural resource utilisation and management have overtime dictated the processes of governmentality and thus impacted on contemporary processes within which the 1981 Act was reviewed. As will be discussed in Chapters 5 and 6, the contestations over the review of the 1981 MMA did not only billow from contemporary struggles of mineral resources exploitation and control but was mediated by historical system of hegemonic expertise domination and control. I return to this theme further in chapters five and six.

#### **4.2. Grassroot Movements, NGOs and the State During One-Party Dictatorial Rule**

The widespread expectation was that Malawi's attainment of independence in 1964 would be a critical juncture that would open political spaces for public participation in political decision-making processes. However, the events soon after independence revealed that this expectation was fast becoming a myth. Instead, the state continued with the colonial coercive practices and heavily controlled spaces for state-society interaction (Mhone, 1992). The promulgation of politically sensitive laws soon after independence, such as Detention without Trial, limited people's freedom of association outside the ruling MCP (Baker, 2001). This situation greatly weakened the momentum for grassroots' activism. After the 1964 cabinet crisis, government banned all forms of groupings that championed objectives which were in conflict with those of the ruling MCP (Chipeta, 1992).

The post-colonial period, therefore, did not only sustain how the state interfaced with the society, but also censored the kind of NGOs' that were granted license to operate. The state only allowed NGOs that were affiliated to the MCP or were strictly concerned with social service delivery, welfare improvement and economic empowerment. Inter alia, these included MCP aligned Chitukuko Cha Amayi m'Malawi (CCAM), Christian Health Association of



Malawi (CHAM), Red Cross, Christian Service Committee (CSC), Christian Aid, Oxfam, and some Christian association such as Catholics Legio Maria and Presbytery Umanyano (McCracken, 1986; Mhone, 1992). All associations and NGOs pursuing political empowerment objectives and trade unions were abolished or greatly suppressed. For instance, the state repealed all laws guiding unionism and civil associations and replaced them with Malawi Young Pioneer (MYP) programmes, a centrally controlled MCP paramilitary wing (Lwanda & Chanika, 2017). A year after Malawi attained its independence, the MCP government specifically passed the Trade Union Legislation and Trade Dispute Settlement Act, 1965 (amended in 1968) making it mandatory for all trade unions seeking registration to be affiliated with the ruling party (Mhone, 1992). Key unionists that led the nationalist movements on the road to independence such as John Ngwiri, Nyemba Mbekeani, John Phoya and Joe Kachingwe were co-opted into the party's senior government positions (Chipeta, 1992). The importance of post-colonial politics is how state's control of civil associations and framing of civil society actions in relation to national economic development is reproduced in contemporary environmental justice struggles. The following section expounds on this point.

The history of post-colonial Malawi suggests that the interests of nationalist elites and subsistence farmers radically diverged after Malawi became independent. While it was the question of land use and environmental management that the nationalist leaders galvanise to mobilise rural communities support for the independent struggles, independent government's policy focus fundamentally perpetuated colonial land and environmental policies. For instance, Kanyongolo (2008) shows how political rhetoric for securing rural smallholder farmers' land rights and local farming practices were not only discarded, but explicitly removed from the policy agenda as soon as the country got its independence (see also Mkandawire, 1992). Chingaipe Ng'oma (2010) also demonstrates how, despite the state earlier attack on labour tenancy system, the government failed to discontinue tenancy system in tobacco estates because the industry was not only dominated by political elites, but also brought considerable government revenue (McCracken, 1982). In 1967 and 1972 the state particularly promulgated the Land Act and Land Acquisition Act respectively that orchestrated appropriation of customary land by the rich elites with strong connections to the ruling clique<sup>20</sup> (Kanyongolo, 2008; Chinsinga, 2011; Chinsinga et al. 2013). For instance, between 1979 and 1989 the

---

<sup>20</sup> The 1967 Land Act allowed one-way transferability of land i.e., from customary land to private leasehold land

number of privately-owned farm estates increased to 1,467 from about 1,200 (Chinsinga, 2011a). The World Bank (2006) noted that transfer of customary land to private sector resulted in the country experiencing a highly skewed land distribution where 1.8 to 2 million smallholder farmers cultivated on average less than 1ha of land by early 2000s (see also Chinsinga et al. 2013; Zuka, 2019).

Since independence, the economy of Malawi has predominantly been agro-based with agriculture, forestry, mining and fishing contributing over 40% to the country GDP (Kydd & Christiansen, 1982; Chinsinga, 2002). The high contribution of land-based resources to Malawi's economy for revenue forced the government to pursue policies designed for generating revenue. For instance, the broader agricultural policy objective during post-colonial Malawi focused "on a general rise in agricultural productivity to be achieved ... quickly and effectively by the most economical means" GoM (1971: 56). To this end, the state saw "the continual extension of subsistence cultivation onto new land or land formerly under subsistence cropping as prejudicial to the broad development strategy of rapid and sustained increase in agricultural exports" (GoM, 1971: 57). The economic policy of Malawi's first Prime Minister, Dr. Hastings Kamuzu Banda, predominantly focused on estate agriculture as the engine for economic growth and "the majority of those who engaged in estate agriculture were high-ranking party functionaries, senior civil servants, chiefs and high ranking industrial and parastatal employees" (Chinsinga, 2002: 25). President Kamuzu Banda clearly spelt this policy goal in his 1966 Parliamentary Address.

"Under our present system of land holding and land cultivation, no one, either as an institution or as an individual, will lend money for developing our land because our methods of land holding, and cultivation are uneconomic and wasteful. They put responsibility on none. No one is responsible here because no one holds land as an individual. Land is held in common. They say everybody's baby is nobody's baby at all. We have to put a stop to this..." (Hansard, Proceedings of the Malawi Parliament, 4<sup>th</sup> Session, 1966-67, 403)

The President's stand on how customary land should be administered not only established an unquestionable policy stance on the supremacy of private property rights arrangement, but principally institutionalised mechanisms of coercion between the state and local communities.

During this period, the state promoted *Achikumbe*<sup>21</sup> farmers, a group of economically better off rural smallholder farmers, who were granted private land ownership to grow cash crops and were required to follow western scientific methods of farming. In line with the 1963 Special Crops Act<sup>22</sup>, *Achikumbe* farmers constituted smallholders who grew cash crops on a large scale (Comstock et al. 2019). The essence of the agricultural policy was that a “quicker result in the increase of agricultural production most probably can be reached through improving cultivation techniques” (Dequin, 1970: 41). Kerr (2014) particularly highlights how a combination of capitalist’ policies and intersectionality of gender subjectivities during one party rule in Malawi promoted western scientific knowledge at the expense of indigenous knowledge.

The above observations highlight how the state’s interests of generating revenue from natural resources structured relations between the state and local communities, and within the local communities. These relations, however, fundamentally maintained existing power hegemonies. For instance, Dequin (1970: 94-95) documented that “Malawi, to date, has not undertaken any measure in the direction of changing the white man’s position in Malawi. This is entirely due to the political strategy of one: H.E. Dr. Hasting Kamuzu Banda. ... One must keep in mind that the whole tea industry is in the hands of the Europeans controlled mostly by British Companies”. I particularly return to this question in Chapter 6 which will highlight how existing and new legislations have maintained various features of state dominion and control over marginalised groups of people such as rural subsistence farmers.

The foregoing narration suggests that demands of rural smallholder farmers were ignored because policy in post-independent Malawi was not only under the control of an extremely powerful President, but also served the interests of the ruling elites. According to Baker (2001: 39), during one party era Dr Hastings Kamuzu Banda was “personally and solely responsible for MCP policy and the policy to be adopted by the elected ministers in government”. While there might have been some political leaders dedicated to the cause of smallholder farmers, the political context at that time could not allow them to voice an opposing view. A good case in point is how unionists changed their goal at a time of independence from championing the interests of workers to promoting MCP-affiliated party youth leagues (Chipeta, 1992). This

---

<sup>21</sup> These were progressive rural farmers who were acted as lead farmers in the rural areas (see Prowse, 2013)

<sup>22</sup> The Special Crops Act was promulgated in 1963 when the country was still under colonial rule but on the road to full independence in 1964.

was so because the 1968 Trade Union Legislation and Trade Dispute Settlement Act could not allow them to pursue the objective of improving labour conditions. Even though this was experienced under dictatorial regimes, the pattern of the policy processes has parallels to those experienced during the review of the 1981 MMA under democratic government. As will be explained later in chapter 6, NGOs' relations with the state and international donors resulted into a shift in the way strategies for addressing the environmental harm facing the local communities were framed. This observation suggests that there is need to unpack how the interaction between policymaking agents determine the way strategies for managing the environment become framed.

There is also considerable evidence to suggest that institutional configuration put in place during Malawi's colonial and post-colonial period has had path dependencies to current public policy trajectories. The capitalist philosophy that guided the promulgation of the Natural Resources Ordinance of 1946 (amended 1951) and the Land Use and Protection Ordinance of 1962 have shaped the way statutes on natural resources management in Malawi have been framed. For instance, the 1967 Land Act applied the same land use management perspectives of the Natural Resources Ordinance by specifically giving more weight to the observance and protection of private property rights over those of customary land users (Mulwafu, 2011). According to the 1967 Land Act, all customary land was vested in the President and customary land users only enjoyed land usufruct but not ownership rights. While government promulgated a new Customary Land Act in 2016 to give customary land users private ownership, this move was driven by conflicting objectives. Existing studies observe that the main motivation of the GoM in enacting the 2016 Land Act and Customary Land Act was to promote land market by addressing land market challenges arising from customary land ownership. The muted view is that rural smallholder farmers were just placated that private land ownership would improve their land tenure security (see Chinsinga et al., 2013; Zuka, 2019). For instance, the 2016 Customary Land Act designated all uncultivated customary land as state land based on the premise that unoccupied land was not utilised by the smallholder farmers. The above observation points to the way private property right rationalities provided the lens through which ownership of occupied customary land was perceived.

The Customary Land Act stipulation that unoccupied lands belong to no-one and therefore allocated to the state do not only belie how customary land is utilised, but principally give credence to capitalist mode of production. This perspective fails to recognise that customary

forests lands without habitation are significant sources of livelihoods for subsistence smallholder farmers. Forests land provide local groups of people with fodder for domesticated animals, traditional medicine and materials for constructing houses and farm structures (see Mandala, 1990; Mulwafu, 2011). As will be highlighted in Chapter 5, the definition of unoccupied land in 2016 Customary Land Act also complicated the processes of community consultations on mining projects which were established on unoccupied land, as is usually the case. Equally important, through a series of bitter negotiations between the state and local chiefs<sup>23</sup>, the 2016 Customary Land Act reproduced existing power structures in the administration of customary land. The 2016 Customary Land Act has particularly bestowed administration of Customary Land Committees (CLC) and Customary Land Tribunal (CLT) to Group Village Headman and Traditional Authority respectively (Zuka, 2019). One of the NGOs included in this study, CEPA, was actively involved in the process of reviewing the 2016 Customary Land Act and is implementing a project on piloting registration of customary land estates on collaboration with Landnet, Oxfam and Ministry of Lands<sup>24</sup>.

The discussion above, therefore, suggests that while independence entailed redressing social, economic and political injustices experienced by a large proportion of the populace, the emancipatory agenda in the country was anchored in existing institutions that were rooted in evolving patterns of power dynamics (see Mhone, 1992; Lwanda & Chanika, 2017). As will be demonstrated in the next section, elite capture of the popular struggles during the colonial and post-colonial periods provides insights for understanding how the NGOs' task of promoting the interests of local communities played out during the review of 2018 MMA. Thus, there is need to unpack how current framing of mineral resources utilisation and

---

<sup>23</sup> Due to stiff opposition from the local chiefs and women activists against the Customary Land Act, the President refused to sign until the issues that they raised were addressed. The Customary Land Bill was taken back to Parliament and amended to include the demands of local chiefs and women activists. See Nyasa Times of November 30, 2016, Wandale, Chiefs petition Malawi Parliament on Customary Land Bill <https://www.nyasatimes.com/wandale-chiefs-petition-malawi-parliament-customary-land-bill/> accessed on 20<sup>th</sup> June, 2019; Kambewa et al., n.d.

<sup>24</sup> See CEPA (2019) Strengthening Land Governance Systems for Smallholder Farmers in Malawi accessed from <https://cepa.rmportal.net/programmes/natural-resources/strengthening-the-land-governance-system-for-smallholder-farmers-in-malawi> on 20<sup>th</sup> December, 2019; GoM (2020), New Land Pilot Sites accessed from <https://www.lands.gov.mw/index.php/land-reforms/land-laws-pilot-sites.html> on 21/06/2020.

environmental management have been sustained by past hegemonies and specific institutions that were established at a particular point in Malawi's history (see Kashwan, 2017).

#### **4.3. NGOs Work in Democratic Malawi: Contradictions and Bifurcation**

The growth of NGOs' during democratic Malawi was driven by two main related factors namely: the easing of restrictions on freedom of speech and association, and the withdrawal of the state from providing key social services. The latter factor mainly ensued from International Monetary Fund (IMF) guided austerity measures since the 1980s (Simukonda, 1992; Englund, 2002). It is worthwhile highlighting one noticeable shift in state-society relations which is central to unpacking how NGOs interfaced with the state and local communities during the review of the 1981 MMA. This shift relates to how the advent of multiparty government in 1993/94 restructured relations between the state, local communities and NGOs. While freedom of speech and association supported the emergence of NGOs working on political empowerment, post structural adjustment economic policies and the corresponding withdrawal of the state from providing local public services created a space which service delivery NGOs occupied (Chipeta, 1992; Makuwira, 2011; Lwanda & Chanika, 2017).

However, the economic rationalities that guided the political transition and their corresponding institutional configuration have had a significant effect on how struggles against environment degradation were resolved. Furthermore, the legislations that were promulgation during colonial, post-colonial and multiparty period limited the way the NGOs could frame solutions to the environmental harm that the people surrounding the mining sites experienced. To begin with, the Republican Constitution enshrined free market as a basis for organising the country's economy<sup>25</sup> (see Chinsinga, 2002; Chingaipe Ng'oma, 2010). Through a series of legislative intervention aimed at ending excessive abuses experienced under one-party dictatorial rule, the country's economy was liberalised. The World Bank and IMF particularly sponsored Public Enterprises (Privatisation) Act of 1996, later amended to Public-Private Partnership Act, 2011 which was to divestiture about one hundred public enterprises (Chingaipe Ng'oma, 2010). As

---

<sup>25</sup> Section 28 stipulates that (1). Every person shall be able to acquire property alone or in association with others.  
(2). No person shall be arbitrarily deprived of property

Section 29 stipulates that "Every person shall have the right to freely engage in economic activity, to work and to pursue a livelihood anywhere in Malawi".

will be highlighted in Chapter 6, the neoliberal economic rationalities adopted at the advent of multiparty democracy shaped how NGOs interfaced with the state on one hand and local communities on the other. Equally important, neoliberal rationalities also restricted the demands that private mining companies could be forced to take and how they were to be provided.

It is worthwhile highlighting at this point that a cross section of NGOs supported this policy shift based on the aspirations of political and economic freedom. However, it is within these economic rationalities that current challenges facing a multitude of land-dependent smallholder farmers ensued. Liberalisation of economic policies favoured the business sector but not poor rural smallholder farmers. For instance, Chinsinga (2002) documents how the removal of fertiliser subsidy after the adoption of multiparty government negatively affected the capacity of smallholder farmers to produce their food crops (see also Anders, 2009). Nonetheless, liberalisation policies continued to enjoy support from a larger proportion of NGOs because NGOs doubted the ability of the state to manage the economy without suppressing economic rights of political opponents (see Chingaipe Ng'oma, 2010). This policy stance was further enforced by the fact that almost all NGOs were funded by international donors that were implicitly sympathetic to the neoliberal economic policies (see Gabay, 2011).

While creating a space for the work of NGOs, advent of multiparty democracy shifted relations of control and coercion that existed between the state and local communities to that between NGOs and local communities. The new form of relations between NGOs and local communities particularly involved NGOs facilitating society acceptance of capitalistic form of governing the economy (see (Mkandawire, 2010). Thus, unlike the dictatorial era when power was concentrated in a centralised state and coercion was by force (See Chingaipe Ng'oma, 2010; Englund, 2002), the advent of multiparty democracy dispersed power among the state, non-state actors and local communities. However, instead of coercion that was employed in colonial and post-colonial period, the relations between NGOs and local communities were characterised by persuasion. While the forms of rural smallholder farmers' subjugation to preferred development strategies changed from coercion to persuasion, the central struggles over the path to economic development remained. As will be highlighted in the chapter 6, extreme poverty levels prevailing in areas where mining was taking place meant that a large group of poor members of the local communities had more incentive to accept perceived

economic opportunities that accompany mining such as jobs, market opportunities and benefits associated with CSR. It is within this policy context that the NGOs presented themselves as agents working at shaping the 1981 MMA around the interests of local communities. Principally, this entailed negotiating with the state and other policy-making agents with a view of influencing their policy stance.

The ultimate objective of the state is to sustain its political legitimacy while NGOs pursue different interests such as promoting political empowerment of the marginalised, environmental conservation, providing social services, and the implicit interests of organisational survival and careerism or a combination of these. By championing political empowerment, NGOs' activities directly clash with the political objectives of the state and thus threaten the legitimacy and survival of the incumbent political leadership (Makuwira, 2011; Chinsinga, 2007). NGOs in Malawi, however, require the endorsement from the Executive part of government in terms of getting licensed to operate in a specific ministry or department as per the 2001 CONGOMA Act<sup>26</sup> (Lwanda & Chanika, 2017). NGOs also need the state in order to participate in projects that are co-funded or implemented by the state. As will be highlighted in chapter 6, the overt risk that ensued from these relations bifurcated NGOs into an advocacy entity challenging the state on one hand and on the other taking a management seat with the state and private mining companies on mining governance. I return to this theme in chapter 7 where I discuss how the accommodative relations that different NGOs established with the state, characterised by open dissent and hidden consent, resulted in divided royalties amidst NGOs' co-optation into the structures of the state and international donors.

As was the case during colonial period, the growth of NGOs' activities during democratic Malawi is rooted in the activities of popular mass protests for increased enjoyment of social, political and economic rights. The repressive practices perpetrated by the MCP government generated high levels of social resentment against the state. The promulgation of the 1995 Republican Constitution, highly fashioned by inputs from political and human rights lawyers and activists, marked the genesis of active NGOs' participation in the formulation of government policies (Mhone, 1992; Englund, 2002; Lwanda & Chanika, 2017). Some of the notable CSOs/NGOs established during and after this historic critical juncture included Public

---

<sup>26</sup> CONGOMA Act, 2001 requires that each NGO be affiliated to a particular government ministry



Affairs Committee (PAC) formed in 1993, Civil Liberties Committee (CILIC) in 1994, Centre for Human Rights and Rehabilitation (CHRR) in 1995 (Makuwira, 2011). Theoretically, the emergence of NGOs engaged in political empowerment symbolised a new beginning in the way NGOs interfaced with local communities and potentially pitched NGOs against the state. According to Keane (2010), by championing the political interests of local communities which mostly diverge from the state interests, NGO activities are potentially conflictual to the objectives of the state. In Malawi for instance, the promulgation of Council for Non-Governmental Organisations (CONGOMA) Act in 2001 is largely perceived by some NGOs as an attempt by the state to control their activities (Kadzamira & Kunje, 2002, Booth, 2006).

While the official version for the enactment of the CONGOMA Act was to bring order into voluntary sector, the muted view is that the main aim of the state was to minimise opposition to the ruling party activities (Lwanda & Chanika, 2017). CSOs in Malawi have managed to use their network at different point in time to resist the policies and actions of the state. For instance, under the umbrella of Public Affairs Committee, CSOs massively contributed to end Dr. Hastings Banda over 30 years' dictatorial rule in 1993/94. In 1999, CSOs and NGOs thwarted President Bakili Muluzi's third term bid. Even after the 2001 CONGOMA Act was enacted, CSOs working in political empowerment have often taken the state to task over several political governance issues. For instance, on 20 July 2011 CSOs led massive demonstrations against President Bingu Wa Muthalika's government that ended up in 19 people being shot dead by riot police (Lwanda & Chanika, 2017; Makuwira, 2011). In 2019/20, Human Rights Defenders Coalition conducted several national demonstrations against the state over the way the 2019 Presidential election was conducted<sup>27</sup>. In a court battle that followed between the opposition parties on one hand and Malawi Election Commission and ruling party on the other, the Presidential election result was nullified by both the High Court and Supreme Courts. The court-sanctioned fresh election that followed was won by a coalition of the opposition parties<sup>28</sup>. It is within this political context that the ruling parties have more often proposed reforms to the CONGOMA Act to legally tie the work of NGOs to a controlling government ministry in order to monitor their activities.

---

<sup>27</sup> Andrew Nyondo, The Nation, June 8, 2020, HRDC demos this week

<sup>28</sup> Will Ross, Malawi opposition wins historic poll rerun, June 27, 2020

Notwithstanding the particular times when NGOs in Malawi have worked together to resist the actions of the Executive, NGOs' competition for donor funding have weakened their combined agency (Lwanda & Chanika, 2017; Gabay, 2014). Institutionally, some of the NGOs are not members of CONGOMA arguing there is no a legal requirement for them to do so after being registered with the Office of the Registrar (Masina, 2018). The above discussion suggest that the role of NGOs and nature of NGO-state relations is a function of varying and shifting context-specific political and ideological forces. For instance, while there are pockets of successful NGOs' resistance to the actions of the Executive in Malawi, in Brazil President Luiz Lula da Silva used progressive social movements to consolidate state control over policy issues (Aico Sipriano Nogueira, 2017). As will highlighted in chapter 7, the working relations between the NGOs, the state and different groups of people in communities have been characterised by a tendency to seek self-interests, synergies and accommodations aimed at augmenting those interests (Chinsinga, 2007; Gabay, 2014). Anderson (2017: 915), particularly documents how NGOs in Malawi shift their focus "when development trends and issues in the country change, at donors' wishes, organizations proactively strategize to vie for donor funds". Anderson shows how some NGOs repositioned from implementing HIV/AIDS related projects to climate change after noting that the latter was becoming a predominant global issue among donors. This therefore demonstrates how the agenda that local NGOs in Malawi pursue influenced by global policy agenda and scaled down to specific development interventions.

The changing relations between the NGOs and different groups of people in communities is another area of interest in this study. Generally, the public image of NGOs' work in Malawi is riddled with celebrations, suspicion, and mistrust. While the work of NGOs in the country has been associated with championing the interests of marginalised populations, this perspective has been dented by reports of the NGOs' personalised decision-making tendencies and abuse of institutional financial and material resources for personal benefit (see Lwanda & Chanika, 2017). According to Chinsinga (2007: 92), "the self-seeking culture among NGOs borders on conflicts and struggles over influence, control and accountability". The NGO sector is particularly rampant of reports of misuse and embezzlement of institutional resources by NGO staff (Sandbrook, 2012; Chinsinga, 2007). It is because of these vices that the public views NGOs as entities harbouring vested interested of their founders and directors. According to Nyasulu (2007: 39-40), NGOs "claim to be voices of the voiceless. The truth, however, is that they speak for their own interests". While there are evident historical points when NGOs have

played critical political empowerment roles, there is instantaneously growing public opinion that NGOs harbour their own interests and placate local communities that they are representing their interests (see Anderson, 2017; Simukonda, 1992). What the foregoing discussion suggests is that the question of NGOs challenging the state and acting as a voice for the marginalised people is not given, but a contingent and empirical one. These observations, therefore, entail that understanding the research questions under this study requires unpacking not only the political and economic forces that explain their emergence but also factors that have shaped NGOs' interest overtime. In this way, this study contributes to the scholarly debate about the place of NGOs on democratic empowerment agenda. The case of NGOs in Malawi, as will be discussed in chapter 6 and 7, demonstrates how NGOs' moral and instrumental interests are intertwined and pursued at the same time.

Notwithstanding the unquestionable significance of 1994/5 political transition in the growth of NGOs sector in Malawi (Simukonda, 1992; Makuwira, 2011; Booth, 2006), the interests of NGOs have constantly been shaped by and entangled with the fluid economic conditions that the country has experienced over time (Anders, 2010; Anderson, 2017). This is particularly so as the adoption of multiparty government dovetailed major economic policy shift in the country's history. In particular, government adopted a series of World Bank and IMF backed neoliberal stabilisation and Structural Adjustment Programmes (SAPs) since the early 1980s in order to redress economic crises that the country faced (Mhone, 1992; Chinsinga, 2002). Inter alia, these policies included deregulation of the economy, establishment of open market reforms, privatisation of state-owned enterprises and reform of the public service. In the civil service, government austerity measures were aimed at reducing government wage bill through employee retrenchment, halting salary increase and new recruitments and achieving human resource efficiency (Anderson, 2017; Anders, 2010; Booth, 2006). However, the performance of SAPs had not only been unsatisfactory, but also tremendously weakened state financial and human resource capacity to provide social services to its citizens. For instance, between 1987 and 1996 government expenditure shrunk from 36% to 29% of the GDP consequently bringing deep social burden on the vulnerable groups of people (Chinsinga, 2002; Anders, 2010). NGOs occupied the space left by the state in activities such as health services delivery and natural resources management. In this way, NGOs have institutionally been brought closer to the local people. Thus, NGOs see themselves as better placed to represent the voices of local

communities because they have established local presence in areas where government cannot reach (Simukonda, 1992).

The above discussion suggests that economic conditions existing in Malawi at the dawn of multiparty democracy had a significant impact in defining how NGOs interfaced with the state and local communities. The economic conditions during the era of democratic Malawi closed-down opportunities through which the emerging middle class could meet their material needs. This was problematic as the impetus for multiparty democracy in Malawi was not only about political rights, but also about opening-up economic opportunities and mobility routes for a growing middle-class population. With government implementing donor-driven austerity measures that halted new recruitment, working for NGOs was not fundamentally based on pursuing a specific ideology, but a career opportunity (Lwanda & Chanika, 2017; Anders, 2010). The analysis above point to how economic conditions and their neoliberal economic solutions reconfigured NGOs' objectives, practice, and their relations to local communities. Within this process, rationalities of the donor community such as World Bank, European Union (EU) and other supranational organisations have been critical in shaping the objectives of local NGOs (Englund, 2002; Mulwafu, 2011). This is expected as NGOs in democratic Malawi have flourished with funding from international donors.

As will be highlighted in chapter 6 for instance, most NGOs under this study are funded by international funding agencies such as EU, Norwegian Church Aid, OSISA, DANIDA (Lwanda & Chanika, 2017). A considerable amount of literature exists that argue that external sources of funding make NGOs in the country to predominantly pursue the interests of their financiers and not necessarily those of the local communities they claim to represent (Gabay, 2011; Mercer & Green, 2013; Kasfir, 1998). The above narration supports the growing scholarly stance that the presence and growth of NGOs does not represent the transfer of power from the state to non-state actors, but may extend state and corporate influence (Gabay, 2011; Brockington & Scholfield, 2010).

#### **4.4. NGOs and the Politics of Environmental Conservation in Democratic Malawi**

This section explores the place of NGOs on the politics of environmental conservation in Democratic Malawi. It highlights how NGOs have interfaced with the state and local communities in the processes of managing natural resources. The section does not only highlight the contestation that NGOs brought to environmental policymaking, but also

challenges the trust that NGOs can bring about grassroots empowerment. In relation to this study in particular, the aim is to understand the interests that NGOs pursued in championing for the review of the 1981 MMA. This history provides insights for understanding the policy space that was open to NGOs to shape the 1981 MMA towards the interests of the people living in the mining areas. This is important because the role of NGOs in environmental conservation in Malawi is not new. It can be dated to as far as the colonial period which witnessed the establishment of Nyasaland Fauna Preservation Society in 1947, currently Wildlife and Environment Society of Malawi (Morris, 1996).

The NGOs' environmental agenda during the colonial and post-colonial period, however, epitomises a romantic, conservationist environmentalism concerned with protection of a supposedly pristine environment from human interference (Neumann, 2001; Morris, 2016). Environmental management practices during these periods were typically top-down technocratic dictates aimed at preserving natural resources without much regard to the livelihoods of the local communities (Mulwafu, 2011; Kalipeni & Feder, 1999). For instance, the Natural Resources Ordinance of 1946, Natural Resources Rules of 1951 and Land Act of 1972 designed by government technocrats fundamentally blamed local communities for environmental degradation. In the specific cases of forests and wildlife conservation, the main objective of protecting the environment was preservation of pristine environment for the enjoyment of white settlers, tourists and educated local elites. Most local communities on the other hand suffered displacement as their land was grabbed in the process of creating national parks, forests and game reserves (Mulwafu, 2011; Morris, 2016). In the agriculture sector, local communities were forced to follow scientific-based methods of farming (Mandala, 1990; Dequin, 1970). Despite the implementation of these policy statutes, environmental problems in the country worsened and by late 1980s the rate of deforestation reached as high as 3.5% per annum (Kalipeni & Feder, 1999).

The above discussion suggests that the focus of environmental conservation during colonial and post-colonial Malawi did not only focus on the interests of the state and its business elites, but also justified the use of coercive conservation strategies (Mulwafu, 2011; see also Bryant, 2009). Notwithstanding considerable literature that depicts the colonial and post-colonial state as bent on capital accumulation and profit from utilisation of natural resources, Morris (2016) warns against viewing all groups within local communities as living harmoniously with nature. Morris showed how capitalist economy was warmly welcome by some local elites and how

local chiefs in the country engaged in ivory trade. This situation requires understanding the social, economic and political context within which natural resources utilisation in Malawi is embedded.

The political transition from one party-rule to multiparty politics presented an opportunity to rethink environmental issues facing the country in respect to the interests of subsistence farmers. Mulwafu (2011: 3) argues that “*the conservation tempo re-emerged in the 1990s as a result of democratisation movement*”. The emergence of new generation of democratic activists shifted the focus from emphasis on conservation to how corporate activities affect marginalised communities. According to Kalipeni & Feder (1999: 37), there was a recognition that environmental conservation in the country failed because top-down approaches “*disempowered Malawi’s people and allowed environment to degrade*”. Mulwafu (2011) specifically argued that local communities passively opposed conservation interventions and resisted their subjection to new conservation strategies (see also Lwanda & Chanika, 2017; Mandala, 1990). The post-autocratic era environmental conservation agenda represents populist movements seeking redress from environmental injustices perceived to be perpetuated by state and business interests.

Malawi is one of the countries in Africa that is experiencing high natural resource degradation from human and industrial development activities, with a total cost estimated at 5.3% of GDP in 2010 (GoM, 2011). For instance, between 1990 and 2008, Malawi registered a reduction in terrestrial land forest cover from 41% to 35% due to the combined effect of climate change, increased human activity and unsustainable land-use (GoM, 2011). Thus, an increasing number of development NGOs<sup>29</sup> in the country have a component of environmental management in their programmes. Inter alia, these include CURE<sup>30</sup>, Catholic Development Commission (CADECOM)<sup>31</sup>, CEPA, Livingstonia Church and Society. Unlike the colonial and post-

---

<sup>29</sup> There is currently a shrinking boundary between NGOs working in the environment and those focussing on development issues. This is so as environmental issues are also perceived as development issues (see Bryant, 2009).

<sup>30</sup> Co-ordination Unit for the Rehabilitation of the Environment (CURE) was established in March 1994 with the aim of providing technical support and improving networking amongst NGOs, the government, donors and other organizations or individuals working in the area of environment.

<sup>31</sup> CADECOM implements several development related projects including those on the environment management and conservation.

colonial period when the state used coercive measures to manage the environment, the post-autocratic period makes appeal to the use of community participatory approaches in the management of the environment (Zuka, 2016). Though displaying elements of environmentalism of the poor, community participatory approaches to environmental management during this period are, however, riddled with several contradictions.

Firstly, there is a disjuncture between participatory theory and practice as there is little recognition and integration of indigenous knowledge in environmental strategies implemented by some NGOs. Instead, most natural resources management strategies are predominately techno-scientific practices aimed at achieving sustainability goals (see (Mulwafu, 2011). Despite increasing knowledge that local farming methods have successfully reduced soil erosion and improved fertility, government policy stance in agriculture is still based on western science. For instance, the 2018 National Seed Policy defines quality seed as referring to “a seed system in which 10% of the seed produced and distributed is checked by a certified agency” (GoM, 2018b: xi). Though the GoM policy stance on seed does not respect the right of rural subsistence farmers to save, sell or exchange the seeds grown on their farms, smallholder farmers recycled seeds have undergone years of adaption to the local ecological condition (see Kerr, 2014; Moyo, 2010; Chinsinga & Chasukwa, 2018).

A clear contestation between western science and indigenous knowledge on seed was manifested when the Ministry of Agriculture, Irrigation and Water Development in conjunction with the Seed Trader Association of Malawi issued a statement in 2017 relating to organisation of Seed Fairs, which stated that “only certified seed suppliers registered with government to produce or market seed should be allowed to display seeds at such events”<sup>32</sup>. Notwithstanding that this Press Release generated a lot of debate which revealed that one of the authors of the 2018 National Seed Policy was the Monsanto Country Manager (Wise, 2017), individuals working with NGOs’ were divided over the policy stance. For instance, the Executive Director of CISANET vehemently backed the policy against the stand of other NGOs working in the agricultural and environmental sectors (Wise, 2017). The muted view was that some donors and NGOs in Malawi supported the 2018 Seed Policy because they had established a working relationship with the seed companies such as Monsanto (see arguments by Chinsinga &

---

<sup>32</sup> Malawi’s Seed Policy generated a lot of debate over the promotion of local seeds in Malawi

Chasukwa, 2018). As will be explained in chapter 7, the above discussion highlights how the question of natural resources utilisation is entangled in discursive struggles relating the required path to achieve economic development. The discussion highlight how the interests of NGOs in Malawi may be entangled with those of the state and private capital at the expense of the communities that they claim to serve.

Secondly, participatory management of natural resources is caught up in complex power struggles within local, national and global governance structures. Instead of empowering marginalised groups of people in society, power struggles within the local political spaces have resulted not only in competition among development partners, but also creation of parallel development structures in the communities (Chinsinga, 2007; Zuka, 2016). As will be highlighted in chapter 7, while some NGOs implemented their mining governance project through the government decentralised governance structures, others created their own project management committees. Equally important, some of educated NGOs elites, have socially distanced themselves from local communities by regarding rural communities as ignorant about contemporary socio-economic and political issues (Lwanda & Chanika, 2017). Thus, while NGOs' political empowerment interventions focus on addressing the interests of marginalised people, there is a dominant view among scholars in Malawi that such an objective is subservient to the material interests of the NGOs (Nyasulu, 2007).

#### **4.5. Involvement of NGOs in Environmental Issues in Mining in Malawi**

As highlighted in chapter 1.1, active NGOs' involvement in the mining sector in Malawi can specifically be dated to May 2007 when a group of six NGOs, namely FOCUS, Centre for Human Rights and Rehabilitation (CHRR), Community for Justice (CFJ), Institute for Policy Interaction (IPI), CCJP and Uraha Foundation, took Paladin Africa<sup>33</sup> and GoM to court over Kayelekera Uranium mining. The NGOs sought to halt uranium mining in the District of Karonga until their demands were met. One of the people working for the NGOs that was actively involved in the court case proudly reported during an interview that:

---

<sup>33</sup> Paladin Africa is part of Paladin Resources Limited, an Australian Company investing in extractive sector (see BHRRC, 2019)



“We objected to the idea that mining should start without necessary legal framework. We worked with the leaders at national level such as leader of opposition parties in Parliament to build a strong national opposition”<sup>34</sup>.

The six NGOs presented four main demands. Firstly, they demanded that an ESIA that was conducted by Paladin Africa for the project be made public and should consider the environmental concerns of the local communities. Secondly, the NGOs demanded that local communities surrounding the area be honestly and thoroughly consulted before commencement of mineral exploration. Third, the NGOs wanted to see a clear outline of mining benefits for local communities and that protection of the local environment on which communities depended for their livelihood should be legally binding agreement. Finally, the NGOs demanded that the public should have access to contract signed between GoM and Paladin Africa Ltd. The court ruled in favour of the six NGOs that uranium mining should not commence until the necessary legal framework have been put in place<sup>35</sup> (see also BHRRC, 2019a). The success of the six NGOs in halting uranium mining in the country was, however, short lived. Faced with increased pressure from the government and a group of local elites such as local chiefs and politicians, the NGOs accepted to work with government to pave way for the commencement of mining activities. Thus, six months after obtaining the Court Injunction, the six NGOs withdrew their case from the court in November 2007 after agreeing to an out-of-court settlement with GoM and Paladin Africa. According to Mr Kossam Munthali, Executive Director of FOCUS who led the six NGOs:

“We took the GoM and Paladin Africa to court over the way they wanted to open Kayelekera Uranium Mining without addressing the concerns of the local people. However, we received a lot of pressure from the government, local chiefs and MPs from the area ... When we argued to say the existing laws are archaic and needed to be updated, it was not sending any signal! The local communities were promised a lot of things and looked at me as a barrier. The state also used the police to harass us and with all this pressure, we were divided and defeated”.

---

<sup>34</sup> Interview with Mr Kossam Munthali, Chairperson of the Natural Resources Justice Network in Malawi on 16/12/2019

<sup>35</sup> Interview with Mr Kossam Munthali, Chairperson of the NRJN in Malawi on 16/12/2019 in Lilongwe. Also see Paladin lawsuit (re Malawi) at <https://www.business-humanrights.org/en/paladin-lawsuit-re-malawi>

Three things were agreed between the GoM and Paladin Africa Ltd on one hand and the NGOs on the other. First, GoM committed to revising mining legislation with full participation of the NGOs. It also agreed monitor Paladin Africa Ltd compliance to environmental conservation commitments. Second, the GoM agreed to invest a proportion of revenues from uranium mining into area surrounding the mine. Finally, Paladin Company committed to spend USD 8.2 million of its USD 10 million CSR allocation on upgrading Karonga District water supply system (Paladin Energy, 2007; Ettah-Phoya & Malunga, 2019; BHRRC, 2019). The court case described above deserves a particular space in this chapter because of its significance in the work of NGOs thereafter. Firstly, the out of court settlement discussed above point to the origin of how the Executive arm of the government and the NGOs in Malawi reached agreement on some of the crucial environmental issues that impacted on the lives of the people living within the mining areas. The settlement kick-started a lengthy process through which the NGOs were transformed from campaigners of community emancipation from mining-induced environmental injustices to co-designers of environmental management solutions that were deeply seated in the capitalistic principles of environmental management.

The court case specifically helps to understand how NGOs-state relations shifted between the start of the review of the 1981 MMA in 2007 and the time the Act was promulgated into a law in 2018. Hitherto this event, the NGOs that participated in the review of the 1981 MMA were openly hostile to the GoM and private mining companies about their failure to manage environmental harm from mining. The NGOs specifically advocated that government should “leave minerals that cause environmental harm to communities living in the mining areas in ground”<sup>36</sup>. Where mining companies manages to control environmental harm, the NGOs argued that “communities should share in the tax benefits that government collect from the private mining companies”<sup>37</sup>. As will be discussed in chapters 6 and 7, the key argument at the time the 1981 MMA was promulgated into law was that communities should be compensated for the environmental harm arising from mining. This premise point to how environmental harm experienced by local communities was commodified and the argument of “leave the minerals” in the ground shifted to compensate local communities for the harm. Equally

---

<sup>36</sup> Interview with Ms. Gloria Majiga, CEPA Mining Governance Project Coordinator, Blantyre on 8/04/2019

<sup>37</sup> Interview with Mr. Kossam Munthali, Director FOCUS and Chairperson of NRJN in Malawi, Lilongwe on 16/12/2019

important, the premise of sharing the tax benefits shifted to development of Community Development Agreements, explained in detail in chapter 7.

But how did this shift happen? Chapters 6 and 7 responds to this question by interrogating how solutions to environmental harm arising from mining were framed and how NGOs came to be co-designers of the strategies. This thesis argues that NGOs' participation in reviewing the 1981 MMA reflects a process of subject formation through which NGOs came to view environmental management within the capitalistic lens. In this process, the NGOs embraced the private sector as necessary for the development of the mining sector. In line with this study's key argument of bifurcated co-optation, discussed in detail in Chapter 7, it is important that NGOs-state relations be clearly defined at the outset of policy engagement (see Baur & Schmitz, 2012; Hermansen et al. 2017; Grendstad & SpringerLink, 2006). In this study, co-optation refers to a situation where the NGOs that participated in the review of the 1981 MMA embraced the rationalities of the international donors and the state which they originally opposed. According to Baur & Schmitz (2012: 11), "it is key that NGOs are autonomous at the start of advocacy engagement in order to assess their co-optation during and after advocacy". The case of the six NGOs cited above suggests that NGOs were at first autonomous from the state. They were not only able to take a major corporate entity, Paladin Africa, and the GoM to court, but even managed to halt the mining project until their demands were addressed.

The struggle between the NGOs and the GoM over environmental issues in mining led to a formation of Natural Resource Justice Network in Malawi (NRJN), with the objective of fighting against environmental injustices in mining sector and ensuring that local communities in the mining areas benefit from mining. In 2019, NRJN was hosted by Norwegian Church Aid. In addition to NGOs that were predominantly working in environment such as CEPA, NGOs from other development sectors also joined NRJN. Since then, NRJN has been at the centre of lobbying government for the review of the 1981 MMA. It is, however, important to point out that NRJN is a loose network of 33 NGOs and not a homogenous grouping. The NGOs within NRJN had diverse backgrounds, levels of connections to government departments, human capacity levels and professionalisms. For instance, while all the NGOs under this study fight against environmental issues in mining, the Department of Environmental Affairs only recognises "CEPA as the only NGO that has capacity to understand environmental

issues and has distinguished itself to promote environmental issues in the country”<sup>38</sup>. The NGOs under this study, as will be discussed later in chapters 6 and 7, competed for same funding and implemented similar projects. Different human capacity levels and experience in mining issues resulted in some NGOs accessing more international donor funding while others remained outside the circles of international donor funding. Table 4.1 below presents a summary of the key features of the NGOs that were subject of this study.

Table 4.1: Classification of NGOs Involved in the Review of the 1981 MMA

<b>Level of Operation</b>	<b>Local</b>	<b>Regional</b>	<b>National</b>
<b>Characteristics</b>			
Professional Environmental NGOs			CEPA
Approved by Dept of Environmental Affairs			CEPA
Working relationship with Dept of Lands			CEPA
Donor-funded	FOCUS	Livingstonia Church and Society	CEPA CCJP
Funded by Church			CCJP
Has established local structures	FOCUS	Livingstonia Church and Society	CCJP

Source: Field Interview

Table 4.1. above shows that NGOs that were involved in the review of the 1981 MMA were diverse. For instance, while CEPA is a professional environmental policy advocacy NGO that enjoyed approval from the government technocrats in the Department of Environmental Affairs, FOCUS was a local NGO with grassroot structures at both Mchenga and Mwaulambo coal mining sites. Again, while CCJP received much of its funding from the Catholic Church in Malawi and outside, all other NGOs depended on donor funding to implement their projects. Understanding the features of the NGOs is important because such features were central to structuring how internal battles such as competition for funding were fought. I will return to this discussion later in chapters six and seven.

---

<sup>38</sup> Interview with Ms. Carline Theka, Environmental Officer Legal Section, Department of Environmental Affairs, Lilongwe, 15<sup>th</sup> April 2019

#### **4.6. Conclusion**

In this chapter, I have presented and discussed findings on the origin, history and work of NGOs in Malawi. The findings show that the foundation of NGOs in Malawi has deep roots in the colonial period native welfare associations and environmental grassroots movements. The chapter highlights how dissonance in knowledges and practices of natural resources utilisation between the state, private farmers and rural smallholder farmers since colonial rule generated unending conflicts between these groups. In particular, the smallholder farmers resisted extension of capitalistic mode of production into their social-nature space. Thus, these struggles were not only conflicts over access to natural resources, but primarily contestations over how natural resources in the country should be utilised (Mulwafu, 2011; Mandala, 1990).

The study highlight how unequal power relations between the state and smallholder farmers during colonial and post-colonial period enabled the state to use force to impose western science-based approach to natural resources management. Notwithstanding the fact that a greater proportion of the smallholder farmers opposed intrusion of capitalist mode of production into their social-nature space, a few proportion of elites within the local class structure, especially chiefs, aligned and at times passionately defended the new ways of production and natural resources conservation (Mandala, 1990; Kalinga, 1996; Morris, 2016). Thus, this chapter has pointed to the need to unpack not only how capitalistic approach to natural resources utilisation got established among the dominated groups of people, but also the mechanisms through which such perspectives got promoted.

The chapter suggests that current local communities' struggles against environmental harm arising from mining activities in Malawi are not novel, but a continuation of deep-rooted contestation over governmentalities pertaining to natural resources utilisation. These historically situated struggles provide significant insights on how to understand not only the catalyst to contemporary community struggles, but also the framing of strategies to addressing the environmental issues in mining sector. While the 1993/94 political change from dictatorship to multiparty democracy provided an important critical juncture for policy shift towards participatory democracy, the chapter suggests that such an anticipation need to be received with caution. For instance, the attainment of independence in Malawi, an important critical juncture in the country's politics, did not change government policy stance and practices towards smallholder rural farmers. Instead, the state used force and coercive mechanisms to implement its policies and control the voice of non-state actors opposed to government policies.

This chapter does observe that the attainment of democracy in Malawi was not just a major political change but marked an important political incident in redefining state-society relations in the country. This is so as the constitutional changes enacted during this period outlawed state use of forceful and coercive mechanisms in public policymaking processes and implementation. The attainment of democracy in Malawi, though still at infancy, and the subsequent civil society activism that followed meant that the state can no longer depend on use of force in policymaking. Understanding factors that impacted NGOs in Malawi in shaping the review around the interests of communities in the mining areas, therefore, requires unpacking the mechanisms through which different policymaking agents promotes their interests and policy view. As will be discussed in chapters 7 and 8, while the state and international donors has come to use the power of framing as a significant mechanism to promoting their interests, the principles anchoring strategies to environmental management were not bone during the democratic era, but during the colonial and post-colonial period.

Finally, the chapter observes that NGOs in Malawi are led by educated elites whose interests are not only similar to the elites in the state, but at times diverge from the people they profess to serve (Anders, 2010; Anderson, 2017; Gabay, 2011). This historical background to NGOs in Malawi underscores the need to cautiously interrogate the ability of NGOs in Malawi to shape the review of the 1981 MMA around the interests of communities living in the mining areas. The next chapter illuminates these debates by discussing the prevailing discourses on mining in Malawi, focussing on how they were framed by different policymaking agents and their consequential outcome on defining solutions for the environment harm generated from mining activities in the country.

## CHAPTER FIVE

### DISCOURSES ABOUT MINING AND ECONOMIC DEVELOPMENT IN MALAWI: CONTESTED IMAGINATIONS AND AMBIVALENCES

#### 5.0. Introduction

This chapter discusses contending discourses about the relationship between mining and economic development as advanced by the NGOs that participated in the review of 1981 MMA, government bureaucrats, international donors, private mining companies and communities living in the mining areas. The aim of the chapter is to explain how a particular mining discourse gained traction and shaped the debate about the role of mining in Malawi. The chapter particularly highlights how a powerful pro-mining discourse gained supremacy and promoted private sector led mining to the neglect of the effect of mining on local livelihoods. The chapter explores and situates the mining discourses of the NGOs that participated in the review of the 1981 MMA within the exiting discourses. In this way, the chapter unpacks mining discourse/s that had become dominant and accorded prominence to guide the processes of reviewing the 1981 MMA. At the centre of this discussion is how mining was presented by NGOs and other policymaking agents (including international donors) as a solution, not a solution or a solution based on certain conditions, to the country's economic development agenda.

This chapter observes that existing discourses on mining in Malawi reflect the perceptions of different policymaking agents and the general public about the role mining can play in the development of the country. The most debatable issue within the mining discourses related to whether largescale mining could lead to the achievement of sustainable and inclusive economic development in Malawi. The concept of sustainable development is, however, riddled with contestations especially on whether development policies should focus narrowly on economic growth or broadly on ecological impacts of economic development which are seen as inseparable from human development concerns (see Lockwood et al. 2017). As will be highlighted in the subsequent chapter, while NGOs' advocacy in the mining sector was aimed at achieving this balance, the process of defining inclusive development was entangled in

asymmetrical power dynamics. This was largely so because of the way dominant policymaking agents disciplined imaginations of NGOs that participated in the review of the 1981 MMA through their epistemic and infrastructural power and political machinations (see arguments by Bryant, 2002; Gabay, 2011).

As discussed in chapter 1, the debate about the relationship between mining and economic development in developing countries remains contentious and unsettled (see Bebbington et al. 2008; Rosser, 2006; Campbell, 2013). While some critical sceptical literatures on mining strongly question the repositioning of mining as a panacea to economic progress in developing countries (see Brown & Spiegel, 2017; Cardoso & Turhan, 2018), there are literatures which show how mining is entangled in historical question of country-specific energy demand (Oskarsson & Lahiri-Dutt, 2019). This chapter makes an empirical contribution to this set of literature by highlighting how mining discourses achieve credence among competing policymaking agents. The chapter observes that understanding how a particular discourse becomes prominent over others reveal the power dynamics associated with each discourse and policymaking actors articulating it (Steinmo et al. 1992; Hall, 1992).

This chapter makes three significant conclusions. First, it observes that policymaking agents involved in the review of the 1981 MMA (government officials, international donors, NGOs) advanced three competing mining discourses namely: pro-mining, anti-mining and ambivalent mining discourses. While pro-mining discourse presented mining as a panacea to economic challenges Malawi was facing, anti-mining discourse highlighted the disproportional benefits and costs that mining brings to socio-economic structures of local communities such as the land dependent smallholders farmers. Ambivalent mining discourse, advanced mainly by NGOs involved in the review of the 1981 MMA, acknowledged the potential benefits and costs that mining presented, but perceived “good governance” as a solution to overcoming the negative impacts of mining (see arguments by Otto et al. 2006; Iseri et al. 2018). Inter alia, good governance promotes privatization, free trade, deregulation, strong property rights and reductions in government spending as a path to achieving economic growth and development (Acemoglu & Robinson, 2019; Acemoglu, 2012). However, good governance remain highly contested in delivering the anticipated local and national economic development benefits (see Ndegwa, 1996; Mkandawire, 2010; Matanga, 2010). This chapter particularly highlights how mining discourses in Malawi were entangled in existing structures and dynamics of power and



epistemic hegemonies. The chapter observes that the review of the 1981 MMA was largely guided by a pro-mining discourse, which emerged out of a confluence of state and international donors' epistemic, political and infrastructural power.

Secondly, this chapter observes that international donors and the state presented mining in a win-win discourse. The argument was that both the state and communities living in the mining areas stand to benefit from mining activities. The chapter highlights how NGOs participation in activities for the review of the 1981 MMA resulted into NGOs supporting a pro-mining discourse. The chapter, however, highlights how the proposed governance practices within pro-mining discourse do not meet the win-win language that is claimed. Instead, the chapter demonstrates how the pro-mining discourse may be a continuation of past natural resources management practices that prioritised the interests of the private sector. While speaking the language of community emancipation, NGOs that participated in the review of the 1981 MMA backed the pro-mining discourse arguing subsistence farmers suffering harm from mining will be compensated from the gains of mining. The framing of the mining discourses determined not only what environmental issues different policymaking agents prioritised during the review of the 1981 MMA, but also how those environmental issues were to be addressed. In this way, the mining discourses and material interests of different policymaking agents co-determined each other. The observations from this study suggest that unpacking the nuances of these discourses is key to understanding factors that affected NGOs in shaping the 1981 MMA around the interests of local communities. This chapter highlights the role of politicians, bureaucrats and mining experts not only in setting the mining agenda but more also in framing how mining should be managed. In general, the chapter highlights how capitalistic mining policy stance was reproduced and legitimated through the discourses of dominant policy-making agents.

Lastly, the chapter notes that there has been shifting NGOs' association with each of the mining discourses during the review of the 1981 MMA. While at first NGOs were more associated with anti-mining discourse, overtime most NGOs adopted an ambivalent discourse that perceived good governance as key to achieving a win-win outcome. Against the pluralist literature presupposition that NGOs balance the interests of the state, this chapter demonstrates how the goals that NGOs pursued deepened state and private sector mechanisms of control over local communities. The chapter will show how NGOs that were involved in the

institutional processes for review of the 1981 MMA shifted their mining discourse overtime. For instance, NGOs that were against private sector led mining when the review of the Act was initiated in 2007 supported strategies for managing the environmental harm that privileged the interests of the private mining companies. Thus, NGOs were not only subjected to capitalistic rationalities of managing the mining sector, but more also became agents for achieving subject formation among local communities. Thus, the chapter demonstrates how subjection to private sector led mining was achievement amidst NGOs' community empowerment agenda.

The analysis in this chapter is sequenced as follows: Section 5.1. discusses the key ideas and assumptions of the pro-mining perspectives. It particularly discusses key policymaking actors and groups of people that were associated with this perspective. Section 5.2. discusses the anti-mining perspectives by highlighting the key arguments that were advanced against mining, especially the environmental harm that local communities suffered. Section 5.3. discusses the ambivalent mining perspectives and observes that, while recognising the environmental threats that mining poses to local communities, most NGOs perceived good governance as central in addressing the negative effects that mining poses. The next section discusses how a pro-mining discourse emerged to guide the review of the 1981 MMA out of the three competing perspectives. It particularly highlights the role of experts in reproducing and legitimising a favoured perspective. This is followed by a conclusion in section 5.7.

### **5.1. Pro-Mining Discourse**

Unpacking the mining discourses that NGOs that participated in the review of the 1981 MMA advanced requires understanding the broader discourses that prevailed in the country. This is important not only in positioning the NGOs' position within the discourses, but more also in unpacking NGOs' agency within the dominant discourses. It is with this objective in mind that the succeeding discussion is devoted to describing the prevailing mining discourses in Malawi and highlighting NGOs position within those discourses. A pro-mining discourse was a dominant discourse advanced by three powerful policymaking agents namely: politicians and government bureaucrats, international NGOs and development donors such Oxfam, EU and World Bank, and urban residents and poor rural communities. Overall, pro-mining discourse viewed mining as necessary for achieving economic growth and development in Malawi. Three arguments were advanced within the pro-mining discourse: mining as a driver to economic growth, mining as a source of alternative source of energy, and mining as a catalyst for local

economic development. The first argument was advanced by politicians, government bureaucrats, especially in the Departments of Mining and Environmental Affairs, and private mining companies and international donors and NGOs. The 2011-2016 Malawi Growth and Development Strategy (MGDS) particularly states that “Government recognises that the development of the mining industry can significantly improve the country’s foreign exchange earnings and contribute to economic growth and development” (GoM, 2011: 82). The GoM saw attraction of local and foreign direct investments as one of the key strategies in achieving economic growth in the country. The Government’s policy stance on mining neatly represents the views of bureaucrats from the Department of Mines who argued that:

“Mining has the potential to contribute to Malawi’s economic development, we have a lot of minerals that can generate adequate revenue to replace agriculture.

Global anti-smoking campaign means we can no longer depend on tobacco”.<sup>39</sup>

International NGOs such as Oxfam also argued that “Malawi can achieve economic growth and development by utilising the mineral resources it has”<sup>40</sup> In order to appreciate the root of these perspectives, it is important to consider the structure of Malawi’s economy. Agriculture remains the backbone of Malawi’s economy contributing about 30% to the country’s GDP, 80% of the total employment and about 75% to foreign exchange earnings (World Bank, 2017; Tostensen, 2017). From independence up to 2011, over 30% of the country’s annual budget has been funded by development partners (Page, 2019; GoM, 2011). However, the twin threats of declining donor support and climate change has since the early 1990s forced government to find alternative ways of diversifying the economy.

The second argument sees mining and particularly coal mining as a solution to serious energy and electricity shortfalls the country was facing. Advanced by politicians, government bureaucrats, international NGOs and donors and urban residents, this argument highlights how the question of coal mining is intricately entangled in the question of country-specific energy security and economic development challenges (see Oskarsson & Lahiri-Dutt, 2019). For instance, the Executive Director of Tilitonse Fund, which managed a pool of EU funding towards mining governance in the country, argued that:

---

<sup>39</sup> Interview with Principal Mining Officer, Department of Mines, Lilongwe on 17/04/2019

<sup>40</sup> Interview with an Oxfam Project Officer on Mining Governance, Lilongwe on 16/04/2019

“Coal can help address energy shortages that we are experiencing, history has taught us that a number of developed countries have used coal at one point. We have to utilise the resources that we have. With the energy shortages that we have, we can no longer depend on hydro power alone”<sup>41</sup>.

The view that Malawi should utilise the available mineral resource in its development agenda was shared by a number of government bureaucrats. For instance, the acting District Environmental Officer for Rumphi District Council emphatically argued that “coal mining can be a solution to serious electricity shortfalls the country is experiencing, we have coal, why can’t we utilise the resource that we have”. This statement reflects the existing situation in the country where only about 11% of the country’s population were connected to hydroelectricity grids and the country continues to register high unmet energy demands. Existing data shows that only 42% of the urban population were connected to hydroelectricity grids in 2017, a figure which is as low as 3% in the rural areas (NSO, 2017). Malawi’s electricity generation capacity in 2018 was around 439MW, 98% of which was hydroelectricity generated from Nkula, Tedzani, Kapichira, Kholombizo and Wovwe river waterfalls. However, the country generating capacity in 2019 was less than 439MW of hydroelectricity due to erratic weather and inconsistent rainfall patterns (Borgstein et al. 2019). Since early 2000s, the country has been experiencing frequent electricity blackout and finding alternative source of generating electricity has become an important policy objective<sup>42</sup>.

GoM mobilisation of the energy self-sufficiency narrative was crucial to generating national support for coal extraction and utilisation. For instance, the government is planning to build 300MW Coal Fired Power Plant (CFPP) at Kammwamba in Mwanza District in Southern Malawi. In the 2019/20 Annual Budget Statement, the Minister of Finance reported that:

“In the 2019/20 budget, an amount of K40.0 billion has been allocated to the energy and mining, which is almost twice the amount allocated to this sector last financial year at K21.7 billion ... My Ministry will work with the Ministry of Natural Resources, Energy and Mining and EGENCO to diversify energy sources away from hydro to others such as coal, solar and wind for resilience in power supply ...

---

<sup>41</sup> Interview with Mr. Chandiwira Chisi, Executive Director for Tilitonse Fund, Lilongwe, 17/12/2019.

<sup>42</sup> Mercy Malikwa, *Escom fast-tracking measures to minimise blackouts*; The Nation of March 13, 2017; Vidal John, The Guardian of December 13, 2017, *The day the lights went out: the terrible toll of Malawi's power cuts*

Government will also continue to pursue funding for Kammwamba Coal Fired Plant with the Chinese Government through the Exim Bank of China”. (GoM, 2019) 2019/20 Annual Budget Statement: 41-42).

Government allocation of funds to the building of CFPP demonstrates its commitment to developing alternative sources of energy apart from hydroelectricity. Notwithstanding the global outcry over the continued extraction and use of coal, the construction of CFPP was received with mixed reaction in Malawi.

While the project received a lot of support from the bureaucrats and private investors and urban residents, a few climate change activists raised concern over the impact of coal on climate change<sup>43</sup>. What is particularly interesting is that government decision to build CFPP is coming against the fact that the GoM committed itself to reducing GHG emission in its Intended Nationally Determined Contribution (INDC) submissions to UNFCCC in 2015 (GoM, 2015). The shift to coal as a source of energy in Malawi mirrors how mining discourses in different countries are situated in the question of national economic development and energy self-sufficiency. In India for instance, coal extraction is driven by an “economic imperative for energy security and support to domestic industry” (Oskarsson & Lahiri-Dutt, 2019: 747; see also arguments by Erickson, 2020; Mitchell, 2013; Brown & Spiegel, 2017). Despite Malawi being one of the countries that is vulnerable to the negative effects of climate change (Bank et al. 2009) and that coal is the dominant global contributor to anthropogenic greenhouse gas (GHGs) per unit use (Bell & York, 2012), the government as will be discussed in chapter 6 and 7, see building of CFPP as a solution to the energy challenge the country is facing.

Finally, pro-mining discourse presented mining as a catalyst to local economic development through the creation of job opportunities and CRS initiatives. Both the government, international donors and some NGOs perceived the development of the mining sector as critical to catalysing rural development. For instance, Norwegian Church Aid perceived CSR as

---

<sup>43</sup> See Alvina Board, 2018, IEA, Clean Coal Centre, Malawi: President Mutharika Pushes for Coal-Fired Power Plant with China Energy Group, 5<sup>th</sup> September, 2018; (Harrabin, 2015), COP 21: *Malawi's battle to hold on to forests*, BBC, 24<sup>th</sup> November, 2015; Chauluka, 2019, Government sets ambitious power supply target, Daily Times, September 6, 2019

“resources that communities in the mining areas can use to develop their area”<sup>44</sup>. The position of government officials in the Department of Mines was that “mining has potential to create employment for the people living within the mines, this will in turn create a market for their local products. And in the end, everybody in the community stands to benefit”<sup>45</sup>. The view that mining can bring employment benefits to communities living around the mining areas was also supported by poor subsistence farmers. The support of mining from subsistence farmers was, however, context-specific, and not a unanimous one. I will return to this discussion in chapter 8 where I will discuss the varying positions of communities living in the mining sites on the benefits and costs of mining.

Malawi’s 2013 Mining Policy represents the pro-mining discourse that see attraction of FDI and modern technology in the mining sector as key to achieving economic growth. The mining policy promotes free market competition, enforcement of private property rights in ownership of mineral tenements and less government interference in the running of the mining sector. The pro-mining discourse in Malawi mirrors a neoliberal optimistic mining perspective, discussed in chapter 2, which sees extraction of mineral resources led by the private sector as a better approach to increasing mineral-rich country’s tax revenue and achieving economic growth and development (Besada & Martin, 2015; World Bank, 1992; Humphreys et al. 2007). For instance, though part XVI of the revised 2018 MMA makes provision for government to take up to 10% free equity in large mining<sup>46</sup>, collection of taxes<sup>47</sup>, royalties<sup>48</sup> and ground rents are the main ways through which government is understood to benefit from mining<sup>49</sup>.

---

<sup>44</sup> Interview with a Field Officer for Norwegian Church Aid funded Mining Governance Project, 17 Dec 2019

<sup>45</sup> Interview with Government Official at the Department of Mines, Lilongwe on 17/04/2019

<sup>46</sup> Section 269(2) of the 2018 Mines and Minerals Acts states that “The Government shall have the right, but not the obligation, to acquire, directly or through a Government nominee, without cost, a free equity ownership interest of up to ten percent (10%) in any mining project that will be subject to a large-scale mining licence”.

<sup>47</sup> Mining taxes are in form of corporate income tax, resource rent and withholding taxes. Corporate tax is charged on company profits after deducting all costs. Resource rents are charged when mining companies make super-profits in times of commodity prices spikes. Withholding tax is charged on payments made to non-resident companies such as interest, dividends and sub-contractors (see Otto et al., 2006)

<sup>48</sup> A royalty is a percentage of the sale value of a mineral paid to government (see Otto et al., 2006)

<sup>49</sup> Section 269(1) of the 2018 Mines and Minerals Acts states that “Nothing contained in this section shall affect the entitlement of the Government to receive taxes, royalties, ground rents, fees or any levy or compensation payable to it under this Act or any other written law”.

However, the role accorded to the private capital in the development of the mining sector has far reaching implications on achieving environmental justice for the people living around the mining sites. This policy stance means that the interests of the private sector be prioritised and protected over any other interests. A case to illustrate this point is GoM's position on the failure of private mining companies in the country to honour their CSR's commitments. According to officials from the departments of Mines and Economic Planning:

“Government cannot force private mining companies to fulfil their CSR promises because they are not currently making profit, we need to give them time to get established; private mining companies are there to develop the mining sector and the nation will leap the benefits when these companies are fully developed”<sup>50</sup>.

The question of fulfilling CSR promises in the mining sector in Malawi is a complicated one because, unlike Community Development Agreements (CDAs) which are provided for and mandatory, CSR is voluntary<sup>51</sup>. However, the provisions of CDAs only applies to large-scale mining companies and not to medium and small-scale mining companies. In other words, small scale and medium mining companies, defined in the next chapter, are not compelled to honour their CSR promises under the law. As will be discussed in chapter 6, the irony of this legislative provision is that most private mining companies in the country fall within the category of small and medium scale companies.

The sentiments from government officials above suggest that the state prioritised the interests of the private mining companies than those of the communities living in the mining areas. Drawing from neo-Gramscian argument that “public policy-making is dominated by the interests of capital” (Hudson & Martin, 2009: 98), the economic and energy situation in Malawi means that the interests and power of private capital has replaced the state in defining policy

---

<sup>50</sup> Interview with Gloria Majiga, Mining Governance Project Coordinator for CEPA, who quizzed government on why they are not enforcing corporate social responsibility

<sup>51</sup> Section 169(2) of the 2018 Mines and Minerals Acts states that “Subject to subsection (5), a holder of a large-scale mining licence shall implement a community development agreement with each community that meets the definition of a “qualified community” as defined in section 2 that is willing and able to enter into a community development agreement”. A qualified community is defined as “any community of more than three thousand persons which by tradition or by circumstances constitute a social community, and that (a) reside within twenty kilometres of any boundary defining a large-scale mining licence area, or (b) that the Mineral Committee has otherwise determined to be a qualified community”

issues (see Lindblom, 1977). This observation is insightful because, despite the GoM having 10% stake in Kayelekera Mine and being involved in the contract negotiation, the President of the country came out in the open to declare that “Malawians did not benefit from operations at Kayelekera”, the only largescale mining company that was established in the country (Sangala, 2018). One possible explanation to this situation is that benefiting from a Multi-National Company (MNC) demands monitoring practices of price transferring prevalent in mining sector (see Campbell, 2013).

## **5.2. Anti-Mining Discourse**

Anti-mining discourse was pessimistic about the extent to which mining in Malawi can contribute to improving the welfare of the local communities where mining is taking place. This discourse, advanced by middle income and land dependant households within the mining sites, was specifically based on three arguments namely: mining is displacing local communities from their fertile agricultural land, mining is subjecting local communities to unhealthy conditions, and that mining is not only riddled with corruption that largely benefit politicians but is also a highly risk economic activity for Malawi. With regard to the first argument, anti-mining perspective focused on the intrusion of mining activities into farming land and the resulting threat it poses to local communities’ livelihoods (see arguments by Oskarsson, 2018; Kamlongera, 2013). The anti-mining discourse raised significant questions relating to how best land-dependent smallholders farmers in Malawi can be adequately compensated for the loss of their land (see also Oskarsson, 2018; Strambo & Espinosa, 2020). I return to this subject in the chapter 8 which discusses the environmental harm that communities in the mining sites experienced and their position on mining in the country.

The discussion above shows that there is dissonance between the interests of the metropolitan middle-income and rural-based poor households on one hand and rural-based middle income groups on the other. While the middle-income rural households advanced an anti-mining discourse, metropolitan middle-income groups of people advanced a pro-mining discourse. This observation suggests that mining in Malawi is intricately entangled in the socio-economic structures that cannot be straightforwardly divided into a stark dichotomy. This situation supports the existing scholarship relating to how mining not only distributes benefits disproportionately but also generates complex discursive manoeuvres by different groups of people operating at different locales (see Brown & Spiegel, 2017; Spiegel, 2017). The



discussion on mining discourses in this chapter shows how that mining activities are entangled in complex structures of economic interests and vulnerabilities. As will be discussed further in chapter 7, this situation challenges the use of Free Prior Informed Consent (FPIC) as a tool for assessing desirability of mining for communities living in mining areas. These questions are specifically addressed in the next two chapters, which discusses how NGOs that participated in the review of the 1981 MMA simultaneously acted as the agents of community emancipation as well as subjugation. Through their activities aimed at enlightening local communities about good management of mining, NGOs' activities produced local communities that are freed from direct state control but governed at a distance by the state to embrace private sector led mining. The use of good governance framework, touted by NGOs as empowering local communities, inherently resulted into the integration of local communities into the dictates of mining capitalism. Thus, the concerns of local communities over mining remain unresolved as evidenced by the growing number of grassroots movements protesting against mining<sup>52</sup>.

### **5.3. Ambivalent Mining Discourse**

The NGOs that participated in the review of the 1981 have largely advanced an ambivalent mining discourse, which viewed benefits of and costs to mining as contingent upon adoption of good governance of the mining sector. Thus, ambivalent mining discourse neither denies benefits of mining advanced by the proponents of pro-mining discourse nor costs advanced by those of the anti-mining discourse. Instead, ambivalent mining discourse in Malawi sees observance of the principles of good governance as critical condition to offsetting the negative effects of mining. For instance, the Natural Resources Justice Network's position paper on the review of the 2017 MMA begins by stating that:

“The mining legislation therefore needs to be positioned to improve efficiency, transparency and sustainability of the sector in tandem with policy reform” (NRJN, nd: 3).

Ambivalent mining discourse is not unique to Malawi. The arguments that links good governance to positive development outcomes from mining-led development has also been presented by many scholars (see Iseri et al. 2018; Acemoglu & Robinson, 2019; Humphreys et al., 2007; Kolstad & Wiig, 2009). Some of the arguments from the NGOs involved in the

---

<sup>52</sup> Nyasatimes reported in October 2019 that in the Chitipa and Dowa Districts local communities have chased mining investors over issues relating to corporate social responsibility

review of the 1981 MMA help to clarify the core arguments of the ambivalent mining discourse:

“The position of CEPA on mining is that we need sustainable mining, we cannot stop mining. This is something we need to accept in Malawi, we are still trying to develop our economy. What we require is to put safeguards to ensure that mining activities are done sustainably and making a significant contribution to our economy”<sup>53</sup>

“Our view is that we do not want mining to be the cause of problems, mining should improve not impair local communities ... In any event, any NGO which is rational, what do they expect? That government will not mine?”<sup>54</sup>

“We do have large reserves of coal in Malawi, and we are struggling with our energy requirements. Which is the better evil? We remove coal from the ground and build coal fired power plant or we continue suffering? I would want to believe that a staggered use of coal is a better evil ... we also need to be given a small right to pollute this world for us to attain long term benefits. These other bigger countries talking today about climate change had an allowance to pollute the world big time.”<sup>55</sup>

“The question of whether Coal-Fired Power Plant can be a solution to electricity problem in Malawi has to be answered from an informed position. This question must be informed by an Environmental and Social Impact Assessment. There are lots of countries that have coal-fired power plants, some have even diesel-powered plants”<sup>56</sup>

---

<sup>53</sup> Interview with Ms. Gloria Majiga, CEPA Mining Governance Project Coordinator, Blantyre on 8/04/2019

<sup>54</sup> Interview with Mr Gracian Banda, Environmental Activist and Lawyer, March 2019, Blantyre on 11/04/2019. Mr Gracian Banda is a former Board Chair for CEPA and was the one contracted by the Department of Environmental Affairs to draft the 2017 Environmental Management Act.

<sup>55</sup> Interview with Mr. Chandiwira Chisi, Executive Director for Tilitonse Fund, Lilongwe on 17/12/2019. Tilitonse Fund has supported several projects on Governance of Extractives in Malawi

<sup>56</sup> Interview with Mr Gracian Banda, Environmental Activist and Lawyer, Blantyre on 11/04/2019.

The sentiments above suggests that NGOs perceived the mission of achieving environmental justice for the communities living in the mining areas as achievable within the dictates of good mining governance. NGOs counted on good mining governance to balance the conflicting interests of the local communities living in the mining areas, the government, and the private mining companies. For instance, NRJN position paper submitted to Government stated that government should “strive to generate much needed revenue from the mining sector by balancing incentives for attracting foreign direct investment and ensuring relevant resource mobilization initiatives in the sector, ... Negotiate tax treaties with the home countries of investors to avoid double taxation on the investor” (NRJN, nd: 3).

Chapter 7 will, however, highlight some of the challenges faced in simultaneously satisfying the divergent and at times conflicting interests of the three stakeholders, especially when mining is largely private sector driven. Thus, while the position of NGOs that were involved in the review of the 1981 MMA mirrors those of the critical literature on extractives (see Mitchell, 2013; Wolf, 2015; Hecht, 2009; Horowitz, 2011; Conde & Kallis, 2012; Büscher, 2015), their position is more ambivalent. This is so as the NGOs did not just weaken the environmental struggles of the communities living in the mining areas (Clark, 1991) nor were the NGOs too close for comfort (Banks et al., 2015), but principally reinforced statist mechanisms of control over local communities (see Bryant, 2002). Of particular significance with this reinforcement is that both NGOs and local communities became subjected to a private sector led mining. Thus, NGOs that participated in the review of the 1981 MMA reproduced colonial and post-colonial natural resources management practices that prioritised the interests of the private sector and the state. While the NGOs’ language presented the environmental justice agendas, their key justifications for mining were linked to the material interests of a metropolitan group to which they are socially a part. As highlighted in chapter 4, NGOs in Malawi are predominantly led by urban-based elites who experience electricity shortages. By reifying a discourse of energy self-sufficiency associated with urban metropolitans, NGOs demonstrated how reproduction of mining discourses in Malawi is not only linked to the geographies of material interests, but also displays path dependent pathways since colonial times (see Strambo & Espinosa, 2020).

NGOs’ approval of private sector led mining in Malawi particularly depicts a continuation of the contestation about the development model required for achieving economic development

in Malawi (see Mandala, 1990). Arguments relating to revenue generation and creation of employment particularly are not new but a continuation of how the rural population in Malawi have been incorporated into a capitalist mode of production since colonial rule. For instance, tenancy system that created a lot of rural landless population in Southern and Central Malawi was born out of the objective of generating government revenues from large-scale commercial agriculture (see Kalinga, 1996; Chinsinga, 2002; Kanyongolo, 2008). Furthermore, the arguments about creating employment from mining raises significant questions relating to how gendered the NGOs' environmental justice advocacy was. This is so as increasing literature demonstrate that men and women do not only experience different patterns of access to mining work, but are also affected differently by mining activities (Jenkins, 2014; Maconachie & Hilson, 2011). In this way, this study contributes to the critical literature on natural resources use and management that questions the ability of NGOs to achieve community empowerment (Bryant, 2002; Oppong, 2018; Sending & Neumann, 2006).

This study demonstrates that NGOs in Malawi failed to transform the “development order of the expert and power” that sustains unequal benefits arising from community structures (Escobar, 2015: 455). Justifications for coal extraction on customary land based on availability of coal mineral reserves depicts preference given to capitalistic activities than the subsistence livelihoods of the communities in the mineral-bearing areas. As will be discussed in chapter 8, coal mining was preferred and imposed by the state at Mwaulambo despite the area producing Kilombero Rice, one of the fine brands of rice in the country that is sold nationally and internationally. The opening of coal mining in this area threatened the agro-ecological conditions that support the growing of this rice. This situation suggests that mining discourses are not just discursive manoeuvres but principally sources of power through which rural subsistence farmers are integrated into capitalist world (see Strambo & Espinosa, 2020; Hudson & Martin, 2009).

The way good mining governance was framed to achieve sustainable economic development significantly reinforced private sector-led mining discourse. For instance, the NGOs' stance that ESIA is a panacea to the environmental challenges facing local communities incorporated them into neoliberal language of environmental management (see Pulido et al. 2016). There is considerable literature on the environmental issues in mining that have cogently argued that mining cannot be sustainable (Mitchell, 2013; Kirsch, 2010; Kirsch, 2014; Horowitz, 2011).

Thus, NGOs' perception that good mining governance will result in sustainable economic development is not only a myth, but also leaves them subject to co-optation into the business-controlled discourse on mining. ESIA for instance is not only under the control of the state machinery, but also employs a measure of assessment that is predominantly based on western science. Generally, state commissioned ESIA leaves indigenous knowledge of the communities experiencing environmental harm at the periphery. According to Pelenc et al. (2019), neoliberal environmental governance reduce the questions of sustainability to technical issues to be addressed through a techno-scientific solution (see also Sequeira et al. 2016; Spiegel, 2017; Oskarsson & Bedi, 2018). The next section discusses how and why a pro-mining discourse gained prominence during the review of the 1981 MMA in Malawi.

#### **5.4. The rise to Prominence of the Private Sector Led Pro-Mining Discourse**

The previous section has discussed three distinct mining discourses that were dominant among policymaking actors during the review of the 1981 MMA. This section discusses how and why a pro-mining discourse emerged and became sustained as a dominant discourse to guide the review of the 1981 MMA. It specifically discusses mechanisms through which a private sector-led pro-mining discourse was established via the role of capitalistic-rooted expert advice. Understanding how the above discourse emerged prominent to guide the review of the 1981 MMA requires paying attention to the relations of power and dominancy among the competing policymaking agents.

The process of reviewing the 1981 MMA in Malawi went through three stages. The first stage involved drafting the Mines and Minerals Bill. The second stage involved consultations with key stakeholders in the mining sector (NGOs, international donors, private mining companies and local communities), and the last stage involved promulgation of the Bill into an Act by the Parliament. It is through analysing activities within these key stages that the agency of NGOs in shaping the review of the 1981 MMA can be understood. Since 2007, the NGOs received considerable international donors' support to train government officials and local communities about good mining governance. The NGOs also participated in a number of international workshops aimed at learning good mining governance practices from countries with a history of mining.

The three stages particularly reveal how competitive negotiations and contestation over the content of the Mines and Mineral Bill was characterised with deployment of situated expert

knowledges (see Hall, 1992; Hay, 2002; Hudson & Martin, 2009). Through implementation of donor-funded advocacy, the NGOs came to support strategies that were in contrast to the ones that they advanced at the beginning of the review. In this way, this discussion highlights the role that expert knowledge played in shaping the issues that were given prominence during drafting, consultations and parliamentary debate on the bill. Drawing on Hudson & Martin (2009: 98), the study takes a position that reproduction and establishment of private sector focused pro-mining discourse in Malawi “should be seen as a much more mundane affair accomplished via everyday practices” involving different policymaking agents.

### **5.5. Role of Expert Knowledge in the Review of the 1981 MMA**

Expert knowledge was one of the ways which determined how varying discourses guiding the review of the 1981 MMA in Malawi were framed, selected, and sustained. The GoM outsourced the drafting of the 2018 Mines and Minerals Bill to a Professor of mining law and mining economics, Professor James Otto<sup>57</sup>. Prof James Otto is the founder of mining law programs at the University of Dundee (Scotland) and at the University of Denver College of Law (USA). He has practised international mining law for over 30 years and has drafted mining legislation for a number of African countries, including Egypt, Mozambique, Nigeria, Sierra Leone and South Sudan<sup>58</sup> (also see Otto et al. 2006). The review of the 1981 MMA, including hiring of the Consultancy work by Prof James Otto, was supported, and funded by the Mining Governance and Growth Support Project (MGGSP). MGGSP was a five-year Project financed by a combination of a loan and grant totalling US\$31 million from World Bank and European Union<sup>59</sup> (Ettah-Phoya, 2014). The project aimed at diversifying the country’s agriculture-based economy through “improving the efficiency, transparency and sustainability of the mining sector management” (Africa Research Bulletin, 2013: 1A). MGGSP was implemented by Departments of Mines (DoM), Environmental Affairs (EAD), Geological Survey (GSD), Ministry of Finance, Economic Planning and Development (MoFEPD); Ministry of Education, Science and Technology (MoEST); Chancellor College (CHANCO); The Polytechnic and

---

<sup>57</sup> Prof James Otto profile can be accessed from his website <https://ottomininglaw.com/>

<sup>58</sup> <https://ottomininglaw.com/>

<sup>59</sup> <https://projects.worldbank.org/en/projects-operations/project-detail/P120825?lang=en&tab=overview> see also Africa Research Bulletin, 2013

Malawi Revenue Authority (MRA)<sup>60</sup>. According to in-depth interviews conducted with government officials in the Department of Mines, “Prof Otto was recruited within the Project and the cost of consultancy was part of the project grant, we had no control over whom to recruit for the consultancy work”<sup>61</sup>. The framing of MGGSP point to how international donors used capacity shortfalls to manage mining projects to take control of the processes of shaping the review of the Act. As will be explained in the next chapter, there is need to unpack how limited capacity in government have contributed to deepening the privatization agenda in the mining sector, and how NGOs have shaped and are shaped by this situation.

In the words of a female mining governance activist, “Prof Otto’s vast experience in designing mining codes for African countries explains why he was preferred by World Bank to draft the Mines and Mineral Bill for Malawi”<sup>62</sup>. He is one of the primary authors of World Bank Mining Community Development Agreement Handbook (see World Bank, 2012b). The NGOs’ perception of the Consultant who drafted the Mines and Minerals Bill specifically raises critical questions relating to the extent to which the drafted Bill was based on the country’s unique needs or merely an embodiment of World Bank-financed policy reforms (see Campbell, 2013). The above discussion point to the role that expert knowledge from international donors plays in the production of reforms in donor-dependent developing countries. This observation, therefore, point to the role that politics of aid and development plays in shaping institutions that advantage one group of people while disadvantaging others in donor-dependent countries (see Grundmann, 2019). The case of expert knowledge also point to lack of capacity within the Malawi government to independently define the reforms that are needed in the mining sector.

An account of World Bank’s perspective on mining in Africa provides a good point of reference for understanding how international donors shaped mining laws in Africa in general and Malawi in particular. According to World Bank (1992: 9), the development of the extractive sector in Africa “requires government to focus on the regulation and promotion of the industry and that private companies take the lead in operating, managing and owning mining

---

<sup>60</sup> <https://www.mnrem.gov.mw/index.php/services/mggsp/about-mggsp>

<sup>61</sup> Anonymous government employee at Department of Mines, Lilongwe on 17/04/2019

<sup>62</sup> An interview with Etta-Phoya, a Mining Activists who had worked for Citizen for Justice, one of the early NGO to fight for the rights of local communities in mining, on 17/04/2019

enterprises”. The Bank further argues that Africa is very risky to business thus must put in place mining codes that make it competitive in relation to other regions. This narrative entails privileging the interests of the private sector over the interests of any other actors in the mining sector. For instance, World Bank (1992: 10) argues that “government can increase their share of the rent by making investment environment less risky and thereby lowering the risk premium and returns required by the investor and ledgers”.

While the World Bank has over the years recognised challenges that mineral-rich developing countries face from benefiting from mining activities, the key solutions advanced remain private sector oriented. For instance, World Bank (2003) outlined the following as solutions to establishing a mining sector that benefit both the state and local communities: transparency and disclosure in the management of mining projects and revenue flows, development of government capacity to manage fluctuating mineral prices and revenues, and development of good mining policies. Regarding the communities living in the mining areas, the World Bank promotes FPIC and mining benefit sharing with the local communities through CDAs. The World Bank also supports establishment of grievance handling mechanisms and encourages NGOs to build capacity of affected communities (though stated very crudely).

The overall objective of the 2018 MMA is to regulate the development of the mineral resources in Malawi in order to promote economic growth, provide an attractive and conducive environment for investment in the mining sector, improve living standards of people in the mining areas and manage environmental impacts of mining (GoM, 2018a). This objective fits well into World Bank perspective on mining investment in Africa highlighted above. The main feature of the 2018 MMA is that it is private sector-driven with government primarily concerned with providing policy oversight. The case of the review of the 1981 MMA in Malawi demonstrates how the government was able to advance a pro-mining discourse without using force as was the case during colonial and post-colonial period. Thus, the discussion above highlight how participation of NGOs in policymaking processes may at times be symbolic or serve opposite end (see Oliva Campos et al., 2012). As will be discussed in the next chapter, expertise within international donors turned NGOs not only into implementers of donors’ ideas, but also overseers of their own responsibilities. In this way, technology of expertise enabled the state in Malawi to govern local communities living in the mining areas at a distance (see Dean, 2013).



The role expertise and their related institutions play in shaping public policy direction has been highlighted by a considerable number of scholars (see Hall, 1992; Gofas & Hay, 2010; David Hudson & Leftwich, 2014). For instance, the rise of monetarists oriented policies in Britain is attributed to the growing importance of new financial institutions outside the Treasury such as Research Department of Brokerage Houses and Centre for Economic Forecasting and the Cambridge Economic Policy Group (Hall, 1992). The observations from this study, however, demonstrate that expert knowledge does not only have agency in shaping public policy, but also result in subject formation. As will be discussed in the subsequent chapter, NGOs' advocacy relating to the review of the 1981 MMA resulted into the empowerment as well as subjectivities of local communities into the principles of private sector led mining (see arguments by Agrawal, 2005; Bryant, 2002). Being considered apolitical, the consultant who drafted the 2018 Mines and Minerals Bill deployed rationalities for managing mining that triggered less political quandary among policymaking agents<sup>63</sup>. Thus, the state hid its economic and political interests in mining as well as simultaneously mobilised technical knowledge to shore up its objectives.

The sentiments from one of the NGO leaders who was actively involved in the activities relating to the review of the 1981 MMA helps to appreciate the role of expertism in constraining NGOs' agency.

“I still feel the capitalistic thinking, the colonial mentality, is coming from the back to promote private companies. The role of NGOs in the journey of reviewing the 1981 Mines and Mineral Act was a raw deal. We had an opportunity to change but the system chose not to listen”<sup>64</sup>.

The above sentiments suggests that state's action is operable not only in direct action but more important indirectly through the mediating role of institutions that are considered independent of the state. According to Miller (2008: 69), “experts hold out the hope that problems of regulation can remove themselves from the disputed terrain of politics and relocate into tranquil yet seductive territory of truth. By means of expertise, self-regulation techniques can be installed in citizens that will align their personal choices with the ends of government”. While

---

<sup>63</sup> The World Bank position is that it is apolitical organisation and does not champion any political agenda

<sup>64</sup> Interview with Mr. Kossam Munthali, Director FOCUS and Chairperson of NRJN in Malawi, Lilongwe on 16/12/2019

not directly enforcing its policy stance on the Mines and Minerals Bill, the state shaped a mining legislation that responded to its philosophy of promoting private sector-led development of the mining sector.

Through expert knowledge and project grants, NGOs that were involved in the review of the Act supported strategies for addressing environmental concerns that profoundly privileged private mining companies. For instance, strategies such as land compensation and CDAs were not only based on monetary cost-benefit principles, but also privileged the interests of private capital to those of communities living in the mining areas. I will return to this discussion in the next chapter where I discuss strategies that were enacted for addressing environmental harm generated from mining activities. NGOs' support for strategies that privileged private capital suggests that NGOs were not only slowly being co-opted into capitalistic hegemony of managing the extractives but were also governed at a distance along the objectives of the state. For instance, while advocating for the inclusion of communities in the distribution of mining proceeds, NGOs also recommended a mining law that should "ensure security and continuity of tenure with reasonable exclusivity, enforceability and transferability of rights" (NRJN, nd: 8). This viewpoint enforced the rights of the private investors.

The co-optation of NGOs involved in the review of the 1981 MMA was, however, a bifurcated co-optation that was characterised by elements of co-operation and confrontation. It was a co-optation that reflected the words of Held (1980: 69) that "the expansion of capitalism and technological rationality, while massively increasing coercive power, has, at one and the same time, transformed numerous modes of external compulsion and authority into modes of self-discipline and self-control". As will be explained in the next chapter, while the state acknowledged the role of NGOs at local community political space, it deployed technologies that worked to shape the 2018 MMA along its desired ends. Drawing on Mamdani's (1996) argument, the above analysis suggests that bifurcated co-optation of NGOs into private sector led rationality extended and legitimated state's control over extractives (see also Adebani, 2017). For instance, an executive member of the NRJN argued that "as NGOs, we have reached a point where government cannot move and persuade local communities without consulting us"<sup>65</sup>. While revealing the institutional space that NGOs have come to occupy in Malawi, the

---

<sup>65</sup> Interview with Mr. Kossam Munthali, Chairperson, NRJN on 16/12/2019

above narration suggests that NGOs-state relations is neither about transfer of power from the state to NGOs nor that of NGOs balancing the state power as argued by some scholars (see Chazan, 1992; Bratton, 1989), but essentially about how state-NGOs are co-existing within the dominant hegemonies to which they are both a part.

### **5.6. Experts and Expertism in Legislative Negotiations**

The NGOs that were involved in the review of the 1981 MMA targeted MPs in PCNRCC as partners in their advocacy agenda. NGOs' agenda of shaping the review of the 1981 MMA towards the interests of communities in the mining areas was predicated on their ability to lobby MPs to vote against provisions that conflicted their policy stance. As is the case in democratic legislative battles, getting a Bill passed in one's favour in Malawi involves amassing more MPs' votes in support of a preferred policy stance. Thus, how legislative battles were structured and reconfigured was key to shaping the review of the 1981 MMA towards the interests of communities in the mining areas. This was particularly so not only because the ruling and opposition parties held complex interests in the Bill, but also because experts played a leading role in subject formation relating to mining discourses and consequently decisions that MPs made. Thus, understanding the role that experts played in shaping MPs mining viewpoints is critical to unpacking the challenges that NGOs faced in winning over the support of MPs.

As a body mandated to advise Parliament on environmental issues, PCNRCC was actively involved in the consultations regarding the review of the 1981 MMA. The dominant mode of MPs input into the review of the 1981 MMA involved participation in workshops on mining governance, most of them were funded by international donors. MPs' participation in workshops on mining governance, however, turned out to be the means through which MPs were subjected into the capitalistic practices of managing the mining sector. Thus, the solutions to environmental issues in mining that MPs advanced were deeply situated in the capitalistic governmentality and placed capitalistic management of the mining sector on the legislative agenda. According to Agrawal (2005), when political actors participate in managing environmental issues, they cultivate personal interest in addressing the existing problem. This interest is, however, not neutral but situated within particular knowledge that help to extend certain practices and interests. According to Bryant (2002: 282),

“Forms of knowledge help us to understand how the deployment of knowledge, expertise and rationality may assist in the extension of government. It can also explain the ways in which specific forms of truth emerge in relation to identifiable governing practices”.

This study demonstrates how NGOs and MPs developed divided loyalties towards the government and international donors on one hand and local communities living in the mining areas on the other. Between 2007 when the review of the 1981 was initiated to 2018 when the Act was finally promulgated into a law, experts increasingly fashioned the legislative direction. A focus on how mining experts interacted with MPs provides significant insights relating to how and why the MPs positioned themselves within the divergent mining discourses. This historical analysis is important because the Mines and Minerals Bill was ready to be tabled in Parliament by 2016, but was not tabled until December 2018 (Lokanc, 2016). The muted view among the NGOs was that the Bill was not taken to Parliament for debate because the ruling party did not have the required number of votes to pass the legislation. Instead, the Bill was taken to Parliament after the state was sure of winning the vote on the bill. This was barely five months before the country went to the 2019 Presidential and Parliamentary elections.

According to Kossam Munthali, Chairperson of NRJN:

“The presentation of the 2018 Mines and Minerals Bill to Parliament was like an ambush. The bills were presented to Parliament on the last day of the Fourth Meeting - 47 Parliamentary Session, just about five months to the 2019 Presidential and Parliamentary elections. I was informed during the night that the Mines and Mineral Bill will be debated tomorrow in Parliament by an opposition MP. I spent my night to organise notes for the opposition MP who was supposed to respond to the Minister’s presentation. Everything was chaotic, some MPs who were entrusted with the responsibility of highlighting flaws in the bill were not in the house”.

How then did the battle over the promulgation of the 2018 MMA play out between 2007 and 2018? The mandate to make laws in Malawi rests with Parliament which has the responsibility to “*receive, amend, accept or reject Government Bills and Private Bills*”<sup>66</sup>. The Mines and Minerals Bill, as is the case with all other Government Bills, was prepared by the respective

---

<sup>66</sup> The Constitution of Malawi, 1995, Section 66 (1a)

department policy holder, the Department of Mines, and endorsed by cabinet before being taken to Parliament for approval. An increasing scholarship on democracy of chameleons in Malawi have debated the different tactics that the state employs to attract opposition MPs into their block in order to pass party-oriented legislation (see Englund, 2002; Chingaipe Ng'oma, 2010). Notwithstanding the significant insights that this literature provides, the review of the 1981 MMA presented new dynamics to this struggle. This is so as the framing power of expert ensued a process which resulted into subjectivities of MPs to the capitalistic rationalities of managing the mining sector. The expert power of framing turned MPs and consequently NGOs into agents of deepening the capitalistic approach to managing the mining sector. The activities of the international donor agencies particularly facilitated subject formation among policymaking agents by educating them on how the mining sector should be managed. For instance, one opposition MP argued during the day the 2018 MMA was promulgated into law that:

“I was once part of the delegation that went to Addis Ababa for the UNECA. During this meeting, we learnt about the mines and minerals bills that are out there and what other countries have done with the proceeds from the mines and minerals. They gave us examples of how England benefited with such proceeds. We learnt that in England, the whole railway underground system was done with the resources that were realised from mining because they knew that mining has a lifetime, and you cannot do it forever. They also gave another example of Botswana that the resources that were realised from the mines went towards education and infrastructure ... If we really want to make justice to this, let's see where exactly the proceeds from the mines and minerals go”<sup>67</sup>.

Similarly, a MCP spokesperson on natural resources argued that:

“The 2018 Mines and Minerals Bill is one of the bills that this House has been widely consulted. Mr Speaker, Sir, you may recall, that in 2015 you opened a consultative meeting in Mangochi which was convened by the United Nations

---

<sup>67</sup> Honourable Juliana Lunguzi, Hansard Fourth Meeting-Forty-Seven Session, 14 Dec 2018 p. 854

Economic Commission for Africa (UNECA) and some Members in this House were consulted”<sup>68</sup>.

The contribution of the MCP spokesperson on natural resources was supported by the Deputy Minister of Natural Resources, Energy and Mining who vehemently highlighted some of specific agreements that were agreed upon during these workshops. He narrated that:

“Mr Speaker, Sir, my colleague from the Malawi Congress Party reminded you that you once launched a consultative meeting in Mangochi. I would also like to add that the Mangochi meeting was the second. You launched the first one in Salima. All Members of the Natural Resources Committee were there, and we invited all Chairpersons of this House to Salima. Then we went to Mangochi, we invited all Chairpersons and my colleague from the Malawi Congress Party was the Vice-Chairperson. After that meeting, we also had another meeting at Capital Hotel ... we also agreed that mining is supposed to benefit the communities, the investor and government ...by then, we agreed that the 0.45 per cent of the Community Development Agreement (CDA) was okay<sup>69</sup>”

The above narrations suggest that the involvement of MPs in workshops relating to good governance of the mining sector resulted into MPs embracing a private sector-led approach to mining development in Malawi. The way good governance of the mining sector in Malawi was framed had impact not only on how MPs conceptualised the benefits and concerns of the communities living in the mining sites, but also their role in increasing the gains from mining. For instance, one of the opposition MPs argued during the Parliamentary debate on the 2018 Mines and Minerals Bill that:

“Now, seeing that government has come up with this component of Community Development Agreement (CDA) on the gross revenue which will be realised by these mines, I think it is a positive stride in making sure that our rural communities, where in most cases these mines are located, will be transformed”<sup>70</sup>.

---

<sup>68</sup> Honourable Major, MCP Spokes on natural Resources, Hansard Fourth-Forty-Seven Session 14 Dec 2018 p.847

<sup>69</sup> Honourable Welani Chilenga, Deputy Minister of Natural Resources, Energy and Mining, Hansard Fourth-Forty-Seven Session 14 Dec 2018 p.852-854

<sup>70</sup> Honourable Tupale Mwenefumbo, Hansard Fourth Meeting-Forty-Seven Session, 14 Dec 2018

The above discussion demonstrates how a network of governance agencies, including international donors and individual consultants, became mechanisms through which a private sector-led approach to governing the extractives was established in Malawi. The process of NGOs and MPs' subjectivity into private sector-led mining occurred as they participated in workshops, conferences and community empowerment advocacy projects. For instance, while FPIC was not originally on NGOs' advocacy agenda, they later on argued that the mining law should "draw on the principle of Free, Prior and Informed Consent as outlined in the UN Declaration on the Rights of Indigenous Peoples" (NRJN, nd: 6). FOCUS' support for FPIC was clearer arguing:

"we also implore government to incorporate FPIC in reviewed Act. FPIC is a global best practice in mining that respects and empower communities to claim their destiny within their locality. This can surely address many forms of alienation and suffering that we see among the people of Karonga District". (Karonga CSO Network<sup>71</sup>).

The contribution of expert knowledge in generating policymaking agents' consensus over the nature of the mining law was evident when the 2018 Mines and Minerals Bill was presented for debate in Parliament. On a day the Mines and Minerals Bill was tabled for debate in Parliament, the Bill was passed within a space of three hours. Parliamentary Standing Orders in Malawi recommend that once the bill is read for the first time, it should be referred to a relevant committee of the house for scrutiny. The 2018 Mines and Minerals Bill was not referred to the relevant committee as expected. While some opposition MPs wanted the bill to be referred to a relevant Parliamentary committee, the ruling and some opposition MPs argued that the Bill had received adequate public consultations. Thus, the bill was debated and passed unanimously (agreed upon without requiring a vote) without referring it to PCNRCC, a committee which the NGOs targeted in their lobbying campaign. Table 5.2 below presents a summary of the MPs arguments during debate of the 2018 MMA.

---

<sup>71</sup> Karonga CSO Network was led by FOCUS

Table 5.2: Members of Parliament Contributions on the 2018 Mines and Mineral Bill

<b>Name of MP</b>	<b>Political Party</b>	<b>Position</b>	<b>Way Forward</b>	<b>Areas of Concern</b>
<b>Alex Major</b>	MCP	Supports the Bill	Bill be referred to relevant committee for improvement	<ul style="list-style-type: none"> <li>• Composition of Mineral Resources Committee</li> <li>• Access to information</li> <li>• Revenue Management</li> <li>• Community Development Assistance and Land Compensation</li> </ul>
<b>Dr James Munthali</b>	PP	Supports the Bill	Bill be referred to relevant committee for improvement	<ul style="list-style-type: none"> <li>• Revenue Management</li> </ul>
<b>Juliana Lunguzi</b>	MCP	Supports the Bill	Bill be referred to relevant committee for improvement	<ul style="list-style-type: none"> <li>• Revenue Management</li> <li>• Local ownership</li> </ul>
<b>Werani Chilenga</b>	PP	Supports the Bill	Bill be passed as it is	
<b>Dr. Joseph Chidanti Malunga</b>	Independent	Supports the Bill	Bill be referred to relevant committee for improvement	<ul style="list-style-type: none"> <li>• Access to mining information</li> </ul>
<b>Peter Dimba</b>	MCP	Supports the Bill	Bill be passed as it is	
<b>Frank Mwenefumbo</b>	AFORD	Supports the Bill	Bill be passed as it is	
<b>Filipo Chinkhondo</b>	MCP	Supports the Bill	Bill be referred to relevant committee for improvement	<ul style="list-style-type: none"> <li>• Revenue Management</li> <li>• Transparency</li> </ul>



<b>Richard Msowoya</b>	Speaker of the National Assembly and MCP legislator	Supported the Bill	Recommended Bill the Bill and if there are issues, revise the Bill later	
------------------------	---	--------------------	--	--

Source: Hansard 46<sup>th</sup> Malawi Parliamentary Session

Table 5.2 above shows that the 2018 Mines and Minerals Bill was supported by both MPs from the ruling and opposition parties who contributed to the motion. The consensus among the MPs was that “the mining sector is another alternative sector that must be vigorously explored to replace the tobacco sub-sector as the main stay of our economy”<sup>72</sup>. One MP from the opposition block emphatically argued that “I hope this will be an opportunity for Malawi to make money”<sup>73</sup>. The MPs’ position on the 2018 Mines and Minerals Bill was only divided on whether the Bill should be referred to a relevant Parliamentary committee for improvement or be passed as it was. While there were voices of dissent within the MPs, the 2018 Mines and Minerals Bill was, however, debated and unanimously passed within three hours of Parliamentary debate. When the motion was put on the floor, the house passed the Bill without requiring a vote and none of MPs submitted amendments to be made, as is required by the parliamentary procedures. Thus, Bill was passed without any amendment.

It is worthwhile at this point highlighting two issues from MPs’ interaction with the Mines and Minerals Bill during the review period and passing of the 1981 MMA that are significant to this study. The first aspect relates to the extent to which interest groups in Malawi can rely on electoral pressure as a tool to influencing legislation along the interests of marginalised groups of people. In the case of the review of the 1981 MMA, while NGOs advocacy plans were hinged on electoral pressure, the enclave nature of extractives generated insufficient electoral pressure to affect balance of votes in Parliament. Instead, the focus of the legislative battle in Parliament shifted from addressing the environmental issues that the communities in the mining sites faced to questions of mining investment and national revenue generation. A considerable number of MPs who contributed to the motion on the Bill were concerned with issues relating to management of mining revenues, mining contracts and composition of the

---

<sup>72</sup> Honourable Tupale Mwenefumbo, Hansard Fourth Meeting-Forty-Seven Session, 14 Dec 2018

<sup>73</sup> Honourable Juliana Lunguzi, Hansard Fourth Meeting-Forty-Seven Session, 14 Dec 2018

Mineral Resources Committee. While the NGOs viewed electoral pressure as an instrument incentivising MPs to make political decisions that favour communities in the mining areas, the discussion above suggests that this relationship is not a straightforward one. The question of how local communities benefit from and are affected by mining is open to multiple framing. While some NGOs focussed on the immediate benefits to local communities, government officials and some MPs focused on long-term benefits that would trickle down from the national level mining investments.

The second issue that is significant to this study relates to how MPs entrusted with the responsibility of advancing the issues of NGOs reneged on its promise. For instance, in 2015 the Chairperson of the PCNRCC argued that “we have already requested government to include all stakeholders in the commission responsible for approving licenses as part of the Act as opposed to the current situation where all powers are vested in the Executive” (Mzale, n.d.). In 2018, the same MP, now as Deputy Minister of Natural Resources, Energy and Mining, emphatically argued in Parliament that this was not required. He specifically said that:

“I remember very well that during the consultations, we were told that Parliament, CSOs and NGOs cannot be included in the minerals resources committee because these institutions are supposed to provide oversight role. Once they are included in this committee, then it will be difficult for them to provide their oversight role. Suppose a Member of Parliament or a member from the CSOs is included in the committee and something goes wrong, who is going to provide the oversight role?”<sup>74</sup>.

The tendency of MPs switching their loyalty was cited as one of the challenges NGOs faced during the review of the 1981 MMA. For instance, Mining Governance Project Officer for FOCUS argued that:

“The MPs that we went to lobby with, both from the ruling and opposition parties, did promise that they are going to amend the Bill ... unfortunately both ruling and opposition MPs ganged up and passed the Bill without amendment, I think there is something that they agreed”<sup>75</sup>.

---

<sup>74</sup> Honourable Welani Chilenga Hansard Fourth Meeting-Forty-Seven Session, 14 Dec 2018 pp 852-854

<sup>75</sup> Interview with Jones Sichali, FOCUS Mining Governance Project Officer on 26/04/2019

The discussion above suggests that the Parliamentary struggle over the review of 1981 MMA was not a dichotomous one between ruling and opposition parties. Instead, the Bill was supported by MPs from both ruling and opposition parties. A good example is how the Bill was supported by the opposition MCP MP for Lilongwe South, where plans were underway to exploit graphite that will last for about 40 years. He argued that:

“The people of Lilongwe South are of the view that this bill must be passed ... the people of Malingunde cannot wait any further. We have issues, like the Community Development Agreement (CDA) which is at 0.45%. The people of Malingunde are not happy because it is so meagre, but the issue is, we should not stop the passing of this bill simply because of that”<sup>76</sup>.

The above narration suggests that the 2018 Mines and Mineral Bill generated complex interests at both macro and micro-political level and between and within political parties. The discussion above specifically points to how interaction between various experts oriented to the role of private capital in economic development facilitated transfer of capitalistic rationalities of managing the mining sector to NGOs and MPs (see Grundmann, 2019). Thus, while we are used to thinking that competing political organisations pursue distinct policies (see Hall, 1992; Harriss, 2006), certain circumstances may condition political actors to pursue similar policies. Drawing on Gottlieb’s (2015: 1) argument on “constraints on multiparty competition: when it is in the strategic interest of political parties to collude rather than compete with one another”, the above observation reveals limitations of social movements that depend on balance of power presented by pluralist governments.

As earlier highlighted in this chapter, NGOs’ advocacy on shaping the review of 1981 MMA towards the interests of communities living in the mining areas was founded on balance of power operable in competitive politics. In Malawi, NGOs viewed opposition parties as partners in their mission of achieving environmental and economic justice for communities living in the mining areas. Considerable literature on democratic rule view competitive politics through regular elections as presenting opposition parties strong incentives to support legislation that would enable them win electorates in their favour (see Leftwich, 2004; Hall, 1992). The

---

<sup>76</sup> Honourable Peter Dimba, MCP MP Lilongwe South, Hansard Fourth Meeting-Forty-Seven Session, 14 Dec 2018, pp 856-857

observations from this study, however, sit uncomfortably with this view as both ruling and opposition MPs supported legislation that negatively impacted on the livelihoods of some members of local communities. This observation suggests that neither local representation nor opposition-voice is inherently germane to the interests of all members of the local communities.

The dominant position from the bureaucrats, politicians and NGOs was that “mining should be able to offer a win-win outcome for the state, private companies and local communities”<sup>77</sup>. This view demonstrates how the dominant pro-mining discourse provided the fulcrum that conditioned the imaginations of policymaking agents and thus the nature of the 2018 MMA. According to Miller (2008: 55), “to the extent that the modern state ‘rules’, it does so on the basis of an elaborate network of relations formed amongst the complex of institutions, organisations and apparatuses that make it up, and between state and non-state institutions”. During the review of the 1981 MMA, the state mobilised experts oriented to private capital to not only restructure existing power relations around a capitalistic rationality, but more important distance party affiliations from the political space. In this way, expert knowledge within privatization set the mining agenda in Malawi (see Bachrach & Baratz, 1962; Fioretos et al. 2016) and restructured legislative power without generating serious political tension (Immergut, 1992; see also Pulido et al. 2016).

## **5.7. Conclusion**

In this chapter, I have discussed the contending discourses about the relationship between mining and economic development in Malawi. The chapter has discussed pro-mining, anti-mining and the ambivalent mining discourses that were prevalent among NGOs, international donors, government and communities living in the mining areas. Pro-mining discourse perceived mining as a panacea to the economic challenges Malawi was facing by, inter alia, providing an alternative source of government revenue, creating employment and facilitating local economic development. Anti-mining discourse perceived mining as largely profiting the private mining companies thus a continuation of colonial and post-colonial policies that disadvantaged local communities. While recognising the environmental and economic injustices that mining pose to local communities, the chapter observes that NGOs in Malawi

---

<sup>77</sup> Interview with Chandiwira Chisi, Chief Executive Tilitonse Fund on 17/12/2019. The same views were expressed by Gloria Majiga of CEPA, Kossam Munthali of FOCUS, staff from Mchenga Coal Mine and government staff at the Department of Mining in Lilongwe

adopted an ambivalent mining discourse. Within this perspective, the successes and failures of mining-led economic development was predicated on the existence of good mining governance. Good governance is, however, not a neutral concept. While mobilised as a tool to reconciling competing interests of diverse groups of people in Malawi, the practical challenges of applying good governance became the centre of contestation between the state, private companies, NGOs and a divided local community. In particular, the question of how mining should be governed, and mining benefit shared remained largely unresolved. The chapter observes that the NGOs' anticipated balance between the positive and negative impacts of mining is difficult to ascertain due to complex power asymmetries between the state, private mining companies and local communities.

This chapter has also discussed how a capitalistic pro-mining discourse emerged and was sustained to guide the review of the 1981 MMA out of the three competing discourses. This chapter observes that a capitalistic pro-mining discourse emerged out of expert advice on mining governance. Expert knowledge was mobilised in the formulation of a Mines and Minerals Bill and determined how mining ideas were reproduced and legitimated in Parliament. The chapter notes that while NGOs relied on electoral pressure to guide the behaviour of MPs in Parliament, the way mining ideas were reproduced via the expert advice made the achievement of this goal unattainable. In this way, this chapter highlights the limitations NGOs faced in achieving social and environmental justice within a pluralist governance framework. The NGOs' agenda for economic and environmental justice in Malawi presents multiple interpretations. The discussion above highlights how the objective of sharing economic benefits with communities living in the mining areas conflicts with that of maintaining a good physical environment. Thus, the use of economic and environmental justice concepts in the mining sector may mask the conflicting realities within the sector. In the case that interpretations of economic and environmental justice clash among competing policymaking actors, as is the case in Malawi, those with power and control emerge winners. Thus, this study contributes to the ongoing scholarly debate about the (in)ability of NGOs in shaping policy reforms towards the interests of marginalised people (see Oliva Campos et al. 2012). The next chapter discusses how the strategies for managing the environmental issues in mining that NGOs supported during the review of the 1981 MMA relate to the environmental challenges that communities in the mining areas faced.

## CHAPTER SIX

### STRATEGIES FOR MANAGING ENVIRONMENTAL ISSUES IN MINING: HIGHJACKED AGENDA AND CONTRADICTIONARY PROMISES

*“I often quote concepts, texts and phrases from Marx, but without feeling obliged to add the authenticating label of a footnote with a laudatory phrase to accompany the quotation. As long as one does that, one is regarded as someone who knows and reveres Marx and will be suitably honoured in the so-called Marxist journals. But I quote Marx without saying so, without quotation marks, and because people are incapable of recognising Marx’s texts, I am thought to be someone who doesn’t quote Marx. When a physicist writes a work of physics, does he feel it necessary to quote Newton and Einstein?” (Foucault, 1980: 52).*

#### **6.0. Introduction**

The aim of this chapter is to compare how the strategies for managing the environmental issues in mining that NGOs supported during the review of the 1981 MMA relate to the environmental concerns of the communities living in the mining sites. The study used Mchenga and Mwaulambo coal mining sites to understand the key environmental concerns of the people living in the mining areas. The central theme running throughout this chapter is that the review of the 1981 MMA was characterised by competing views regarding the strategies required to address the environmental issues in mining that the communities in the mining areas in Malawi experienced. The chapter observes that while NGOs rightly identified the environmental issues that local communities in the mining sites experienced, there was a dissonance between the underlying environmental concerns of communities living in the mining areas and the strategies that NGOs supported to address those concerns. The chapter observes that the strategies that were supported and adopted to address the environmental issues in mining did not only transform environmental harm into a commodity for monetary compensation, but also reduced the concerns of environmental harm to techno-scientific-based environmental management solutions. These strategies did not adequately deal with the underlying concerns of the local

communities regarding the effects of environmental harm arising from mining activities on their livelihoods platforms and healthy life (see Pelenc et al. 2019; Swyngedouw & Kaika, 2014). The chapter discusses how dominant policymaking agents, especially international donors and the state, advanced strategies that favoured the interests of private capital (see arguments by Foucault, 1980: 52). Though the strategies were deeply seated in the objective of promoting private mining investment, NGOs supported the strategies. In this way, NGOs that were involved in the review of the 1981 MMA in Malawi displayed contradictory promises. The chapter observes that this situation ensued because NGOs in Malawi, like many other NGOs in developing countries, pursued both project and systematic goals that left them bifurcated between the interests of the local communities on one hand and those of their donors and the state on the other (see Gabay, 2011; Hearn, 2007; Makuwira, 2011; Hilhorst, 2000). In this way, NGOs in Malawi hijacked and stifled grassroots environmental justice agendas by innovatively mobilising a discursive project that allowed them to profess a rhetorical language of popular representation as well as pursue their own multiple and diffuse interests.

The chapter is organised as follows. Section 7.1. to 7.7. compares the relevancy of the environmental management strategies that NGOs supported during the review of the 1981 MMA to the environmental concerns of the local communities in the mining sites. These sections also discuss the rationalities upon which different strategies for addressing the environmental issues in mining were based. Section 7.6 provides a conclusion of the chapter by highlights the key insights emerging from the chapter.

### **6.1. Environmental Management Strategies Supported by NGOs**

This section addresses two issues. First, it highlights the environmental issues in mining that NGOs pursued during the review of the 1981 MMA and relates them to those that local communities around Mchenga and Mwaulambo experienced. Second, it discusses how the rationalities on which strategies for managing environmental issues in mining were based relate to those that were in the past complementary legislations for managing environmental issues in mining. This is important because past legislations guiding natural resources management explain the occurrence of various forms of environmental injustices to local communities. While NGOs rightly pointed out the environmental harms that communities in the mining areas experienced, the rationalities on which the strategies were based did not resonate with the underlying causes of protests to environmental issues. This is so as the strategies transformed

environmental harm facing local communities, such as destruction of smallholder livelihoods, to a commodity for monetary compensation. To this extent, the strategies for managing the environmental issues in mining integrated communities experiencing environmental harm into the vagaries of capitalistic mining production system, where environmental harm became a good for monetary compensation. The general sentiments among the NGOs that participated in the review of the 1981 MMA attest to this understanding:

“local communities are the first to suffer environmental issues arising from mining activities in the country and should be compensated”<sup>78</sup>.

“mining activities affect local communities more than any other people in the nation; air pollution, water pollution, land dispossession and land degradation happen at the local communities. Mining should not impair local communities’ livelihoods but improve their situation ... mining should not leave the communities worse off”<sup>79</sup>.

“mining causes terrible destruction of the land ... it causes terrible destruction to the natural environment. The case of Mwaulambo are good examples where mining can cause a big threat to the environment. If you go to Mwaulambo, you will see how coal mining degraded the land for the community. There are big gullies there that are also a threat to the life of children and livestock ... Our focus during the review of the 1981 MMA was particularly to make sure that the local communities are protected from the environmental issues”<sup>80</sup>.

Broadly, the NGOs supported three categories of strategies of managing environmental issues in mining namely: (1) prevent/reduce local communities’ exposure to environmental harm, (2) compensate local communities for the environmental harm, and (3) reform governance of the mining sector. I proceed to discuss these strategies separately.

---

<sup>78</sup> Interview with Gloria Majiga, CEPA Project Officer for Mining Governance Project, 8/04/2019

<sup>79</sup> Interview with Gracian Banda, Environmental Lawyer and Activists, 11/04/2019

<sup>80</sup> Interview with Mr Jones Sichali, FOCUS Project Officer for Mining Governance Project, 26/04/2019



## 6.2. Prevention of Environmental Harm

Prevention of environmental harm was aimed at preventing exposure of communities living in the mining areas from environmental harm arising from mining activities. This strategy, supported by specialised NGOs such as CEPA, perceived ESIA as a best way to preventing communities' exposure to environmental harm. The argument was that:

“we need to tackle the environmental issues in mining from identification, monitoring, compliance, enforcement and mitigation. The problem is that currently little attention is paid to mitigation, largely because of problems of funding to oversight of activities”<sup>81</sup>.

The demand for protection of local communities from environmental issues in mining through EISA was included in the 2018 MMA under Part XVII: Protection of the Environment. Section 270 (1) of the Act stipulates that:

*“The Mineral Resources Committee or the Commissioner, whichever is the approving authority, in deciding whether or not to approve any mineral tenement, shall take into account—*

*(a) environmental protection and management principles set out in the Environment Management Act.*

*(b) principles of sustainable development in order to ensure that exploitation of mineral resources serves present and future generations.*

*(c) effects on human health and environment; and*

*(d) where development of the proposed project may affect a neighbouring country, consultations with the respective relevant government authorities of the respective countries.*

According to the 2017 EMA<sup>82</sup>, all large-scale mining activities are required to undergo ESIA. The 2018 MMA specifically requires that before granting a medium or large-scale mining license, the applicant has to receive an approval for the project from the Department of Environmental Affairs as evidenced by a “copy of the ESIA that supported such approval” (EMA, 2017, Section 158(h)). The view that ESIA is a solutions to mining-induced

---

<sup>81</sup> Interview with Gloria Majiga, CEPA Project Officer for Mining Governance Project, 8/04/2019

<sup>82</sup> The 2017 EMA was reviewed in 2017 but the two processes were different and except for CEPA, all other NGOs were not actively involved in the process

environmental problems was evident in the sentiments of the NGOs. Commenting on the dilemmas of coal mining in Malawi, they argued that “the question of the environmental harm of coal mining and use in Malawi need to be answered from an informed position, it should be informed by ESIA. We cannot just adopt a wholesome argument”<sup>83</sup>. All the respondents from CEPA, FOCUS, Church and Society and CCJP argued that there is need for an ESIA before commencement of any mining activity to ensure that communities in the mining areas are protected from environmental harm.

The foregoing discussion suggests that NGOs perceived ESIA as a guaranteed solution to protecting communities in the mining areas from mining-induced environmental harm. In its submission to government on the review of the 1981 MMA, NRJN particularly recommended developing “EIA regulations under the Mines and Minerals Act specific to prospecting and mining licenses in line with international best practice” (NRJN, nd: 6). But the processes of conducting ESIA as defined in the 2017 EMA (to which the 2018 MMA refers issues of ESIA) are not different from those in the 1996 EMA under which local communities experienced environmental harm. Notwithstanding the role of ESIA in identifying environmental issues requiring attention, it is not an end on itself. Extant studies have shown how ESIA is not always a neutral technical activity, but one that is entangled in unequal power struggles and structural inadequacies that predominantly serve the interests of existing hegemonies. For instance, Leonard (2017: 1) argues that EIAs are “tokenistic tools to approve developments rather than to genuinely engage with the concerns of interested and affected groups”. On his part, Esteves et al. (2012: 37) sees Social Impact Assessment “as a process for incremental project improvement, and at worst as being little more than a feeble attempt at project legitimization” (see also Kyra Grieco, 2017). Furthermore, Sousa et al., (2011) argues that ESIA faces challenges due to inadequacies in the existing procedures and measures for enforcement.

Viewing ESIA as a form of techno-politics that defines “the strategic practice of designing or using technology to embody or enact political goals” (Hecht, 1998: 56 reported in Spiegel, 2017), this study suggests that ESIA is a power-laden tool that is deeply rooted in rationalities of control and rule. This understanding precisely mirrors the spirit behind ESIA as guided by the 2017 EMA, Part VII, Section 35(1 and 2) which stipulates that.

---

<sup>83</sup> An Interview with Gracian Banda, an environmental lawyer and activist, 11/04/2019

*“(1) The prescription of the environmental quality standards under this Part shall be based on scientific and environmental principles and shall take into account the practicability and availability of appropriate technology for ensuring compliance with the standards.*

*(2) The Authority may in liaison with relevant lead agencies, prescribe different environmental quality standards to apply in different areas of Malawi with respect to different segments of the environment and the Authority may from time to time vary the standards.*

The above legislative stipulation ignites historical environmental conservation struggles between the local communities and the state, presented in Chapter 4, that reified and privileged scientific knowledge over indigenous knowledge (see Mulwafu, 2012; Mandala, 1990; Kalipeni and Feder, 1999).

As will be discussed in section 8.3, local communities at Mwaulambo suffered enormous environmental harm despite the fact that ESIA for the coal mining project was conducted and approved by the DEA. Under the 2018 MMA, ESIA is, therefore, still a technocratic environmental management tool that is based on the supremacy of western scientific knowledge over indigenous knowledge and experiences. There is, however, dissonance between what is scientifically considered safe and the local communities’ perception of what is safe. The stance of the DEA regarding the foundation of ESIA illuminates the conflict between western science and indigenous knowledge. According to the DEA, “we base all our assessment on scientific knowledge and evidence; we cannot use local knowledge and experiences as such knowledge is subject to be challenged in a court of law”. While the DEA considered “air pollution within mining sites in Malawi to be within the recommended international standards”<sup>84</sup>, local communities at Mchenga complained that the “smell generated when they are crushing coal is awfully bad and unhealthy for us”<sup>85</sup>.

Ironically, the Department of Environmental Affairs recognises that the process of conducting ESIA is caught up in political structures, arguing:

---

<sup>84</sup> Interview with Ms. Carline Theka, Environmental Officer Legal Section, Department of Environmental Affairs, Lilongwe, 15/04/2019

<sup>85</sup> FGD with smallholder farmers and mining workers at Mchenga Coal Mining Site, 1/05/2019

“Politics does affect our work, there are times when technically an issue needs to be dealt with in a certain way, but a directive from “above” says a different thing. I guess we have not gotten into a point where someone will put the foot down and say, as far as I am concerned, this is what is going to happen ... (Why has this been the trend?) ... people are afraid of losing their jobs, instead they will just murmur”.

This is understandable as Section 8 of the EMA confers on the Minister to, inter alia, regulate ESIA and environmental quality criteria and standards. The discussion above point to the risks that asymmetrical power structures in Malawi pose to conducting an ESIA that safeguards the interests of communities living in the mining areas. Equally important, the process of developing environmental standards in Malawi is imbued with conflicting interests and capacity dynamics resulting in development of standards that serve established hegemonies. For instance, one of the specialist in environmental standards development at Malawi Bureau of Standards (MBS) argued that:

“we do not yet have standards for mining in Malawi. What you should know is that development of standards is demand-driven, we have standards for renewable energy that were developed at the request of Malawi Energy Regulatory Authority. The current policy of Malawi Bureau of Standards is that development of standards has to be demand-driven and the stakeholders that need the standards are the ones that must fund the process. If there is no funding, standards cannot be developed for years. We do not yet have any standards relating to mining because we have not received any demand”<sup>86</sup>.

The sentiments from MBS are interesting as they raises two critical questions relevant to this study. First, MBS adoption of a policy that development of environmental standards must be demand-driven suggest privatisation of not only MBS services but also demands for environmental justice. To this end, standards that are developed carter for the needs of those that fund the development of those standards. Second and arising from the first, extreme poverty levels within the mining areas coupled with poor levels of organisation means that local communities cannot effectively organise to demand development of environmental standards. The focus of MBS on development of standards based on ability to fund the cost of

---

<sup>86</sup> Interview with Mr Kera, Environmental Standards Development Specialists, Malawi Bureau of Standards, Blantyre, 29/03/2019

development point to how a capitalistic rationality systematically suppresses the interests of poor segments of the society. This situation suggests that if local communities around the mining sites cannot fund development of environmental standards for the environmental issues in mining, the standards cannot be developed. Thus, the above narration suggests that ESIA favours actors that are in command of both financial and human resources. The discussion above also suggests that the extent to which ESIA can act as a solution to environmental problems facing local communities around the mining sites is entangled in the intricacies of established vulnerabilities.

### **6.3. Compensation for Environmental Harm**

The second category of strategies to manage environmental issues in mining that the NGOs supported involved compensating communities living in the mining areas for suffering environment harm. The main argument from this strategy, advanced by local and national NGOs, was that:

“it is a fact that mining generates harmful effects on the immediate local communities and destroys the existing livelihood platforms for the poor in the area where mining is taking place. You need to have a provision for investing in the people so that when you go away, you have to leave the people better off than when you found them”<sup>87</sup>.

“it is important that government should first have to give the benefits of mining back to the community that suffer environmental harm”<sup>88</sup>.

While some NGOs such as CEPA argue that “the position of CEPA is that we need sustainable mining”, the sentiments from some of the local NGOs challenged the touted belief that mining can be done sustainably. These sentiments do not only mirror the unsettled academic debate about the sustainability of mining activities (Kirsch, 2014; Kirsch, 2010; Horowitz, 2006; 2011; Kumah, 2006; Hilson, 2001), but also point to how the concept of sustainable development obscures the different effects of industrial activities. As highlighted in chapter 5, the contestation in sustainable development relates to whether the focus should narrowly be on sustaining economic growth or broadly on reducing negative ecological impacts of economic

---

<sup>87</sup> An Interview with Gracian Banda, an environmental lawyer and activist, 11/04/2019

<sup>88</sup> Interview with Mr Jones Sichali, FOCUS Project Officer for Mining Governance Project, 26/04/2019

development (see Lockwood et al. 2017). Two strategies were advanced that aimed at compensating local communities for their exposure to environmental issues in mining namely: resettlement and compensation for land appropriated for mining activities and sharing of benefits from mining proceeds. The following section discusses how these strategies were meant to compensate local communities for the environmental harm and the limitations of these strategies.

### **6.3.1. Fair Compensation and Resettlement of Displaced Households**

Fair compensation and resettlement of households displaced by mining activities were based on the experiences that mining projects in Malawi, and many other countries in southern Africa, are usually opened on land that is under customary use (Jere, 2017; Human Rights Watch, 2016, Büscher, 2015; Murombo, 2013). Under the old 1967 Land Act, customary land users only enjoyed usufruct rights and not ownership rights. Under this law, customary land was a reserve from which private land would be created and the Act granted government the mandate to decide what was the best use of the land (Chinsinga, 2002; Zuka, 2019). This situation made it easy for government to expropriate customary land for public use and reallocate affected communities to unoccupied available land. While the 2016 Customary Land Act has accorded customary land users both ownership and user rights<sup>89</sup>, customary land users do not have the legal mandate to stop government appropriating land for mining activities. In the words of Honourable Major, who was Malawi Congress Party spokesperson on natural resources,

“Whilst there are some improvements in terms of the protection of both public and private land, the current wording ultimately allows the mining to take place anywhere at the discretion of the mining resources committee and the Minister ... This means the landowner can refuse permission to explore on his land, but the government can ultimately overrule him and there is no legal oversight on this decision”<sup>90</sup>.

The position of most NGOs on compulsory appropriation of customary land was that communities living in the mining areas would benefit if they were fairly compensated for the loss of the land. The definition of fair compensation is, however, contentious as different people

---

<sup>89</sup> It should, however, be pointed out that government has not fully started implementing the 2016 Customary Land Act as it is still waiting for procedures to be developed.

<sup>90</sup> Honourable Major, Hansard- 47<sup>th</sup> Parliamentary Session, 14<sup>th</sup> December 2018 p 849

employ different approaches to define what is considered fair compensation. The compensations given to customary land users at Mchenga and Mwaulambo coal mines, described in detail in section 8.3, were calculated using improvement value that was provided for under the 1967 Land Act. With customary land users being granted land ownership rights, the 2016 Land Act provides market value as a basis for calculating value of the land and improvement value for improvements made on the land. This is a basis on which compensation to customary land users will be based in case of land appropriation for mining activities. NRJN perceived these reforms as serving the interests of unregistered customary holders, including those giving up their farming land to mining activities<sup>91</sup>. The understanding among NGOs is that “fair compensation and resettlement means that local communities will not be negatively affected by establishment of mining. The good thing is that such provisions are provided for in the new Customary Land Act”<sup>92</sup>. This perspective is generally shared by a number of NGOs who perceive “fair compensation to local communities displaced by mining activities as a better way to compensating households experiencing land loss”<sup>93</sup>. The sentiments highlighted above suggest that fair compensation and resettlement represents a win-win solution for the local communities, the state and the private companies.

However, compensation, as defined in the 2016 Land Act and 2016 Customary Land Act, is a contentious concept which is heavily governed by the technical language and practices of valuation. Generally, conventional property valuation is deeply seated in the neoliberal principles of profit and accumulation (Baum et al. 1996; Crosby & Henneberry, 2010), which are often in conflict with the way agrarian economies of rural communities function. According to Kabanga & Mooya (2017: 483), valuation of customary land for compensation in Malawi disadvantages customary land users because “market value, as a compensation valuation basis, and the method used for its determination, are ill-equipped for customary properties”. Studies in India and elsewhere have also raised similar concerns about the inadequacies of conventional

---

<sup>91</sup> NRJN recommended reforming “land law to include at least market value compensation for unregistered customary land holdings” (NRJN, nd:6).

<sup>92</sup> Interview with Mr Jones Sichali, FOCUS Project Officer for Mining Governance Project, 26/04/2019

<sup>93</sup> An Interview with Gracian Banda, an environmental lawyer and activist, 11/04/2019

methods of valuation in accurately assessing the value of subsistence land users (see Oskarsson, 2018; Martinez-Alier, 2012).

The dissonance between values determined through conventional methods of valuation and the value of land within agrarian economy arise because valuation, as implied in the 2016 Land Act and 2016 Customary Land Act, makes operable the standard market value as established within the capitalistic definition of valuation. According to Royal Institution of Chartered Surveyors (2014: 9), on which Malawi's valuation is based upon, Market Value of the property is defined as "the estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm's length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion. Section 17(8a) of the 2016 Customary Land Act specifically stipulates that "The customary land shall be transferred subject to – payment of appropriate compensation as assessed by a registered valuer and agreed upon between- (i) the land committee and the Commissioner ..." (GoM, 2016a).

The discussion on compensation of customary land users in Malawi raises two points that are significant to this study. Firstly, the discussion demonstrates how valuation is not only a technical process for defining value of properties but is also anchored in capitalistic meaning of value that diverges from that of subsistence farmers. Secondly, the discussion above highlights that land compensation based on capitalistic rationalities have been sustained in the new 2016 Land Act. This is the Act which is going to guide all land compensations in matters of land loses arising from mining activities. Thus, while there have been some changes to the provisions guiding land compensation, the underlying rationalities guiding land compensations have not changed. The discussion above points to how capitalistic rationalities continue to structure conflict between local communities and the state over land use. It also demonstrates how existing institutions (Land Act, 2016) constrained the ability of NGOs to shape the review of the 1981 MMA towards a particular direction. While the NGOs emphasized the issue of compensation to livelihoods of rural households, the focus of the two Acts is on the market value of the land and the improvements made on the land.

### **6.3.2 Community Development Agreement as a Mining Benefit Sharing Strategy**

The second strategy that NGOs advanced to compensate local communities for their exposure to environmental issues in mining centred on putting in place provisions for the establishment



of Community Development Agreements (CDAs) with private mining companies. While land compensation focused on the compensating households whose land will be appropriated to pave way for mining activities, CDAs focused on compensating communities for the damage that mining brings to the community. NRJN's submission to government particularly recommended that the reviewed mining law should:

“Legally bind companies to adhere to CSR through the Community Development Agreement (CDA) ... Provide a percentage of the profits to be invested into the community through a community fund to be administered by the local government” (NRJN, nd: 4).

The understanding behind CDA was that “mining affects the whole community where mineral extraction takes place. The immediate communities should, therefore, be the first to share in the benefits of mining”<sup>94</sup>. There was a general consensus among NGOs that participated in the review of the 1981 MMA that as “environmental issues are more localised and communities living around the mining sites are more exposed to environmental harm, there is need for a provision for investing in the people around mining sites”<sup>95</sup>. The NGOs in Malawi particularly built their arguments around the experiences of aboriginal communities in Canada and Australia where impacts and benefits agreements (IBAs) or community development agreements (CDAs) have been employed to share mining benefits with local communities (Peterson St-Laurent & Billon, 2015). NRJN recommended aligning “CSR with international best standards such as the United Nations Guiding Principles on business and human rights” (NRJN, nd: 7). The above statement shows the extent to which NGOs that were involved in the review of the 1981 MMA were co-opted into global practices and ideas relating to mining and community empowerment.

However, CDA is not only a highly contested concept, but its benefits are also not automatic. While there is increasing global support for CDAs as a tool for compensating local communities for their exposure to environmental harm from mining activities (World Bank, 2012; O’Faircheallaigh, 2013; Bruckner, 2016; Addison et al. 2018), there is also considerable criticism about the ability of CDAs to serve the interests of local communities (Peterson St-

---

<sup>94</sup> Interview with Mr Jones Sichali, FOCUS Project Officer for Mining Governance Project, 26/04/2019

<sup>95</sup> Interview with Gracian Banda on 11/04/2019. The same sentiments were echoed by representatives from FOCUS, CEPA, CCJP, Church and Society

Laurent & Billon, 2015; Blunt, 2014; Nwapi, 2017). According World Bank (2012: 1), CDAs can produce more sustainable and equitable benefits by “enhancing community participation and consultation, manage expectation of involved parties, and ultimately maximise pro-poor benefits to impacted communities while helping to establish social license to operate for governments and industry”. O’Faircheallaigh (2013) also argues that CDAs can help resolve tension between the private mining companies and local communities that is prevalent in the mining area.

In Malawi, the view that CDA is a tool designed to benefit local communities living in the mining areas was reflected during FDGs conducted with the executive members of Mchenga Community Based Organisation (CBO) that was working with Livingstonia Church and Society. They specially argued that “our duty is to make sure local communities establish CDAs with private mining companies that establish mining projects in this area”<sup>96</sup>. The perspective that CDA is the means through which local communities can benefit from extractives was also shared by MPs who spoke in favour of the 2018 Mines and Mineral Bill in parliament, arguing.

“I have got areas that I want to speak in favour of and commend the Minister for coming up with these clauses in the bill, especially on the matter of Community Development Agreement ... Now, seeing that government has come up with this component of Community Development Agreement on the gross revenue which will be realised by these mines, I think it is a positive stride in making sure that our rural communities, where in most cases these mines are located, will be transformed. So, I wanted to echo that one”<sup>97</sup>.

On his part, the Minister of Natural Resources, Energy and Mining argued that the 2018 Minerals and Mines Bill was:

“responsive to community needs ... ensure that affected communities are adequately compensated where resettlements are involved; the large-scale mining licence holder is also required to have an approved community development agreement

---

<sup>96</sup> FGD with Executive members of Mchenga/Jalawe Community-Based Educators, 1/05/2019

<sup>97</sup> Frank Mwenefumbo, Hansard, Fourth Meeting - 47<sup>th</sup> Parliamentary Session, 14 December 2018, p. 846.

with qualified communities around the mine to ensure that communities benefit directly from the mining”<sup>98</sup>.

The language and logic of CDAs particularly moved Malawi Congress Party<sup>99</sup> spokesperson on Natural Resources, Honourable Alex Major, to support the Mines and Minerals Bill in Parliament. He particularly stated that:

“Mr Speaker, Sir, this is why this bill is very important because it is providing mechanisms to safeguard communities and environment in order to maximise the benefits of the minerals within the country ...it is critical that in the community development agreements that falls under the regulations, communities are not left to negotiate the agreements with the private sectors alone as literacy levels in Malawi is very low. Therefore, we need to include other people and the communities should be equipped on how to negotiate. You might be aware that the communities are not equipped with the necessary understanding on the sector and require negotiating skills”<sup>100</sup>.

The question of CDA in Malawi demonstrates how NGOs, local elites, MPs, government officials and private mining companies have come to define local communities’ benefit from mining through the identical logic of CDA. Borrowing the concept of imaginative geographies within a national context (Mikulewicz, 2020), the above narration suggests how the NGOs depicted communities living in the mining areas as requiring a particular kind of guidance. To use the words of Miller (2008: 64), the local communities at Mchenga and Mwaulambo have been shaped to “construe their goals and fate as in some way inextricable” from the successes and failures of the private mining companies. Notwithstanding the agreement over the rationality of CDA, some NGOs such as FOCUS and Church and Society see the level of CDA in Malawi as primarily:

“serving the interests of private mining companies by making sure that they operate without local resistance yet giving out meagre benefits to the local communities,

---

<sup>98</sup> Honourable Aggrey Massi, Minister of Natural Resources, Energy and Mining, Hansard, Fourth Meeting - 47<sup>th</sup> Parliamentary Session, 14 December 2018, p. 857.

<sup>99</sup> Malawi Congress Party was the major opposition party in Parliament and its support largely determined the passing of the Bill.

<sup>100</sup> Alex Major, Hansard, 14 December 2018, p. 847-49.

just imagine 0.45%. This contribution can only be claimed from large-scale mining companies; this means most of mining companies in Malawi will not contribute CDA. According to the new Act, CDA can only be paid to local communities after private mining companies are fully established, one year after they have started mining and selling minerals”<sup>101</sup>.

To employ the words of Peterson St-Laurent & Billon (2015: 591), the above discussion points to how the “government through a selective absence from negotiation uses community development agreements to govern at a distance”. The framing of CDA in the 2018 MMA in Malawi demonstrates how local communities at Mchenga and Mwaulambo were indirectly brought under government control through inculcation of the private sector ideals in the development of the mining sector (see Glenn, 2019; Peterson St-Laurent & Billon, 2015). The view that CDA in Malawi is designed as a social license for private mining companies to operate (see World Bank, 2012b) can be exemplified by the way the strategy is designed to operate in the country. Firstly, despite most mining companies generating considerable environmental harm to communities in mining areas as indicated in chapter 1, CDAs is only applied to medium and large-scale mining projects. According to section 148 of the 2018 MMA, medium and large-scale mining companies are defined as:

- (a) in the case of extraction of minerals from primarily alluvial mineral deposits, if annual throughput is more than 1,000,000m<sup>3</sup> per year; or*
- (b) in the case of underground mining operations, where annual combined run-of-mine ore and waste production is more than 500,000 tonnes per year (waste material not exiting mine mouth to be excluded); or*
- (c) in the case of open-cast mining operations extracting minerals from primarily non-alluvial deposits, where annual combined run-of-mine ore, rock, waste and overburden production is more than 5,000,000 tonnes per year; or*
- (d) where after construction is complete, the licence holder employs or contracts more than 1,000 employees or workers within Malawi on a typical working day (including all shifts) that are in some way involved with the mining project; or*

---

<sup>101</sup> Interview with Kossam Munthali, Director of FOCUS and Chairperson of NRJN on 16/12/2019

*(e) where capital investment in the mining project over its first ten-year will or does exceed 250,000,000 United States Dollars.*

Section 169 of the 2018 MMA specifically states that “holder of a large-scale mining licence shall - (a) expend on community development no less than zero point four-five percent (0.45%) of its annual gross sales revenues, in such manner, at such time and on such activities as are prescribed”. The irony of applying CDAs to large-scale companies investing up to US\$250 million means that very few private mining companies operating in Malawi can be classified as medium or large-scale mining. As of 2019, only Kayelekera Uranium Mining would have been required to negotiate and sign CDAs with the communities living in the mining areas. Despite causing a lot of environmental harm, it’s not mandatory for current coal mining projects to sign CDAs with local communities as it is doubtful whether their capital outlay is up to US\$250 million. It is important at this point highlighting that the NGOs that criticised CDAs were not opposed to CDA per se but to the 0.45% of gross annual sales contribution stipulated in the 2018 MMA. In this way, the NGOs were not against the spirit of CDA, but its letter. The argument was that “all mining activities disrupt the livelihood of local communities and thus all mining companies are required to contribute to CDA. “As NGOs, we were proposing a percentage of about 5% of gross sales revenue, but government had to put it at 0.45%”<sup>102</sup>.

The second way in which the 2018 MMA was perceived as friendly to the interests of the private sector relates to the time given to mining companies before beginning to disburse CDAs to local communities. According to section 148 (6 &7) of the 2018 MMA, “community development agreement shall come into force twelve calendar months after commencement of commercial production. A holder of large-scale mining licence and a qualified community may submit a revised and ratified community development agreement for approval by the Mineral Resources Committee in such form and manner and containing such content as are prescribed”. According to interviews conducted with a government staff in the Department of Mines, “a one-year grace period is necessary in order to give time to the mining companies to get established before they are required to contribute CDAs”. The time allowance granted to mining companies before contributing their CDA suggests that the framing of 2018 MMA in

---

<sup>102</sup> Interview with Kossam Munthali, FOCUS Director and Chairperson of NRJN in Malawi, 16/12/2019

Malawi prioritised the interests of private mining companies than communities living in the mining areas. Despite companies generating enormous environmental harm, communities living in the mining areas are supposed to wait for a year before accessing CDA from the mining companies. In that way, CDAs is primarily concerned with acquiring social license for the operation of the private mining companies. Imaginations of accessing CDA after one-year also overlooks that the lifespan of mining industry is very unpredictable and contingent upon many external factors (see Bowman, 2018). The closing down of both Kayelekera Uranium Mining and Mwaulambo Coal Mining Companies in Malawi due to global price crash and changing market dynamics attest to this uncertainty.

Thirdly, the specification of 0.45% of annual gross sales as mining companies' contribution towards CDAs undermines the essence of negotiations between private companies and local communities experiencing environmental harm. While setting the contribution of CDA may guard against private companies' practice of dodging payment of community development obligations (Nevin, 2011), some NGOs consider the percentage of 0.45 to be low and perpetuates statist top-down decision-making tendencies in natural resources management (see Oskarsson & Lahiri-Dutt, 2019). Equally important, setting uniform levels of CDA across the mining activities and space ignores that different communities are exposed differently to environmental harm.

While some NGOs were against pegging of 0.45% of annual gross sales as contribution to CDA, most of the bureaucrats in the Department of Mines considered it to be adequate for the country to develop the mining sector. The argument was that "the contribution of 0.45% of companies annual gross sales is ideal for the survival of the private mining companies considering that they also pay tax to government"<sup>103</sup>. The position of bureaucrats from the mining sector on CDA was nicely summed up in their communication to NGOs during one of their negotiations over the bill; "Malawi does not have what it takes to attract any serious investor ...we are already disadvantaged, now if we go tightening up the law, technically we are squeezing our self out of contest"<sup>104</sup>. The position of government bureaucrats on the level of CDA mirrors that of international donors and funding agencies who funded NGOs' mining

---

<sup>103</sup> Interview with anonymous government official in the Department of Mines, Lilongwe, 17/04/2019

<sup>104</sup> Interview with Mr Chandiwira Chisi, Executive Director of Tilitonse Fund, 17/12/2019

governance advocacy projects in the country. For instance, a senior staff from a key funding agency towards NGOs' good mining governance advocacy argued that "most of the issues that were borne of contention in the 1981 MMA have been ironed out, communities won't be the same again, they stand to benefit a great deal<sup>105</sup>". The above sentiment starkly contradicts the sentiments from local and national NGOs discussed above. For instance, one leader of a local NGO unequivocally argued that:

"in the long journey of reviewing the 1981 MMA, my lowest moment was when the Act was being passed in Parliament. Nothing that we suggested for consideration was amended, 0.45% contribution towards CDA is a journey of raw deal, I still feel that the capitalistic thinking is still coming from the back<sup>106</sup>".

While the global levels of CDA differs according to the degree of government devolution which is in place (Otto et al., 2006), a level of 0.45% of gross sales revenue may be lower than in other countries. According to Nikolaou (2019), CDA in Ahafo and Akyem Gold Mines of Ghana is at 1% of Gross Sales Revenue and in Peru the community receive 3.75% of Net Sales Income. The above discussion point to how the framing and design of CDA in Malawi is not only resolving historically situated struggles between capitalist investors and local communities, but more also reproducing and legitimising new modes of capitalist exploitation. To the extent that the 2018 MMA favours the private mining companies, enactment of local communities' demands close juridical spaces for addressing struggles between the private sector, the state and local communities. Consequently, the 2018 MMA is reproducing structures of oppression in a new fashion where local communities self-regulate through internalisation of capitalistic logic of CDA. While perpetuating the supremacy of corporate interests, CDA is simultaneously mobilising local community freedom of choice as a tool to their self-subjectivation.

#### **6.4. Reforming Governance of the Mining Sector**

A third strategy which NGOs in Malawi advanced in addressing environmental issues in mining focused on reforming the institutional framework for governing the mining sector. The understanding was that 'good governance of the mining sector would make it easy for local

---

<sup>105</sup> Interview with Mr Chandiwira Chisi, Executive Director of Tilitonse Fund in Lilongwe, 17/12/2019

<sup>106</sup> Mr Kossam Munthali, Executive Director of FOCUS and Chairperson of NRJN in Malawi, 16/04/2019

communities to demand their rights from private mining companies”<sup>107</sup>, and would promote transparency and accountability in the way mining projects are managed”<sup>108</sup>. The NGOs focused on establishment of and reforming three institutions involved in the management of mining sector in the country namely: establishment of the Mineral Resources Committee (MRC), enhancing public access to mining information, and establishment of Extractive Industry Transparency Initiative (EITI). The NGOs also argued that “instead of vesting the minerals in the President, the ownership of the minerals be vested in the Republic in line with other laws such as the Constitution and the 2016 Land Act”<sup>109</sup>. The demand that minerals be vested in the Republic was not contentious and was included in the 2018 MMA under section 4(1), which stipulates that “*The entire property in minerals, in, under or upon any land or waters in Malawi are vested in the Republic; but without prejudice to the exercise of any right under or pursuant to this Act*”. Even Minister of Environment and Natural Resources cited vesting mineral rights in the President as an anomaly during presentation of the Mines and Minerals Bill for debate in Parliament<sup>110</sup>. However, establishment of Mineral Resources Committee, increasing public access to mining information and establishment of Extractive Industry Transparency Initiative generated a lot of contention amongst policymaking actors. It is to these three aspects that I now turn to.

#### **6.4.1. Establishment of Mineral Resources Committee**

Establishment of Mineral Resources Committee (MRC) was one of the strategies which NGOs that participated in the review of the 1981 MMA perceived as central in ensuring that mining in Malawi serve the interests of local communities in the mining areas. MRC is a committee, established under Part II, Section 5 of the 2018 MMA<sup>111</sup>, that is responsible for oversight of

---

<sup>107</sup> Interview with Mr Chandiwira Chisi, Tilitonse Fund Executive Director in Lilongwe, 17/12/2019

<sup>108</sup> Interview with Mr Jones Sichali, Project Officer for FOCUS Mining Governance Project, 26/04/2019

<sup>109</sup> Interview with Mr Kossam Munthali, FOCUS Executive Director and Chairperson of NRJN in Malawi, 16<sup>th</sup> December 2019, also Gloria Majiga from CEPA, Felix Manda, Mining Governance Project Officer for CCJP, 25<sup>th</sup> June 2019

<sup>110</sup> The Minister of Environment and Natural Resources argued that “At the moment, ownership of the minerals is vested in the President on behalf of the people of Malawi. This is inconsistent with the current political dispensation and ongoing reforms”

<sup>111</sup> Mines and Mineral Act, Section 5(1) “There is hereby established a committee to be known as the Mineral Resources Committee”



the mining sector including assessment, recommendation, granting, cancellation, and suspension of mining exploration rights and retention licenses for medium and large-scale mining. Local and national NGOs perceived the establishment of MRC as critical to achieving transparency and accountability in the mining sector. However, the composition of the MRC generated a lot of debate among policymaking agents, with NGOs and opposition MPs vehemently resenting the composition of the committee.

The 2018 MMA designated the following as members of the MRC: Principal Secretaries responsible for mining (Chairperson), economic planning and development, local government, water, lands, treasury; Directors of Environmental Affairs, Geological Survey, Parks and Wildlife, Forestry, and Inspector General of Malawi Police Services. NGOs protested, firstly, their exclusion from this committee and secondly, the inclusion of stakeholders who they viewed as “hand-clappers and yes bwanas of the state”<sup>112</sup>. NRJN position paper on the review of the 1981 MMA indicate that NGO wanted MRC “to be composed of experts from various government departments, academia, civil society and private sector” (NRJN, nd: 4). The Chairperson of NRJN emphatically argued during an interview that “we had serious problems with the composition of the committee because we saw Inspector General of Police to be part of the committee. We thought this office is misplaced, all these busy people, the Principal Secretaries, the yes bwana syndrome is continuing”<sup>113</sup>. The struggle over MRC membership was also witnessed in Parliament where opposition MPs demanded that MRC includes members from NGOs, business sector and opposition parties. Honourable Alex Major, Malawi Congress Party Spokesperson on Natural Resources, argued during Parliamentary debate on the Mines and Minerals Bill that;

“Currently, the bill is addressing the issue of establishing a mineral resources committee which is in Section 5. There is no representation from Parliament which is an oversight, the business community and also CSOs or NGOs in this committee ... You might be aware that NGOs or CSOs is also a fifth arm of government whereby they provide oversight. It is also based on this fact, Mr Speaker, Sir, that the MCP is seeing that this

---

<sup>112</sup> “Yes mbwana” is a common local phrase which means those individuals who by all means support the state because they are benefiting from the state

<sup>113</sup> Interview with Kossam Munthali, Executive Director-FOCUS & Chairperson - NRJN in Malawi, 16/12/ 2019

mineral resources committee needs also to be looked at in order to include what I have just said”<sup>114</sup>.

Policymaking agents’ contention over the composition of MRC shows that creation of governance institutions is not just a technical activity, but one that is entangled in existing structures of power and interests. While the creation of MRC generated important questions of resource control by a particular group of mining stakeholders, it also points to how the question of balanced control over minerals excluded local communities living in the mining areas. The demand for inclusion into the MRC was limited to policymaking agents and not extended to the communities in the mining areas. As highlighted in chapter 1, NGOs presented themselves as representing the interests of the communities. A comment from the Chairperson of NRJN helps to put this argument into perspective; “In Malawi, the NGOs have created the space for policy dialogue, we have reached a point where government cannot move unless they consult us”<sup>115</sup>. The above sentiments require understanding the work of the NGOs from Gramscian viewpoint, which presents NGOs as instruments of the elites to advance their self-interests as they champion issues of subaltern communities (Lewis, 2002; Markovitz, 1998; Kasfir, 1998). Thus, NGOs have come to occupy a prominent but contentious position in the process of top-down governance of communities living in the mining sector. The case of Malawi, therefore, calls into question the extent to which NGOs can bring about procedural justice for the communities living in the mining areas.

#### **6.4.2. Public Access to Mining Information**

Increasing public access to mining information was the second aspect that the NGOs that participated in the review of the 1981 MMA lobbied as a way of reforming governance of the mining sector. The NGOs, both local and national, argued that “access to mining information is key to achieving transparency and accountability in the mining sector as it enables the public to know what is happening”<sup>116</sup>. The NGOs based their argument on experiences from Kayelekera Uranium mining “where the contract negotiations and agreement process between

---

<sup>114</sup> Honourable Major, Parliamentary Hansard, 40<sup>th</sup> Meeting- 47<sup>th</sup> Parliamentary Session, 14 December 2018, p. 848

<sup>115</sup> Interview with Kossam Munthali, Executive Director-FOCUS & Chairperson - NRJN in Malawi, 16/12/ 2019

<sup>116</sup> Interview with Kossam Munthali, Executive Director-FOCUS & Chairperson - NRJN in Malawi, 16/12/ 2019

GoM and Paladin Africa were highly secretive”<sup>117</sup>. The 2018 MMA has included access to mining information clause under section 29, which specifically stipulates that “The Register shall, at all reasonable times, be accessed by the general public, and members of the public may obtain copies of any licence or entry in the Register on payment of a prescribed fee”. Section 262 of the Act, however, restrict sharing of mineral sales to an affiliated company, compensation agreements and mining visual photographs. The ultimate justification for the NGOs’ call for inclusion of access to information clause in the 2018 MMA was that access to information gives the public power to demand their rights.

While framed in terms of community empowerment, processes of accessing mining information in Malawi point to how NGOs may be new agents in terms of keeping the community under the control of external actors. While NGOs are repositioning as the route through which local communities may access the information on mining, “it is those who are in positions of power who have access to knowledge and information about NGOs” (Mercer, 1999: 250). There is emerging literature that posit that enactment of access to information legislation is not adequate to guarantee public access to required information. Instead, public access to information is affected by prevailing power structures that systematically exclude a certain group of people from accessing information and selectively decide what constitute public information (Dick, 2005, Arko-Cobbah, 2008). Rather than viewing access to information as power as espoused in the democratic governance literature (Humphreys, Sachs and Stiglitz, 2007), Dick (2005) argues that power is information. Dick particularly highlights how access to information is grossly affected by a plethora of political and social factors that result in the exclusion of marginalised citizens. Inter alia, these include tedious process of applying for information, mundane practices and hostility among bureaucrats that put ordinary citizens off, bureaucratic inefficiencies and clandestine activities by politicians aimed at restricting public access to information.

The implication of “power is information” is that the control of local communities by the state is simply transferred to NGOs, on whom local communities in the two mining sites depend to access crucial information on mining. This is so as existing social, political and institutional constraints limit the ability of rural local communities in Malawi to access mining information.

---

<sup>117</sup> Interview with Mr Chandiwira Chisi, Executive Director, Tilitonse Fund, Lilongwe, 17/12/2019

The constraints to accessing information in Malawi point to a situation where the NGOs will become the main channels through which local communities can access information on mining. The NGOs has the potential to access critical information on mining because they have the material and technical know-how to demand information from the state. According to Etta-Phoya, a mining activists and writer, “local communities in Malawi cannot easily access mining-related information because such information is not packaged in a way that they can understand, if I don’t understand some of the issues, what more with local communities who have little technical knowledge on mining”. Highlighting her experience, Etta-Phoya explains how one must navigate difficult contours of political structures in pursuit of public information. She narrates that at one time she was openly told by a government official that “I can give you the information on Paladin Contract Agreement, but I can’t give you the information on oil and gas because it was signed at different level, there are different gate keepers in the system”.

While the above discussion underscores significant limitations that local communities have in accessing mining information (payment of applicable fee, distance to places where information is kept, asymmetrical power relations between local communities’ representatives and government officials, classification of public information), it is worthwhile highlighting one important implication emerging from this situation. It relates to how the NGO sector is positioning and institutionalising itself as an agent in the local communities’ quest for environmental and economic justice in the mining sector. Ironically, NGOs are co-imbricated with the interests of their funders, some of whom are the key policy advisers to the government. The next chapter will discuss how this situation has enmeshed the interests of the NGOs, state and corporate sector and to whose advantage such a situation plays.

#### **6.4.3. Extractive Industry Transparency Initiative (EITI)**

Establishment of Extractive Industry Transparency Initiative (EITI) Malawi Chapter was one of the recommendations that the NRJN made in its submission to government on the review of the 1981 MMA. The view of NRJN was that government should “consider developing an Extractive Industry Charter to provide policy guidance for the entire extractive industry” in the country (NRJN, nd: 4). EITI is a global voluntary initiative established in 2003 which is aimed at promoting transparency and accountability in the extractive industry (oil, gas, mining) through private companies’ and national governments’ disclosure, verification and publication of revenue receipts generated from the extractives. The EITI, managed by a EITI Board based in Oslo, Norway (World Bank, 2012a; Darby & Ravat, 2008), has an estimated global

membership of about sixty countries (Lujala, 2018). EITI has broadly been presented as apolitical tool that is equipped with technocratic solutions to problems of transparency and accountability in the extractive sector. In Malawi, NGOs perceived the establishment of EITI as providing mechanisms for promoting government disclosure of mining revenues collected from private mining companies. The efforts of NGOs in establishing EITI in Malawi were technically and financially supported by international organisations such as the African Development Bank (AfDB), Open Society Initiative for Southern Africa (OSISA), GTZ and Norwegian Embassy (GoM, 2011). Malawi was admitted as an EITI candidature in October 2015 (EITI 2015), a development which NGOs counted as one their major achievements arguing, “we pushed government to get EITI candidature in 2015 and we sit in the Multi-Stakeholder Group (MSG) to shape the issues of mining in the country”<sup>118</sup>. EITI has not been included in the 2018 MMA but has been established as a parallel voluntary tool to managing the extractive sector in the country.

There are specific conditions that a country wishing to be admitted as an EITI candidature and compliant country must satisfy. Firstly, the country’s government must unequivocally commit itself to join EITI and implement its standard. Secondly, the government must establish a national institutional framework for implementing EITI standards. Inter alia, this includes appointing a senior government official to lead EITI implementation and establish a multi-sector-stakeholder group (MSG) to oversee implementation of EITI. The MSG must consist of about four representatives from each of the main stakeholders i.e. government, CSOs and private mining companies (GoM, 2011; World Bank, 2012a; EITI, 2015). While the MSG is responsible for directing the objectives of EITI implementation, the implementation of EITI processes is largely dependent on willingness of the government.

Upon satisfaction of the above conditions, a country can, with endorsement of the MSG, apply to EITI Board to become an EITI candidature. The transition to an EITI complaint country requires international EITI Board Validation, which is based in Oslo, that the concerned country has made satisfactory progress on all of the EITI requirements. These requirements include: MSG oversight, licenses and contracts, monitoring production, revenue collection, revenue allocation, socio-economic contribution and outcomes and impact. First validation

---

<sup>118</sup> Interview with Kossam Munthali, Executive Director-FOCUS & Chairperson - NRJN in Malawi, 16/12/ 2019

exercise is scheduled 2.5 years after a country is admitted in to EITI Candidature status (EITI, 2015; World Bank, 2012a). Malawi achieved an EITI candidature in 2015 but has not yet attained the EITI complaint status as the 2019 Validation exercise revealed that it has not achieved satisfactory progress in all of the assessment requirements. Malawi particularly demonstrated inadequate progress on mandatory social expenditure and distribution of revenues (EITI, 2019).

However, efforts at instituting transparency in the mining sector invokes profound manifestation of power and politics centred on the conflicting interests of different mining stakeholders. The debate relating to the introduction of EITI at global level is located in the resource curse literature, discussed in chapter two. Initially unveiled by the British government at the 2003 Lancaster Conference (Oppong, 2018), the concept was popularised by Mr. Tony Blair, the then Prime Minister of the United Kingdom, during the World Summit on Sustainable Development (WSSD) held in Johannesburg, South Africa in 2002 (Lujala, 2018). Under EITI both private companies and governments are supposed to declare all revenues they have paid and received respectively, under what is called “Publish What You Pay (PWYP). The aim is that citizens should be able to track revenues realised from the extractives and hold government accountable for the use of revenues (EITI, 2015). PWYP is a campaign of local and international CSOs aimed at promoting transparent management of extractives (World Bank, 2012a; PWYP & NRJN, 2016).

The processes of EITI implementation in Malawi point to how the strategy is changing the matrices of NGOs’ relations with different policy-making agents. As will be explained below, NGOs’ desire to secure a seat in the MSG resulted into increased competition among themselves. The ability to secure a seat in the MSG has become a preserve for the few successful NGOs that have developed institutional capacity and are in good relationship with government officials and donors. For instance, a senior member of staff from one of the NGOs understudy argued that “the advantage for us is that we seat on Multi-Stakeholder Group for EITI, we also have a seat on Publish What You Pay. In addition to that we currently chair the Natural Resources Justice Network”<sup>119</sup>. Another staff from one of the NGOs emphatically reported that “we work with a number of NGOs in Natural Resources Justice Network, we also

---

<sup>119</sup> Interview with Mr Jones Sichali, FOCUS Project Officer for Mining Governance Project, 26/04/2019

hold a seat in the EITI Multi Stakeholder Group and coordinate the Publish What You Pay campaign. This gives us a better platform to influence policy in the mining sector<sup>120</sup>. The narration above point to how EITI processes are repositioning a group of elite NGOs in Malawi, especially CEPA, FOCUS and Church and Society, into national structures of mineral resources governance. It is, therefore, vital unpacking how such processes are impacting NGOs in shaping mining policy towards the interests of local communities in the mining sites. This is important because the expected benefits of promoting EITI to local communities are not automatic.

In Malawi, EITI is establishing new form of competitive relations among NGOs that is bifurcating them into two groups i.e., an elite group of NGOs that have developed strong ties with the state, government officials and international donors on one hand and those that work outside this network. The sentiments of the NGOs above suggest that NGOs perceive holding a seat in the national structures of governing the extractives as critical not only to influencing public policy but also instrumental in achieving the interests of careerism and survival. According to an interview conducted with a senior member of staff from one of the organisations which funded NGOs' advocacy work relating to the review of the 1981 MMA, "NGOs competed for their own survival – they competed for prominence, attribution, they wanted to attract more resources for themselves"<sup>121</sup>.

The narration above also points to how EITI is simultaneously drifting NGOs away from the local communities in the mining areas. While EITI governance structures such as MSG and PWYP are governance structures where NGOs, international stakeholders and the state interact, communities living in the mining areas are not represented. For instance, local communities reported in a FGD at Mchenga coal mining site that "we haven't heard anything about EITI, maybe they (NGOs) will teach us later"<sup>122</sup>. The above narration suggests that EITI processes in Malawi are controlled by the NGOs, the state, international mining stakeholders and private mining companies. By excluding local communities, EITI in Malawi is shifting NGOs' transparency and accountability obligations from the local and national publics to the EITI

---

<sup>120</sup> Interview with Gloria Majiga, Project Officer for CEPA Mining Governance Project, 8/04/2019

<sup>121</sup> Interview with Mr Chandiwira Chisi, Executive Director, Tilitonse Fund, Lilongwe, 17/12/2019

<sup>122</sup> FGD with female smallholder farmers and mining workers at Mchenga, 29/04/2019

Board based in Oslo, Norway. This situation ignites questions about the extent to which EITI processes in the country will address the social and environment injustices that mining has generated. This question is important because Malawi's EITI (2019) validation report has indicated that the country has not made adequate progress to address social and environmental issues in mining. Internationally, Sequeira et al. (2016: 435) highlight how local communities in Zambia, an EITI compliant country since 2012, "are enduring the costs of environmental legacies without an effective means to access relevant, clear, and transparent information" (see also Kolstad & Wiig, 2009; Oppong, 2018; Mcsparren, 2019).

The above discussion signals how EITI in Malawi is reproducing new forms of NGOs-state interconnectedness that potentially perpetuate a colonial and post-colonial legacy of state-business collusion against the interests of local communities (see Chingaipe Ng'oma, 2010). Without meaningful local community participation in EITI, it is doubtful that the interests of people living in the mining areas will be prioritised. The form of EITI governance arrangement in Malawi, therefore, epitomizes historical experiences with development of capitalist production system where local chiefs, as mediators between the state and communities, largely served the interests of the state (see also Mamdani, 1996; Adebani, 2017).

This question is important in Malawi because "the most important part of EITI is about tracking the revenues that government collect from the extractive industry"<sup>123</sup>. Unless clear measures are put in place to allow trickling down of the benefits, it is not automatic that communities living in the mining areas will benefit from mining revenues. For instance, despite contributing about 4% to GDP, Kayelekera Uranium mine did not benefit the local communities living around the mine (Human Rights Watch, 2012; Sangala, 2018). An insightful observation from the discussion above is the need to understand how dominant discourses relating to social, economic and environmental justice are not only legitimised but also reproduce hegemonic systems of domination. The case of Malawi points to how, though presented as a form of good mining governance, EITI is extending the mechanisms of community control to NGOs, who are perceived as agents of community participation. The insights on EITI in Malawi, therefore, contributes to the ongoing debate within the literature that discusses the positive role of EITI

---

<sup>123</sup> Interview with Kossam Munthali, Executive Director-FOCUS & Chairperson - NRJN in Malawi, 16/12/ 2019



in promoting transparency in the mining sector (Haufler, 2010; Rich, 2015; World Bank, 2012a; Darby & Ravat, 2008) and the one that question the ability of EITI processes to effectively respond to the needs of local communities (Lujala, 2018; Lujala et al. 2018; Ofori & Lujala, 2015; Mcsparren, 2019). Ofori & Lujala (2015), for instance, highlights dissonance in the understanding of revenue disclosure between the state and NGOs on one hand and local communities on the other. The two authors explain how the state and private mining companies in Ghana perceived information disclosure in terms of transparency while the local communities perceived it in terms of contribution to local economic development. This discussion reveals that processes within EITI and the work of NGOs in those processes are entangled with a lot of political nuances that work to the advantage of existing hegemonies.

## **6.5. Conclusion**

In this chapter, I have discussed how the strategies for addressing environmental issues in mining that NGOs supported during the review of the 1981 MMA compare with the environmental concerns of the local communities at Mwaulambo and Mchenga coal mining sites. This chapter has argued that there was dissonance between the underlying environmental concerns of the local communities and the strategies that NGOs supported to address the environmental issues. This is so as most strategies adopted in the 2018 MMA were ill-equipped to address the concerns of the communities living in the mining areas especially environmental effects of mining on their livelihoods and health. This situation ensued because there were competing views on the strategies required to address the environmental issues in mining that the local communities were experiencing. The chapter particularly highlights how the state and international donors neglected the experiences of the people living in the mining areas in favour of western science-based environmental management solutions. The state and international donors mobilised the power of framing and expert knowledge to promote specific strategies that served the interests of the private sector. Thus, the task of shaping the 1981 MMA was crucially a contestation over rationalities that should guide the mining sector in Malawi rather than the struggle over balancing the power of the state per se (see Bachrach & Baratz, 1962; Pierson, 2016; Sending & Neumann, 2006, Bryant, 2002; Gabay, 2011).

The analysis in this chapter unpacks how the NGOs' task of shaping legislation towards the interests of communities living in the mining areas principally involves challenging dominant ideas and rationalities. The discussion in this chapter has pointed to three dominant factors that explain dissonance between the strategies adopted to manage environmental issues in mining

and the environmental concerns of the people living in the mining areas. Firstly, while NGOs supported environmental management strategies that transformed environmental harm into a commodity for monetary compensation, there was dissonance between the environmental costs to communities and corresponding benefits to correct the harm. Secondly, the strategies that NGOs supported promoted techno-scientific-based environmental solutions that ignored the indigenous knowledge and experiences of the communities living in the mining areas. Lastly, pro-private capital rationalities advanced by the state and its allies resonated with existing legislation upon which the new 2018 MMA depended to make specific environmental management provisions in the Act operable. Inter alia, these legislations included the 2016 Land Act, 2016 Customary Land Act and 2017 EMA. The discussion in this chapter has, therefore, pointed to the need to pay attention to how specific rationalities anchored in existing legislation reproduce themselves. In this way, the study highlights the importance of understanding how the prevailing forces of marginalisation, oppression and domination become self-perpetuating.

While the debate over how NGOs' participation in policymaking processes can help in bringing about inclusive development rages on (see Banks et al. 2015), current scholarship on the subject is shifting to understanding how and why NGOs have often times failed to attain the anticipated objectives (Mkandawire, 2010; Mercer & Green, 2013; Hearn, 2007; Chinsinga & Chasukwa, 2018). The next chapter delves into this question by unpacking how NGOs that were involved in the review of the 1981 MMA aligned themselves with different policymaking agents. It does this by analysing the nature of relationships that the NGOs that participated in the review of the 1981 MMA established with the state, international donors on one hand and communities living in the mining areas on the other. In this way, the next chapter provide explanations to how rationalities that were favoured by the GoM, international and private mining companies gained prominence among the NGOs that were involved in the review of the 1981 MMA.

## CHAPTER SEVEN

### NGOs' INTERFACE WITH POLICY-MAKING AGENTS AND LOCAL COMMUNITIES DURING THE REVIEW OF THE 1981 MMA: BIFURCATED CO-OPTATION AND PERSUASIONS

#### 7.0. Introduction

This chapter analyses how NGOs that participated in the review of the 1981 MMA in Malawi interfaced with the state, private mining companies and local communities living in the mining sites during the period of reviewing the Act. The chapter focuses on the forms of working relations that the NGOs established with the state and international donors and how those relations enabled or constrained NGOs in shaping the direction of the 2018 MMA. The aim of the chapter is to illuminate the observations raised in the previous chapters by unpacking how the relationships between NGOs and other policymaking actors acted as vehicles for the exchange of particular rationalities for governing the mining sector in Malawi. This analysis is worthwhile because the previous chapter's observation that the 2018 MMA epitomises past statist natural resources management belies popular expectation that the advent of democracy in Malawi would result into policy shift to a participatory approach (see Kalipeni & Feder, 1999). In order to unpack how this situation ensued, this chapter analyses the visible crises within the relationships that NGOs established with the local communities, government officials, politicians, international donors and other policymaking agents.

This chapter advances two observations. Firstly, the chapter highlights how the NGOs' financial dependence on international donors and competition for a seat within the national structures of governing the mining sector resulted into their divided loyalties to government, international donors and communities living in the mining sites. To this end, what resulted was NGOs' bifurcated co-optation into state and international donors power structures. The chapter highlights how project-grants as a form of donor-funding towards NGOs' advocacy work and the inclusion of NGOs into national structures of mining governance incorporated NGOs into

international donors and government private sector-led orientation to mining governance. Thus, this chapter suggests that the process of reviewing the 1981 MMA transformed NGOs from being agents of community emancipation from the control of the state to partners with the state in the implementation of the deeply seated private sector oriented environmental management. In this way, this chapter demonstrates how the act of the formulating legislation is not only a political process in which pre-defined interests are negotiated, but also how interests of different actors are (re)constructed. Thus, this chapter exemplifies how participation of NGOs into the institutional processes of policymaking results into subjectivities of NGOs into dominant structures of power.

Bifurcated co-optation of the NGOs into international donors and state's power structures was characterised by three features. Firstly, not all NGOs who participated in the review of the Act were co-opted into the dominant state and international donors hegemony. Instead, while some of the NGOs established strong working relationships with the state and international donors, others remained outside those relationships. Second, the NGOs that established strong relationship with the state and international donors did not fully adopt ideas of the dominant hegemony. Instead, the NGOs endorsed some and criticised others. However, their opposition to some of the ideas of the state and international donor had insignificant effect in terms of shaping the review of the 1981 MMA. The last feature of bifurcated co-optation is that NGOs that participated in the review of the 1981 MMA pursued both moral and instrumental objectives. The above discussion, therefore, suggests that the ability of NGOs to act as agents of local communities' empowerment and democratic decision-making in Africa is more complex than is presented in some pluralist literature on democratic governance (Chazan, 1992; Bratton, 1989). The case of Malawi points to how NGOs' pursuit of moral and instrumental interests exposed them to the influence of international donors and the state. The observation from Malawi corresponds with other studies that see literature presenting NGOs as agents of democratic community empowerment as being highly romanticised (Igoe & Kelsall, 2005; Tvedt, 1998; Lewis & Opoku-Mensah, 2006; Mohan & Stokke, 2010).

Secondly, this chapter observes that, notwithstanding the bifurcated co-optation of key NGOs into the state-private capital hegemony, many communities considered NGOs as agents of emancipation from the oppressive state and private mining companies. Based on this trust, the local communities accepted the strategies for addressing environmental issues in mining on

account of the trust they had built with the NGOs. However, most of the strategies that were adopted as solutions to the environmental issues in mining did not adequately address the livelihoods and healthy threats of the communities living in the mining areas, as already discussed in the preceding chapter. This chapter highlights how top-down relations of persuasion between the NGOs and the communities living in the mining areas became means through which the state governed the demands of the communities along private-led mining policy direction. Nonetheless, government officials and politicians perceived NGOs as the necessary evil to quell the community resistances as well as legitimise the mining policy at local level. To this end, while the 1993/94 democratization project and the ensuing natural resources management reforms in Malawi questioned the statist legacy of public policymaking in favour of participatory approach, it paradoxically tied the NGOs, perceived as the cornerstone of community empowerment in policymaking, to the interests of the state and international donors.

This chapter is structured as follows. Section 8.1 presents the genesis of NGOs-state-local communities' relations of persuasion, confrontation and co-optation. Sections 8.2 to 8.4 deliberate the diverse NGOs-local community relations during the review of the 1981 MMA. Sections 7.5 to 7.7 discuss NGO-state relations of confrontation and co-optation. Sections 7.8 to 7.9 focus on institutionalisation of NGOs into mining governance policy-structures and its implication on the ability of NGOs to shape policy around the interests of local communities. The chapter's conclusion follows thereafter.

### **7.1. Forms of NGOs' Interface with the Policymaking Actors and Local Communities**

As discussed in chapter 4, the prominence of the NGOs' active engagement with policy issues in the mining sector in Malawi can be dated to 2007 when a group of six CSOs took GoM and Paladin to court over EIA issues. Through this action, the NGOs positioned themselves as fighting for the interests of the communities living in the mining areas in the country. Thus, understanding the factors that impacted NGOs that participated in the review of the 1981 MMA in shaping the Act towards the interests of communities living in the mining areas requires unpacking the forms of relationships that NGOs established with the state, international donors and the communities in the mining areas.

The NGOs that participated in the review of the 1981 MMA had since 2017 developed three forms of engagement with the government and international donors namely: antagonistic,

cooperative, and co-optation. Early forms of NGO-state engagement over the environmental issues in mining were antagonistic characterised by street demonstrations and court battles. At first “promotion of rights of the communities living in the mining areas was advocated by individuals working separately”<sup>124</sup>. The NGOs’ advocacy agenda gained momentum after a group of six NGOs took government to court over the opening of the Kayelekera Uranium mining in 2007. After about six months of court battles, the court case was settled out of court. This case is important because it marked the beginning of NGOs’ formal engagement with the state and other policymaking agents such as international donors. Two outcomes of the out of court settlement are particularly important for this study. Firstly, government agreed to NGOs’ demands to review the 1981 MMA while uranium mining operations continue. This meant that mining operations in the country were still to be guided by the 1981 MMA, with all its effects on the communities. Secondly, government agreed to involve NGOs in all institutional processes of reviewing the 1981 MMA. This included “being consulted on key issues on the Act, taking part in national and international study tours, ... and observing Parliamentary debates on the Act”<sup>125</sup>.

The second phase of NGOs’ engagement with the state and other policymaking agents was generally cooperative characterised by NGOs working together with the government and international donors. During this period, NGOs implemented a number of donor-funded mining governance projects aimed at training government officials, MPs, private mining companies and local communities about the tenets of good mining governance. NGOs were also “involved in community sensitization programmes to orient communities about good governance of the mining sector; the government depended on us to organise the local communities”<sup>126</sup>. The initiatives of NGOs’ advocacy in the mining sector increased with “the surge of international donor funding towards mining governance since the commencement of Kayelekera uranium mining”<sup>127</sup>. What is of interest in the NGO-international donors’ relations is the way the latter played a significant role in the transfer of private-sector led mining rationalities to the former.

---

<sup>124</sup> Interview with an NGO activists working in the mining area, 8/04/2019

<sup>125</sup> Interview with FOCUS Mining Governance Officer, 9/04/2019

<sup>126</sup> Interview with FOCUS Mining Governance Officer, 9/04/2019

<sup>127</sup> Interview with an NGO activists working in the mining area, 8/04/2019

As will be discussed later, NGOs that accessed funding from international donors embraced strategies for managing environmental issues in mining that were preferred by the funders of advocacy activities. Thus, the last phase of NGO engagement with government and international donors was characterised by NGO co-optation into the mining discourses of the government and international donors.

Formal involvement of NGOs into the institutional processes of reviewing the 1981 MMA marked the gradual co-optation of NGOs into the dominant mining ideas of the state and international donors in Malawi. The NGOs that participated in the review of the 1981 MMA were organised under NRJN. The collective agenda in advocating for environmental justice for the communities living in the mining areas in Malawi assumed that the NRJN was a united entity pursuing a common cause. However, NRJN turned to be “a loose network of NGOs working in the mining sector”<sup>128</sup> whose members “competed for donor funding to implement individual projects”<sup>129</sup>. Thus, how to manage the diverse instrumental interests amongst themselves was one of the challenges that the NGOs faced. This challenge manifested in how the NGOs’ pursuit of individual instrumental interests culminated into competition for donor funding and a seat in the national structures of governing the mining sector. Accessing donor funding and holding a seat in the national structures for governing the mining sector were important for the existence and survival of each NGOs. Access to donor funding enabled individual NGOs to implement community projects as well as meet the organisational daily operational costs.

Securing a seat in national structures for governing the mining sector not only improved the reputation of the NGOs, but also enabled NGOs to have easy access to vital information in mining. These structures, discussed in detail in chapter 6, include EITI MSG, NRJN and PWYP. The competition for prominence among NGOs can be deciphered from the remarks by one of the Directors of a prominent NGO which participated in review of the 1981 MMA:

“no-one and NGO should start his own history about the struggle of mining governance in Malawi, the country knows where we are coming from ... FOCUS and CSOs that I have mentioned before pushed the government to join the EITI in

---

<sup>128</sup> Interview with Gloria Majjga, CEPA Project Officer for Mining Governance Project, 8/04/2019

<sup>129</sup> Interview with Mr Chandiwira Chisi, Executive Director, Tilitonse Fund, Lilongwe, 17/12/2019

2014 and Malawi got the EITI Candidature status in 2015. FOFUS is one of the NGO that sit in the Multi-Stakeholder Group to shape the issues of mining”<sup>130</sup>.

The NGOs’ competition for donor funding and a seat in the national structures of governing the mining sector in the country had an enormous impact on the way NGOs that participated in the review of the 1981 MMA related to each other. While there were few cases where different NGOs worked together on a joint project, these situations were predominantly a case of donor imposition on the design of the project rather than the individual NGOs initiative to work together<sup>131</sup>. Furthermore, the NGOs that worked together had strong prior connections through their directors. In most cases, however, “each NGOs applied for individual donor funding and usually there were fierce competition among them, they competed for the little available funding resources that were available”<sup>132</sup>.

The interplay of the NGOs’ competition for donor funding and the donors’ focus on provable output-performance in funding NGOs resulted into the division of NGOs into two groups. The first group consisted of NGOs that had considerable experience in implementing donor-funded projects and have acquired adequate technical capacity in mining governance. These NGOs, which inter alia include CEPA, FOCUS, CCJP, Church and Society; held a seat in the national structures for governing the mining sector in the country. For instance, NRJN was chaired by FOCUS, PWYP by CEPA, EITI MSG CSOs’ representatives include CEPA, Focus, CCJP, Livingstonia Church and Society, and Oxfam. Other members of the NRJN such as Ufulu Wathu, Malawi Women Association in Mining and Mabilabo Community-Based Organisation remain outside these leadership structures. With nomination into national mining governance structures being based on the NGOs experience and expertise in the issues of mining governance, the second group of NGOs had not secured any meaningful funding nor a seat in the national structures for governing the mining sector in the country. For instance, Norwegian Church Aid, a key funding agency to NGOs working on mining governance, funded NGOs that had demonstrated “ability to deliver with accountability ... reflect programmatic diversity in service delivery and advocacy and capacity to influence rights holders and duty bearers”

---

<sup>130</sup> Interview with Kossam Munthali, Director of FOCUS and Chairperson of NRJN in Malawi on 16/12/2019

<sup>131</sup> In one Mining Governance Project implemented nationwide, CEPA, CCJP and Livingstonia Church and Society worked together

<sup>132</sup> Interview with Mr. Chandiwira Chisi, Executive Director, Tilitonse Fund, Lilongwe, 17/12/2019



(NCA, 2016: 19). Existing studies have highlighted how competition for donor funding among NGOs may result into the evolution of NGOs (Aldashev & Verdier, 2009; Wright, 2012; Howell, 2002) as well as homogenization of NGOs activities (Kamstra & Schulpen, 2015). The argument is that donor funding may privilege some NGOs that have technical and human expertise and through the same process promote a particular rubric of articulating issues. The history of donor funding in Malawi shows how international donor funding has promoted the dominance of a few elite NGOs who had acquired particular knowledge and expertise in mining governance

While donors and NGOs reported that their approach to mining governance was guided by the right to development approach, the above discussion point to how performance-based principles became central to their interaction. This situation meant that funding to NGOs was largely determined by donors' assessment of NGOs performance and not necessarily the situation of the local communities. According to Murtaza (2012), assessment of NGOs' performance should consider accountability mechanisms to local communities than to donors. For instance, despite communities surrounding Ilomba Granite Company in Chitipa being exposed to environmental concerns for close to 25 years, no major NGO has established lasting accountability mechanisms with the communities in the area (Samati, 2020). A muted view is that NGOs could not easily travel to Chitipa because it is so remote on the borders with Tanzania and with poor transport and communication network.

The above situation calls for the need to unpack how the performance-based funding from the international donors perpetuated exclusion of communities suffering from environmental harm. There is increasing literature that argues that NGOs in developing countries fail to align their activities around the interests of local communities because good-intended objectives become entangled in competing interests and power structures (see Tvedt, 2002; Kamstra & Schulpen, 2015). According to Tvedt (2007: 45), the work of NGOs in developing countries do not represent their plans but "mirror the needs and values expressed at donor conferences". This literature that particularly highlights how donor funding shifts NGOs accountability from local communities to donors, make NGOs to follow donors' development priorities rather than the priorities of communities, and promotes an apolitical approach to problem solving which make NGOs fail to challenge the existing power structures (see Hearn, 2007; Chinsinga & Chasukwa, 2018; Lwanda & Chanika, 2017). The case under study point to how politics of aid affect NGOs community empowerment agenda. This analysis should go beyond the analysis of receipt of

donor funding per se but include a focus on the rationalities that guided such sponsorship from different donors. These are the questions that will be dealt with in the subsequent section.

## **7.2. NGOs-International Donors Interface: Giver versus Receiver Relationship**

NGOs in Malawi predominantly depended on financial support from international donors to implement their advocacy activities in the mining sector. However, the way international donors funded advocacy activities resulted in the international donors directly influencing the framing of both environmental issues in mining given attention and selection of the strategies for addressing the harm arising from mining activities. While NGOs argued that “we consulted local communities in order to understand mining issues that they faced, our advocacy is evidence-based, we do not speak of own issues”<sup>133</sup>, local communities hardly influenced project activities that NGOs implemented. This was so as international donors’ project grants had pre-defined mining activities, targets and outputs. A common characteristic of the projects funded and implemented by these NGOs was that they had a specific focus on good governance - transparency, accountability and inclusiveness (see table 7.2). The understanding was that good governance of mineral resources will result in the benefits of mineral extraction trickling down to the communities at the grassroots (see Kamlongera, 2020).

A case in point is how Tilitonse Fund, one of the major vehicles for funding NGOs’ advocacy in the mining sector, pre-defined the specific outputs that NGOs that were given funding were supposed to implement and deliver<sup>134</sup>. Tilitonse Fund’s approach to mining governance sought to “identify and foster engagement between citizens and their government, recognizing that both the supply and demand for good governance is necessary to initiate change”<sup>135</sup>. Equally important, 2016-2020 Norwegian Church Aid Malawi Country Strategy on Natural Resource governance<sup>136</sup> outlined specific activities and outputs that NGOs were supposed to

---

<sup>133</sup> Interview with Gloria Majjga, CEPA Project Officer for Mining Governance Project, 8/04/2019

<sup>134</sup> For detailed project outputs see Tilitonse Fund website <https://www.dai.com/our-work/projects/malawi-tilitonse-fund> accessed on 15th December 2019

<sup>135</sup> <https://www.dai.com/our-work/solutions/governance> accessed on 15th December 2019

<sup>136</sup> **Pathway 4: Resource Governance**

“NCA’s Resource Governance programme will contribute to the overall goal of “Accountable Governance of Public Resources for Equitable Distribution of Wealth and Sustainable Development” in Malawi. **If**: civil society actors, including faith-based actors, are empowered to advocate for improved policies and legal frameworks governing the extractive industries, and **if** women and men of mining communities are empowered to hold duty

implement<sup>137</sup>. These activities included: lobbying for the passing of the New Mining Act, establishing procedures for mining benefit sharing such as CDA and CSR, advocating for adoption of EITI and Publish What You Pay (PWYP), preventing land grabbing by promoting compensation according to the Land Act and other provisions, and lobbying for the enactment of right to information. As discussed in the previous chapter, these are the key strategies that the reviewed 2018 Act have stipulated in addressing environmental issues facing local communities living in the mining areas. Generally, it was by aligning with these strategies that NGOs that participated in the review of the 1981 MMA accessed international donor funding to implement environmental advocacy agenda.

The environmental management strategies based on good governance are not only contentious but imbued with asymmetrical power relations resulting in winners and losers (Chinsinga, 2007; Mkandawire). For instance, while the initial focus of NGOs was on addressing the environmental harm and how the local communities can meaningfully benefit from mining,

---

bearers accountable to communities' rights, and **if** duty bearers are pressured by civil society, including faith-based actors, to demonstrate transparency of public resources derived from extractive industries, **then** there will be more equitable distribution of income from and sustainable development within the extractive industries benefitting the nation at large. This is **because** women and men in local communities will have increased knowledge of their rights and when linked with civil society organizations, especially faith-based actors, they together will be a credible, legitimate and strong voice, and **because** the evidence-based advocacy work will influence public debate and increase public pressure on the government to improve legislation and meet the demands of mining affected communities. NCA **assumes** that civil society actors, especially faith-based actors will be able and willing to create linkages and joint advocacy platforms with women and men mining communities and that the government will be responsive to sufficient public demand for responsible governance" (NCA, 2016: 18)

<sup>137</sup> "Main activities will include lobbying for the passing of the new revised mining act, advocate for policies and concrete arrangements that guarantee redistribution of government funds derived from mining back to communities directly affected by the mining activities, support translation and simplification of the mining act into local languages, support advocacy by CSOs for the government to implement the law and to publish public earnings from mining activities and to adopt the Extractive Industries Transparency Initiative (EITI), monitor developments at potential mining sites, provide legal support to communities to avoid land grabbing to claim compensations according to laws and officially approved provisions, formation of mining stakeholder structures on local and district levels to support community initiatives on corporate social responsibility, facilitate the building of alliances with other CSOs and empower the community to claim their rights for compensation and according to land act, support advocacy efforts by CSOs to pass the "Right to Information Law", advocate for publication of periodic reports on how revenue collected from mining is spent for district and community services and development, advocate for the government to publish "what you earn" in public earnings from mining activities, strengthening alliances between civil society actors and the civil society platform, and using media to influence public agenda and reach out broadly" (NCA, 2016: 30)

accountability as advanced with the tenets of good governance agenda largely tackles tracking and publication of government earnings from the mining sector. According to Mkandawire (2010: 1158) the version of accountability promoted by neoliberal good governance emphasizes “the technocratic view of accountability which stresses proper accounting”. As discussed in chapter 6 for instance, the EITI version of accountability and transparency promotes upward and not downward accountability to local communities. The discussion above suggests that donor-funding to NGOs was a mechanism through which the latter were integrated into the former’s rationalities on mining governance. The case of Malawi, therefore, mirrors Grendstad & Springer Link (2006: 124)’s argument that “project grants convert the organisation into semi-state agencies, and by extension, implementers of public policy”.

The case of Malawi reaffirms that the relationship of NGOs and international donors in the democratic empowerment of local communities in Africa is a subject of controversial. According to Markovitz (1998: 22) the relationship between the NGOs and the donors in Africa transforms the former into implementers of the latter’s’ agenda as “it is not just the funding that they get but a system that makes that flow of opportunities operable” (see also Matanga, 2010; Hermansen et al., 2017). Generally, existing literature on NGOs-international donors relations in developing countries can be divided into three views: optimistic view which sees international donors as key development actors (Kalu, 2018; Sachs, 2006; Banks et al. 2015), the pessimistic which sees international donors as agents for sustaining underdevelopment (Moyo, 2010; Sakue-Collins, 2020; Petras, 1999; Harsh et al. 2010) and a middle-ground but critical literature which view NGOs-international donors relations as fundamentally diffuse and riddled with a lot of controversy (Shivji, 2006; Lewis & Opoku-Mensah, 2006; Mkandawire, 2010).

The first view sees international donors as providing the required financial resources for the big push required to bring about development in developing countries. This perspective also sees NGOs as helping to build democratic institutions and values that support implementation of development initiatives (see Easterly & Williamson, 2011; Doucouliagos & Paldam, 2011; Potter, 1996). The second view sees international donors as extending colonial imperialism, undermining popular resistance and anti-democratic. The key argument from this literature is how international donors shift the objectives that NGOs pursue (see Chinsinga 2013, Anderson, 2017). The middle-view on its part recognises the role that aid can play in economic

development, but that to do so NGOs must have autonomy over the design of the projects funded by donors. The key observation on NGOs-international donors' relations in Malawi relates to how international donors influenced how environmental issues in mining were framed as problems requiring specific action and how specific strategies were perceived as appropriate in addressing the environmental issues in mining. The case of reviewing the 1981 MMA mirrors the inability of NGOs to shape natural resources management policy in southern Africa (see Leonard, 2018; Oppong, 2018; Kolala & Bwalya Umar, 2019).

NGOs-international donors relations in Malawi point to how private sector led mentalities were enforced during the period of reviewing the 1981 MMA (Miller & Rose, 2008; Dean, 2013). Through project funding, the NGOs fashioned their demands in line with the ideals of privatization on which the grants were anchored. For instance, while the demands of the NGOs were earlier focused more on preventing and monitoring the environmental harm generated from mining, the framing of the demands later shifted from preventing environmental harm to the idea that communities living in the mining areas be compensated for the environmental harm i.e., exchange harm with monetary compensations. As earlier highlighted, this form of framing solution to environmental harm not only commodified environmental harm, but also legitimised capitalistic expansion into ecological and social spaces of smallholder farmers as long as monetary compensations were paid out. In this way, NGOs were not only co-opted by the private capital, but also lost their autonomy and consequently that of the communities in the mining areas that they claimed to represent.

However, the kind of the NGOs' co-optation experienced in Malawi was a bifurcated one, which is unique and different from the one that is presented in many literature (see Fowler, 1991; Baur & Schmitz, 2012; Tvedt, 2007; Hermansen et al. 2017). This is the kind of co-optation where some NGOs were co-opted into the mainstream good mining governance (see World Bank, 1992) while others remained outside or adopted the Africa Mining Vision (see Kamlongera, 2020). Again, this was a bifurcated co-optation where the NGOs pursued both moral project goals as defined by the projects that they implemented and instrumental systematic goals aimed at promoting their individual career. The concept of bifurcated co-optation advanced in this thesis recognises that NGOs are heterogeneous, pursue different interests and operate differently (see Shivji, 2006). For instance, the Executive Director for FOCUS reported that "what we wanted was a law that could speak to the Africa Mining Vision,

not the one driven by capitalistic interests, but we have to go with what is there”<sup>138</sup>. These sentiments were advanced against the fact that FOCUS had implemented mining governance projects funded by donors that are sympathetic to private-led mining development.

It should, however, be pointed out that while some NGOs and government staff preferred the principles advanced in African Mining Vision (AMV) than those in the mainstream good mining governance perspective (see Kamlongera, 2020), they were unable to influence the final outcome of the 2018 MMA. The AMV promotes a holistic and multi-stakeholder approach to the management of the mining sector where mining activities are required to be connected to the wider sectors of the economy (African Union, 2009). The mainstream good governance approach to mining governance on the other hand prioritises the role of private capital in the development of the mining sector. This is presumed to be achieved by promoting the rule of law, free flow of information, being transparent and accountable in administration of mining contracts, and establishing stable and predictable mining codes (Otto et al. 2006; World Bank, 2009). This perspective is clearly spelt in Malawi’s 2007 Mines and Minerals’ Policy, which “stresses private sector participation and the need to attract investment for large-scale mining” (GoM: 2007: vi). The way how NGOs-international donors’ relations affected NGOs advocacy work can be seen from differences in the domestication of the mainstream good mining governance and AMV agenda.

The process of domesticating the AMV in Malawi started in 2016 with the drafting of the Malawi Country Mining Vision (MCMV). However, this process stalled before the MCMV could be finalised and “both government officers who had been championing the adoption of the AMV in Malawi and the CSOs representatives ... attributed this stagnation to financial challenges” (Kamlongera, 2020: 5). The exercise of formulating the MCMV was financed by Africa Mining Development Centre (AMDC) and the process stopped after the AMDC stopped funding the exercise (Kamlongera, 2020). The threat of limited funding to the process of domesticating the AMV in Malawi was also recognised by the NGOs, who argued that;

“we depended on AMDC resources, once these resources finished that was also where we stopped, and since the process was a top-down approach with AMDC

---

<sup>138</sup> Interview with Kossam Munthali, Director of FOCUS and Chairperson of NRJN in Malawi on 16/12/2019

taking the lead, once pushed to government, there was no commitment, ownership isn't really there" (reported in Kamlongera, 2020: 5)

While the AVM lacked donor and government financial support to ensure its domestication, the mainstream mining governance agenda was funded by several donors. For instance, while AVM was singularly supported by the AMDC, mainstream good governance instruments, such as EITI and PWYP, were financed by a network of international donors including World Bank, European Union, GIZ and Norwegian Church Aid.

The positioning of mainstream mining governance rationalities in Malawi was specifically enabled because the state and international donors, sympathetic to privatization ideology, controlled the channels through which knowledge relating to governance of mining was generated and transmitted. The dominance of mainstream international donors in the creation of knowledge during the review of the 1981 MMA was enforced by limited alternative funding opportunities that were open to NGOs in the country. This situation resulted in the NGOs' advocacy activities being tailored along the prescription of mainstream good mining governance. This observation is insightful in understanding the challenges that NGOs in Malawi faced in maintaining their autonomy from the state and international donors. In contrast to experiences from some developed countries such as Norway where NGOs receive funding from the government without being largely co-opted (Hermansen et al. 2017; Grendstad & SpringerLink, 2006); donor-funding in Malawi increases the possibilities of the NGOs co-optation into particular discourse of the funders. The case of Malawi illustrates how privatization rationalities that were deployed to guide the review of the 1981 MMA shaped the NGOs' understanding of the environmental problems that the local communities faced. For instance, environmental problems turned out to be a problem of good governance with "polluter pays" principle guiding the framing of the strategies to the environmental problem.

A point to illustrate this perspective is how compensation for environmental harm, (explained in detail in the previous chapter) - was conceptualised as a solution to the environmental issues that the local communities living in the mining areas experienced. The polluter pay principle, enshrined in the 2017 EMA<sup>139</sup> and adopted in the 2018 MMA, implicitly legitimise

---

<sup>139</sup> Section 65 (c) of EMA, 2017 recommends developing "economic instruments to ensure that the costs of pollution is paid by the polluter"

environmental degradation as long as the polluter pays for the cost of pollution. As earlier explained, the 2018 MMA, therefore, transformed environmental issues in mining into a commodity that can be traded with money. However, the polluter pays principle does not only conceal challenges of inclusion and exclusion of beneficiaries in mining benefits, but also fails to fairly compensate agrarian-based economic activities. This is so as the valuation method that is used for valuating smallholder land in Malawi is ill-suited for the valuation of land-based assets (see Kabanga & Mooya, 2017). According to Conde and Bebbington, valuation used in most countries is based on accounting of the formal economic benefits generated from a piece of land and disregards all the other forms of land use to the households and communities such as informal production, cultural and sacred use of the land (see also Temper and Martinez-Alier, 2013: 82).

The review of the 1981 MMA in Malawi, therefore, signals the continuation of colonial and post-colonial policies that marginalised less powerful groups of people within the communities (see Mandala, 1990; Mulwafu, 2011). A good scenario that illustrates this situation is how the GoM and NGOs ignored marginalised people when Paladin Africa was instructed to construct Karonga District Water Purification Plant for budget of well over US\$10 million. While the rural communities living close to the uranium mining sites are the people that are under threat of consumption of uranium by drinking water from the nearby contaminated streams, this project improved provision of safe drinking water to the urban residents in Karonga. This example points to how solutions to environmental issues in mining may be entangled in the existing structures of power that reproduce legacies of exclusion. To use the words of Shivji (2006: 38), “unless there is self-consciousness on their part on this fundamental moment in the struggle between imperialism and nationalism, the NGOs end up playing the role of ideological and organisational foot-soldiers of imperialism, by whatever name called”.

Table 8.1 below presents a summary of key donors that contributed towards the review of the 1981 MMA in Malawi since 2009.



Table 8.1: Initiatives Implemented in the Mining Sector in Malawi Since 2009

<b>Mining Intervention</b>	<b>Funding Organisation</b>	<b>Beneficiary</b>	<b>Year of Funding</b>
Mining sector review	World Bank	Government	2009
Mining Governance Growth and Support Project (MGGSP)	World Bank and European Union	Government – departments of Mining and Finance	2013
Malawi Extractive Industry Transparency Initiative	Gesellschaft für Internationale Zusammenarbeit (GIZ), DFID, World Bank	Government – departments of Mining and Finance	2014
Publish What You Pay (PWYP)	GIZ, Norwegian Church Aid in Malawi	NGOs	2014
Mining Governance Projects	<ul style="list-style-type: none"> <li>• Open Society Initiative for Southern Africa (OSISA)</li> <li>• Oxfam</li> <li>• Tilitonse Fund</li> <li>• Norwegian Church Aid</li> </ul>	NGOs	2013-18
Malawi Country Mining Vision	Mineral Resources Development Centre	Government – departments of Mining and Finance/NGOs	2016

Sources: Kamlongera: 2020 and Author

Table 8.1 above shows that direct funding from the multilateral international financial institutions such as World Bank and EU was channelled to the government's departments of Mining and Finance. The NGOs mainly received funding from non-mainstream donors such as Norwegian Embassy, Oxfam, Tilitonse Fund<sup>140</sup> and OSISA. The Malawi Africa Mining

---

<sup>140</sup> Tilitonse Fund was a pool of fund from different organisations and included funds from EU and World Bank

Vision Strategy received funding from the Mineral Resources Development Centre. What is important to note is that donor funding to policy-making agents, including NGOs, was not a passive financial flow, but principally an embodiment of particular forms of thinking about how the mining sector in Malawi should be governed and for what ends. For instance, the World Bank (2009: 5) reported that the “Mineral sector activity has the potential to generate significant direct and indirect economic benefits for Malawi and, if managed wisely, contribute to sustainable development”. The position of the World Bank on the contribution of mining sector to Malawi’s economic development was an economic macro-quantitative projections of government tax revenues generated from the mineral sector. This position differs from that of non-traditional donors who focused on the potential benefit of mining at a micro level as a result of observance of good governance on part of duty bearers. For instance, the objective of Norwegian Church Aid funding to the mining sector was to “contribute to the overall goal of Accountable Governance of Public Resources for Equitable Distribution of Wealth and Sustainable Development” (NCA, 2016: 18).

While the mainstream and non-mainstream donors focused on different areas of benefit, monetary approach to framing the benefit of mining obscured the differences between the two sets of donors. The mainstream donors predominantly framed the significance of mining to Malawi in terms of the increased tax revenues, foreign exchange earnings and employment that the mining sector will bring to Malawi. The non-mainstream donors on the other hand focused on twin objectives of achieving economic growth as well as reducing rural poverty. The position of the non-mainstream donors, which was adopted by the NGOs that participated in the review of the 1981 MMA, was that the;

“mining activities and the economic wealth generated from the sector should not impair the people living in the mining areas but should improve them. The increase in tax revenue for the government should not be achieved at the expense of the people living in the mining areas. The people in the mining areas should also enjoy the benefits of mining”<sup>141</sup>.

However, the paradox within the non-mainstream donors was on how they perceived the temporal monetary economic wealth from mining, with all its inclusion and exclusion

---

<sup>141</sup> Interview with Gracian Banda, Environmental Activist and Lawyer on 11/04/2019

dilemmas, as serving the interests of local communities that predominantly depended on land-based resources. For instance, chapter 6 has highlighted how the non-mainstream donors and NGOs adopted the relocation of smallholder farming families, compensation of farming land, CDA and CSR as key strategies for compensating farming households affected by mining activities. These strategies are not only grounded in the attempts to improving the operation of private capital (O’Faircheallaigh, 2013; Blunt, 2014), but largely ignores the temporality of mining activities (Angelo & Pijpers, 2018; Wiegink, 2018).

The dilemma between prioritising the monetary benefits of mining and safeguarding the livelihoods assets of local communities from harm arising from mining activities was also evident within the NGOs. While the local-based NGOs such as FOCUS focused more on how mining affected the community livelihoods, professionalised and international NGOs focused on how mining could potentially bring about increased revenue for Malawi which could be used to develop the rural areas. For instance, during the period of reviewing the 1981 MMA Oxfam conducted some quantitative studies on the level of revenues that the GoM would generate from mining under different mining codes<sup>142</sup>. On the other hand, some locally-based NGOs such as CCJP conducted an micro-level analysis of the impact of mining on the communities living around the coal mining Sites in Karonga and Rumphi (CCJP, 2012).

Understanding how mining was perceived to contribute to improving the living standards of diverse groups of people in the mining areas, therefore, helps to unpack the divergence and convergence within these NGOs. The discussion above raises important questions regarding how economic development for the people living in the mining areas was conceptualised and how such conceptualisation legitimised the strategies to addressing the environmental challenges that communities in the mining areas were facing. Table 8.2 below presents some of the donor-funded projects which show how good mining governance became the keystone for improving the interests of the people in the mining areas.

---

<sup>142</sup> Oxfam Malawi has been advocating for better tax regime and has conducted some quantitative analysis of Malawi’s benefit from mining see for example Oxfam (2016), Future Mining Revenue for Malawi, A Case Study of Mkango’s Songwe Hill Project

Table 8.2: Mining Related Projects Implemented by NGOs in Malawi

<b>NGO</b>	<b>Name of Project</b>	<b>Funding Organisation</b>
CEPA -	Strengthening Mining Governance in Malawi - 2014/15	Tilitonse Fund
Professional think-tank	Promoting Responsive and Accountable Extractive Industries Governance – Malingunde Graphite- 2016	Tilitonse Fund
NGO established in 2002	Strengthening Governance of the Extractive Industry	Oxfam
	Enhancing Revenue Transparency and Accountability in Malawi Project – 2015/16	OSISA
Church and Society - Faith-based established in 1999	Advocacy Campaign for an Inclusive, Transparency and Accountable Extractive Industry in Malawi, Karonga, Rumphi, Mzimba, Nkhotakota – 2015/16	OSISA Tilitonse Fund
FOCUS – Grassroots established in 2000	Promoting Governance of the Extractive Sector in Malawi, Karonga, 2012-14	Norwegian Church Aid, Oxfam
CCJP Faith-based established in 1995	Inclusive and Transforming Extractive in Southern Africa, 2017-2020	Oxfam Catholic Church
	Tonse Tipindule Project <sup>143</sup> ; Increased Transparency, Accountability and Responsiveness in Malawi’s Mining Sector.	Tilitonse Fund

Sources: Author

<sup>143</sup> The word Tipindule is vernacular word meaning “Let Everyone Benefit”

Table 8.2 shows that except for CCJP which received part of its funding from the Catholic Church in and outside Malawi, all the NGOs are predominantly funded by international organisations. A central feature of all the projects implemented by the NGOs is that they focused on mining governance, especially transparency and accountability. The framing of the NGOs' projects in Table 8.2 suggests that the concept of good governance provided the nomenclature for designing solutions to addressing problems in the mining sector. The argument of this study is that this situation rose out the relations between NGOs, international donors and the state. According to Novellino & Dressler (2009), overdependence on international donor-funding forces NGOs to adopt issues that are strongly rooted in donors' discourses than those facing the marginalised groups of people (see also Lewis, 2002; Mercer & Green, 2013). Thus, NGOs-international donors' relations shifted the NGOs' focus from environmental issues facing local communities in the mining sites to a concern with "good mining governance".

While the mainstream good governance framework does recognise the environmental effects of mining, it follows a cost-benefit approach in reaching a trade-off between economic benefits and environmental costs of mining. The main concern is on "getting the rules right and getting the implementation by means of a process with legitimacy" (Cameron & Stanley, 2017: 292). This include establishing appropriate and adequate rules, ensuring effective implementation, monitoring and enforcement of rules and establishing mechanisms of transparency and accountability for duty bearers. The understanding of the donors, both mainstream and non-mainstream was that "good governance of mining activities will result in mining revenues trickling down to the local communities living in the mining areas"<sup>144</sup>. This observation is important to this study because the initial demands of NGOs in Malawi was to put in place environmental management rules that would be strictly enforced and complied by the state and private mining companies respectively. Good mining governance framework, however, adopted a set of universal private sector focused rationalities that ignored how the livelihoods of communities living in the mining areas function and are affected by capitalist processes of natural resources utilisation.

---

<sup>144</sup> Interview with Mr Burnet Msiska, Mining Engineer in the Department of Mines on 17/04/2019

Chapter 4 has also highlighted how political mobilisation against powerful political structures is not always a monolithic process that sets the oppressed against the oppressors. On the contrary, conflict of interests within political mobilisation may set the marginalised people against each other. For instance, while a greater proportion of the peasant farmers in Malawi opposed the intrusion of capitalist mode of production into their social-nature space during colonial period, need for protection from the colonial government drove a small proportion of elites, especially chiefs, to passionately defend the new ways of natural resources utilisation and conservation (see Mandala, 1990; Kalinga, 1996; Morris, 2016). This insight is important for this study as the emergence and sustenance of the NGOs in Malawi is not only an ideological one, but also an entrepreneurial effort of the disenfranchised groups of middle income elites striving to survive (see Blessings Chinsinga, 2007; Anders, 2010; Gabay, 2011; Anderson, 2017). The emergence of NGOs in Malawi after the adoption of multiparty government and neoliberal economic policy point to how the shrinking public sector created incentives for elites to look for alternative means of survival in order to meet the immediate personal material needs. This observation suggests that the NGOs' moral interests of shaping the review of the 1981 MMA towards the interests of the communities in the mining areas may have been balanced with their instrumental interests. These divided interests explain the bifurcated interests of the NGOs that participated in the review of the 1981 MMA.

### **7.3. NGOs-State Interface: Confrontation, Compromises and Bifurcated Co-optation**

Existing literature on NGO-state relations in social and environmental justice movements stand on a continuum of direct confrontation (Kamlongera, 2013; Martinez-Alier, 2017; Lockwood, Kuzemko, Mitchell and Hoggett, 2017), diffuse and compromises (Markovitz, 1998; Hermansen et al. 2017; Oliva Campos et al. 2012) and co-optation (Matanga, 2010; Hearn, 2007). The NGO sector, however, does not constitute a single co-operating entity, but multiple actors pursuing diverse interests and objectives (Grendstad & SpringerLink, 2006; Fowler, 1991). The central question, therefore, zeros down to unpacking the dynamics of NGOs-state relations within the same geographical space and time. The discussion in this section observes that while the NGOs-state relations in Malawi were characterised by confrontation and co-optation, this was not a stark dichotomy. Instead, the acts of confrontation and co-optation were not only episodic, but also structured by acts of compromises among the different tiers of the NGOs that were involved in the review of the 1981 MMA. This section specifically highlights how the NGOs' competition for a seat in the national structures for governing the mining sector

differently structured NGOs-state relations of confrontation and co-optation. Overall, the relations between the NGOs and the state went through three stages that were characterised by confrontation, mutual compromise and bifurcated co-optation of the NGOs into the state machinery. It is to these relations that I now turn to.

Between 2007 and 2010, NGOs-state interface on the review of the 1981 MMA was characterised by the NGOs' direct confrontation over environmental harm arising from mining. During this period, some of the NGOs had strong connections to the grassroots actions and movements of people living in the mining areas. The NGOs, such as FOCUS and Citizen for Justice, specifically led communities around Kayekera Uranium and Mwaulambo Coal mines in demanding government to protect them from mining generated environmental harm. The argument from the NGOs was that,

“the mining sector in Malawi posed a number of environmental issues that were a threat to the healthy life and livelihoods of the local communities living within the mining areas. The NGOs particularly emerged to push for legislative reform in the mining sector so that mining should be conducted without significant environmental harm”<sup>145</sup>.

Backed by an active grassroots movement for the cause of environmental justice in mining sector, these NGOs organised community and national street demonstrations, radio debates on the environmental effects of mining<sup>146</sup> and published critical policy briefs against Laissez-faire government approach to environmental issues in the sector<sup>147</sup>. Communities in different mining areas demanded an end to environmental harm arising from mining that affected their livelihoods. The NGOs also conducted community sensitization and interface meetings with government technocrats from the Department of Mines, and with politicians from both ruling and opposition political parties. The aim of the NGOs was to “force the state to put in place relevant laws that responded to the mining challenges that communities in the mining areas

---

<sup>145</sup> Interview with Mr Chandiwira Chisi, Tilitonse Fund, Lilongwe on 17/12/2019

<sup>146</sup> Malawi: CSOs in mineral-rich Karonga region call for mining framework that respects local community rights, including access to information accessed from <https://www.business-humanrights.org/en/malawi-csos-in-mineral-rich-karonga-region-call-for-mining-framework-that-respects-local-community-rights-including-access-to-information>

<sup>147</sup> Human Rights Watch (2016). They Destroyed Everything accessed from <https://www.hrw.org/report/2016/09/27/they-destroyed-everything/mining-and-human-rights-malawi>

experienced”<sup>148</sup>. Thus, NGOs positioned themselves as benevolent interlocutors of the interests of different groups of people in the mining areas against the malevolent state and private mining companies. The confrontation between the NGOs and the state before agreeing to review the 1981 MMA was evident in their public pronouncements with regard to mining in the country. For instance, Reinford Mwangonde, Executive Director of Citizen for Justice in Malawi<sup>149</sup> argued that:

“the biggest concern is that there's no-one in the Government of Malawi who has the capacity to understand uranium-related issues. In this case all the information that the government is depending on is from Paladin Resources and Paladin Resources may choose to mitigate some of the negative effects, because they are an interested party. They want to make a profit”<sup>150</sup>.

The question of government capacity is interesting for this study and I will return to this discussion in section 7.8 to highlight how lack of capacity explain politics of aid in the mining sector in Malawi and how NGOs have shaped and were shaped by capacity gaps in government.

The Executive Director of one of the NGO that actively advocated for the review of the 1981 MMA also argued that:

“the process of pushing for the review of this bill was tense, government used local chiefs and the police to harass us, ... we fought for the local communities. Government had to recognise us because they felt the pressure”<sup>151</sup>.

The state used local chiefs and the police to stop NGOs from mobilising communities in the mining sites against the implementation of mining projects. For instance, there are reports that Executive Director of Citizen for Justice, one of the earliest individuals to champion environmental justice for the communities around Kayelekera Uranium and Mwaulambo coal mines, “was often called to the local police station to explain his campaign activities in the

---

<sup>148</sup> Interview with Kossam Munthali, Chairperson NRJN on 16/12/2019

<sup>149</sup> Citizen for Justice in Malawi was one of the first NGO to fight for the right of local communities.

<sup>150</sup> Reported by Andrew Geoghegan accessed from <https://www.abc.net.au/lateline/concerns-over-paladin-malawi-mine/2236484>

<sup>151</sup> Interview with Kossam Munthali, Chairperson NRJN in Malawi on 16<sup>th</sup> December 2019



mining sector”<sup>152</sup>. However, the state use of local chiefs and police to silence the NGOs from advocating for environmental justice in the mining areas did not yield much expected results. This is so as most groups of people in the mining areas identified themselves with the activities of the NGOs arguing “the NGOs are our hope in the mining sector, they fight for our interests. The government does not care about us, it only cares for the taxes that it receives from the private mining companies”<sup>153</sup>. The view that the GoM prioritised the revenue benefits from mining than the environmental costs of mining to local communities can be deciphered from the comment of the then Minister of Mines and Natural Resources. In response to the role of mining in Malawi, the minister omitted the whole concern about environmental effects of mining arguing: “We've always asked ourselves the questions, did God jump over Malawi when God was apportioning the mineral resources to countries in southern Africa? The answer is no”<sup>154</sup>. On his part, a local Chief from the site where uranium was mined was more apologetic, helpless and ambivalent, arguing that “I'm leaving everything in the hands of the government because I feel the government will not accept something which destroys my people”<sup>155</sup>.

While conflictual, the relationship between NGOs and the government during the review of the 1981 MMA developed into mutual compromises between the two actors. This is so as both the state and NGOs needed the support of each other to achieve some of their interests in mining. A common argument coming from leaders of NGOs that participated in the review of 1981 MMA was that:

“we have different interests with government technocrats and politicians, they mostly think about how they can increase government revenues from mining. This objective, however, comes at the expense of the environment and it’s not an easy

---

<sup>152</sup> Reported by Andrew Geoghegan accessed from <https://www.abc.net.au/lateline/concerns-over-paladin-malawi-mine/2236484>

<sup>153</sup> FGD with Mchenga Community Based Organisation on 1/05/2019

<sup>154</sup> Reported by Andrew Geoghegan accessed from <https://www.abc.net.au/lateline/concerns-over-paladin-malawi-mine/2236484>

<sup>155</sup> Reported by Andrew Geoghegan accessed from <https://www.abc.net.au/lateline/concerns-over-paladin-malawi-mine/2236484>

battle; it's often messy. Government often defend the mining companies and they do not often want to compromise. We also have different ends”<sup>156</sup>.

Government officials also perceived leaders of NGOs as prioritising their own personal interests. For instance, an official from the Department of Mines argued that;

“NGOs are not representing the interests of the communities in the mining areas, but their own interests. They hide behind the interests of communities when actually they are fighting for their own economic survival. They are our friends, and they tell us *kuti tikakudyerani kutiko?* (where do you think we are going to earn our living?) They make noise because they need to make bread”<sup>157</sup>

Notwithstanding the reported confrontation between the NGOs and state officials during the period of reviewing the 1981 MMA, the two policymaking agents were engaged in what can be called “choiceless competition”. This was a confrontation where both the NGOs and the state actors needed each other to achieve their diverse interests. While state and government officials needed the support of NGOs to reach out to communities and legitimise their presence in the mining areas, the NGOs needed government approval and certification to implement their projects. The local politicians particularly required the backing of the NGOs to boost their policy legitimacy at the local level because the NGOs “had won the support of many groups of people in the mining areas”<sup>158</sup>. A good case in point is how both the ruling and opposition parties framed their contributions during the Parliamentary debate on the 2018 Mines and Mineral Bill to the views of the NGOs. In his presentation of the 2018 Mines and Minerals Bill to Parliament the Minister of Environment and Natural Resources, for instance, specifically reported that:

“The House may wish to know that Bill No. 30 of 2018 ... is a product of wide consultation both locally and internationally. Some of the stakeholders consulted locally include government ministries and departments, mining companies, cooperating partners including the World Bank and the European Union, Civil

---

<sup>156</sup> Interview with Gloria Majiga, CEPA Project Officer for Mining Governance Project, 8/04/2019

<sup>157</sup> Interview with a government official in the Department of Mines who sought anonymous on 17/04/2019

<sup>158</sup> Interview with Gloria Majiga, CEPA Project Officer for Mining Governance Project, 8/04/2019

Society, Academia, traditional chiefs and also a study tour to Tanzania and Namibia”<sup>159</sup>.

Equally important, the MCP spokesperson on natural resources, a major opposition party in the country then, started his contribution to the 2018 Mines and Minerals Bill by referring to the position of CSOs on mining:

“Mr Speaker, Sir, the MCP has been waiting for this bill. I will also continue by quoting the CSOs communication which some Members have found in the cabin. You know minerals do not grow on trees and they are not antelopes that can multiply”<sup>160</sup>.

The face-value of the relationship between the NGOs and the MPs is that the former had wielded significant power to shape the review of the 1981 MMA. According to the Chairperson of NRJN and Director of FOCUS,

“we have created a space for ourselves in the extractive sector. During the review of the 2018 MMA, both the politicians and government officials always looked for us in order to get our views. They could not go to the community or do anything without us. As NGOs, we pushed into Act the issues of Community Development Agreement. The establishment of EITI was particularly our brainchild, things in the mining sector could not move without us”.

While this situation weakened the political legitimacy of the state in the mining areas and positioned the NGOs as benevolent actors in those spaces, NGOs’ advocacy work was embedded in local and international politics of aid that grossly compromised their agency. In particular, NGOs’ competition for a seat in the national structures for governing the mining sector laid down the foundations for mutual compromises between the NGOs and the state. As previously highlighted, the popularity of the NGOs at a local level was hinged on the assumption that the NGOs were championing the interests of the marginalised communities living in the mining areas. This question entailed NGOs being autonomous from external forces in defining environmental management strategies that they set out to shape. NGOs’ autonomy from the influence of other policymaking agents centres on the ability of the NGOs to define

---

<sup>159</sup> Honourable Massi, Hansard – Fourth Meeting, Forty-Seven Session, 14 Dec 2018 p.847

<sup>160</sup> Honourable Major - Fourth Meeting, Forty-Seven Session, 14 Dec 2018 p.847

environmental management strategies without being distracted by externally defined priorities (see Böhm et al. 2010; Escobar, 1992). NGOs' interaction with state officials and participation in national policy forum, however, subjected them to conventional mining governance rationalities that, as highlighted in chapter 4, were deeply situated in the principles of private sector led mining governance rationalities.

According to the Minister of Natural Resources, Energy and Mining, the review of the 1981 MMA required “a comparative analysis of similar laws and policies from countries like Zambia, Tanzania, Namibia, Botswana and Ghana in order to identify and adopt best practices”<sup>161</sup>. The effect of internationally recognised best practices on the way NGOs in Malawi framed their mining advocacy agenda can be deciphered from the comments from one of the NGOs that participated in the review of the 1981 MMA:

“as a developing economy, we need the private mining companies that could pay tax for us to achieve to economic growth of this country. Companies should also contribute to corporate social responsibility to the communities in the mining sites. However, we should make sure that mining activities are sustainable”<sup>162</sup>.

The sentiments above points to how NGOs-state relations changed from that of adversarial to that of stage-management characterised by closed criticism, collaboration, and partnership. Stage management is a particular form of NGO-state relations where more contentious issues are resolved through private negotiations while less contentious issues are resolved through public criticism (see Hermansen et al. 2017). A comment from one member of staff for the NGOs that actively took part in the review of the 1981 MMA helps to clarify this point:

“we have made tremendous work and progress with regard to advancing the mining issues that the communities in the mining areas are facing. That says a lot about government openness and willingness to listen to our propositions. Sometimes we are on the same page with government, sometimes we are not. We do not want to be seen as typically going against the government, we try to add value. Sometimes we are in conflict, sometimes we try to find a middle ground ... For instance, we at one time cornered government officials about why a certain mining company,

---

<sup>161</sup> Honourable Masi, Hansard – Fourth Meeting, Forty-Seven Session, 14 Dec 2018 p.847

<sup>162</sup> Interview with Gloria Majiga, CEPA Project Officer for Mining Governance Project, 8/04/2019

Mkango Resources Ltd, is not fulfilling its corporate social responsibility. They explained to us that the company is not making profit and that the company will fulfil its commitment once they start making profit. But we were worried because government was backing the private mining company”<sup>163</sup>.

The importance of the above narration is not what the NGOs demanded from government per se, but how this sensitive issue was discussed in private where the government was able to come out plainly to back the actions of the private mining company. The event above particularly points to some NGOs’ shifting ways of engaging with the state where sincere criticisms on sensitive issues were expressed in private. Some of the NGOs that participated in the review of the 1981 MMA also partnered with government on similar projects of policy reform. A good case to illustrate this point is how CEPA and Landnet jointly implemented a “Strengthening Land Governance System for Smallholder Farmers in Malawi Project” with Department of Lands during the same period of reviewing the 1981 MMA<sup>164</sup>. The partnering of the Landnet and CEPA with the Department of Lands did not, however, stop some of the local communities from protesting against the land reform in the country. According to Zuka (2019), the modelling of customary land titling programme along neoliberal rationalities in Malawi gave rise to a number of community protests (see also Chinig’o, 2016). In the District of Mzimba, the land reform program was totally rejected by the local chiefs and communities resulting in the customary land titling project being withdrawn. Following a wave of community protests and criticisms, the President elected in 2020, has sanctioned that all land laws reviewed and promulgated into law in 2016, be reviewed again. The above discussion point to how NGO-state relations have evolved overtime and how such relations explain NGOs divided loyalties.

The discussion above, therefore, sits uncomfortably with some political pluralist literature on NGOs-state relations in developing countries that depicts the two as existing in precarious balance with the former acting as a check to the latter (Chazan, 1992; Banks et al. 2015; Banks & Hulme, 2012; Bratton, 1989; Stewart, 1997; Makuwira, 2011). Existing studies have pointed

---

<sup>163</sup> Interview with Gloria Majiga, CEPA Project Officer for Mining Governance Project, 8/04/2019

<sup>164</sup> See <https://cepa.rmportal.net/programmes/natural-resources/strengthening-the-land-governance-system-for-smallholder-farmers-in-malawi>; <https://www.lands.gov.mw/index.php/land-reforms/implementation-plan-of-new-land-laws.html>

how NGOs shun to criticise government to avoid souring relationship with the state (see Hermansen et al. 2017; Baur & Schmitz, 2012). In the case of this study, NGOs' open antagonistic relations occurred at the same time with criticism in private and cooperation. The observation from this study, therefore, shows that the way different NGOs related to the state was contingent on synergetic benefit that each actor achieved by cooperating. There is considerable literature that echoes this observation by highlighting how "the state and society do not stand apart in Africa or anywhere else (Markovitz, 1998: 21; see also Kasfir, 1998; Baur & Schmitz, 2012; Mkandawire, 2010). While the NGOs in Malawi displayed some elements of checks at a particular point in time, the NGOs-state relations were a continuum in which relations were in constant (re)negotiation and adjustment. The next discussion turns to the relations between NGOs and local communities in the mining areas.

#### **7.4. NGOs-Community Relations: Expert Arbitrators and Reversal of the Promise**

The growing popularity of NGOs' work in Africa from the 1990s was based on their expected potential in "changing the structure of Africa's governance in favour of greater democratization and institutional accountability (Fowler, 1991: 56). The NGOs were presented as the missing ingredient in changing the unequal and exploitative relationship between the local communities and the dominant malevolent state. This argument was largely premised on the observation that the state in many developing countries, including Malawi, displayed a myriad of vices such as corruption, pursuit of self-interest, excessive use of force and limited citizens participation in the affairs that affect their life (Sayer, 2007; Kalu, 2017; Karim, 2018; Lwanda & Chanika, 2017). These voices were anchored in distinct extractive institutions that disenfranchised the state from its citizens such as centralised state machinery, top-down instruction and elitist public policy-making processes (Chingaipe Ng'oma, 2010; Smoke, 2003; Spiegel, 2017; Mamdani, 1996).

Unpacking how particular NGOs related with local communities during the review of the 1981 MMA is, therefore, imperative as it helps to understand how the NGOs reversed the previous practices of public policymaking. In the case of this study, a focus on the relations helps to understand who framed the environmental issues in mining and the corresponding solutions (see Hermansen et al. 2017; Yearley, 2005). The literature on public policymaking in Malawi see involvement of NGOs and local communities as resulting in the formulation of development strategies that are just and inclusive (Chinsinga, 2007; Lwanda & Chanika, 2017).

This study, however, highlights how the different NGOs that were involved in the review of the 1981 MMA reproduced past public policymaking practices that marginalised local communities in a new fashion. Having won the local political space, the NGOs did not only take-over and disempower local communities' fight against environmental issues in mining, but also facilitated privatization-focused subject formation among communities living in the mining areas. This process enabled the state to conduct communities conduct at a distance.

The main argument from this section is that rather than changing the historical legacy of local communities' subjugation to the state and private sector, the NGOs-local communities' relations just shifted the control of local communities from the state to NGOs. In this process, the NGOs became new masters that reigned over the consenting local communities through NGOs' expert advice. The expert advice provided to local communities by NGOs is interesting for this study because of the shifts that ensued in the framing of community benefit. While farming is the dominant livelihood available to rural smallholder farmers, NGOs predominantly framed the benefit of mining in terms of its monetary contribution. Thus, the 2018 MMA enforced the idea that smallholder farming must give way to mining activities by requiring the holder of mineral interest to just inform the owner of the customary land of planned mining activity. Section 226 of the 2018 MMA require that;

“A holder of a non-exclusive prospecting licence, reconnaissance licence, exploration licence or retention licence, before entering upon the ground to commencing reconnaissance, prospecting, exploration or retention work in any private land, shall inform any lawful occupier and owner of land, where known, a minimum of thirty days in advance of the holder's intention to commence activities on the land in which the lawful occupier and owner of land has an interest.

The idea that customary land users have to give way to mining activities is coming against considerable literature that has shown that land in Malawi is the most important productive asset available to rural communities (Chinsinga, 2015). In addition to being a livelihood asset, customary land in Malawi has social and cultural values to rural communities (Kanyongolo, 2005). Thus, the framing of the 2018 MMA point to how mining activities are given the passport to grab the productive asset from rural subsistence farmers without due regard to their livelihoods. The above discussion, therefore, underpins Foucault's notion about how power works among free people through the 'conduct of conduct' (Glenn, 2019; Lemm & Vatter,

2014). Through limiting the framing of poverty to monetary aspect, the NGOs embraced a set of compensation strategies, discussed in detail in the previous chapter, as strategies for addressing the environmental issues in mining. These strategies are, however, deeply seated in the interests of private capital. Given the communities opposition to mining, how then did the people in the mining area come to accept these strategies. I turn to this question in the following section by highlighting how NGOs institutionalised a particular kind of mining governance by acting as expert mediators of the conflicting interests of the state, private mining companies and communities living in the mining areas.

One of remarkable features of the relations between the NGOs and the communities in the mining areas during the review of the 1981 MMA was that the former were experts of mining governance while the latter were the learners. This kind of relationship involved the NGOs educating the communities living around the mining areas a set of mining governance cannons required for them to escape environmental harm arising from mining activities as well as benefit from the mining activities. The understanding was that local communities living in the mining sites needed to be equipped with the required knowledge and skills. For instance, the Executive Director of Tilitonse Fund emphatically argued that;

“we side with the community, we don’t go there with our narrow interests, we go there with the interests of the communities, we open up their eyes to understand the environment and what is at stake, then we empower them to push for their own agenda. We then just provide them with the support from the background. With this, they are able to see what to do”<sup>165</sup>.

While arguing that the NGOs just work to open the eyes of the local communities, the NGOs had clear pathways, discussed in the previous chapter, through which the local communities could benefit from mining i.e., CDA, CSR, compensation and resettlement. The “opening up of the local communities’ eyes” was, therefore, not a neutral free process. Instead, it involved top-down instruction about how local communities can negotiate their mining benefits with private companies. In the words of the leaders of the Mchenga Community-Based Organisation, “Church and Society taught us on how mining can be a win-win economic activity for the state, private mining companies and the communities around the mining

---

<sup>165</sup> Interview with Mr Chandiwira Chisi, Tilitonse Foundation, Lilongwe on 17/12/2019



sites”<sup>166</sup>. Notwithstanding existing global dilemmas of achieving a win-win outcome in the mining activities (Kirsch, 2010; Bebbington et al. 2008), the achievement of a win-win outcome for the rural communities in Malawi requires addressing the asymmetrical power structures between and within the state, private mining companies and local communities. For instance, despite community protests over unpaid CSR by one of the private mining company in the country, Ilomba Granite Mine Company, the District Commissioner for the area rejected the local chief’s demand to close the mine arguing; “Your duty as Senior Group Village Headman Mbilima is to help the District Commissioner administer the area you are holding and make sure people live in peace” (Witmos, 2019: 13). The discussion above suggests that the ability of the communities living around the mines to benefit from mining is contingent on how existing structures of power work to fulfil the demands of the communities.

Figure 7.1 below shows OSISA funded Church and Society’s Training Manual for the communities in the mining areas. The title of this Training Manual is important as it explicitly conveys the specific issues that the project focused on i.e., Inclusive, Responsive, Accountable and Transparent Extractive Sector. The previous chapter has discussed at length not only how such concepts are rooted in capitalization rationalities, but also who are the main beneficiaries of these interventions.

---

<sup>166</sup> Interview with Executive Committee of Mchenga Community-Based Organisation on 1/05/2019



Figure 7.1: Training Manual on Mining Governance for Church and Society

Figure 7.1 above shows that concepts within good governance dominated the NGOs agenda of sensitising communities living in the mining areas. It is, however, doubtful whether NGOs' sensitisation interventions were tailored to the interests of the people in the mining sites. This is not only because the interventions implemented by the NGOs were top-down, but also because the benefit of mining was normatively framed along the monetary approach without due regards to local communities' livelihoods systems. For instance, CDA implicitly linked poverty to lack of monetary wealth which communities can benefit from mining companies.

Despite numerous studies that have shown that the drivers of rural poverty in Malawi is strongly linked to access to land resource (Mkandawire, 1999; Chirwa, 2004; Chinsinga, 2011), good governance gave more weight to monetary gains from mining in ending poverty (see O'Faircheallaigh, 2013; O'Faircheallaigh, 2010; Bruckner, 2016; Ofori & Lujala, 2015). Existing literature on rural poverty in Malawi show that rural communities can benefit much from economic activities that safeguard land-based livelihoods than those targeting creation of employment (see Chinsinga et al. 2013). Considering how the expert advice of NGOs relate to the interests of rural communities is important because existing studies show that NGOs in Malawi can shift their development agenda in order to meet the interests of international donors

(Gabay, 2011; see also Ndegwa, 1996; Matanga, 2010). A comment from one member of staff from a NGO interviewed under this study helps to put this point into perspective;

“International Organisations help us in capacity building, they know a lot than “*anthu akumudzi*” (people in the village), it’s time to learn from the international organisations. We must learn how do they know such things so that we can also benefit. In addition to funding us, international organisations act as advocates of change. For instance, it was Norwegian Church Aid which supported the whole campaign for us to change the mining laws in Malawi”<sup>167</sup>.

The narration above suggests that NGOs initiatives were intricately entangled in what international donors considered to be good mining laws and not necessarily drew lessons from the experiences of mining communities. Notwithstanding the realities of limited government capacity to manage large scale mining projects, the above narration suggests that NGOs that were involved in the review of the 1981 MMA were shaped by government capacity gaps to promote outside guidance, expertise and knowledge. Although there were differences on how limited government capacity to manage the mining sector was presented, NGOs’ appeal to international donors for financial and expertise support contributed to deepening structural power of international donors. Drawing on Thandika Mkandawire’s choiceless democracy concept (2010), the case of Malawi point to how NGOs exerted a top-down approach on defining the principles that should govern the mining industry in Malawi (see Sequeira et al. 2016; Markovitz, 1998). In this way, the NGOs’ interventions in the mining sector in Malawi reflect a Gramscian view where interests of dominant actors intertwine and dominate (Kasfir, 1998; Mkandawire, 2010; Markovitz, 1998). The above observations, therefore, challenges the promises of liberal political pluralist perspective that argue that interest groups such as NGOs can successfully shape legislation along the interests of the marginalised populations.

Another outstanding feature of the relations between NGOs and the communities in the mining areas relates to how the NGOs established themselves as the arbitrators between the conflicting interests of the state and the communities. The NGOs’ role of arbitrator between the interests of local communities and those of the state is particularly important for this study because it changed the way the local communities in Malawi are legally supposed to relate with the state.

---

<sup>167</sup> Interview with Field Officer for Mining Governance Project, Norwegian Church Aid, Lilongwe on 16/12/2019

According to the Malawi's 1998 Local Government Act (Amended 2016), local communities are supposed to be represented in government public policymaking processes by elected Councillors. The local councillors are supposed to channel the developmental concerns of the local communities to the District Executive Committee which is a highest policymaking body at a district level.

Notwithstanding that in Malawi decentralised approach to governance was supported by the donor community and NGOs (Chipeta, 1992; Anderson, 2017), existing studies suggests that institutionalisation of decentralisation in the country has been affected by the same institutions (see Hussein, 2003). According to Chinsinga (2007: 92), the NGOs in Malawi do not only compete for influence, control and accountability but there is "a strong desire among NGOs and donors to be the only organisation within a particular field". While bringing in new forms of contestation into the policymaking process, the case of NGOs' involvement in the review of the 1981 MMA point to how the NGOs reversed the agenda of community empowerment in the country. Instead of being under the subjugation of the state, the communities in the mining communities were brought under the control of the NGOs. For instance, instead of submitting their concerns to the district council as per the 1998 Local Government Act, Mchenga CBO was submitting their concerns on mining directly to Church and Society of the Livingstonia Synod. During FGD with executive members of Mchenga CBO, it was specifically reported that:

"we are working together with Church and Society to monitor mining related problems our community is experiencing. Church and Society equipped us with the skills to do the work and we are still sending them our monthly reports"<sup>168</sup>.

Figure 7.2 below shows a form that was particularly designed for the communities under Livingstonia Church and Society to report incidences and challenges related to mining that people at Mchenga coal mining site were experiencing.

---

<sup>168</sup> FGD with Mchenga Community Based Organisation on 1/05/2019

from all other cases

**Topic Ten: HUMAN RIGHTS MONITORING,  
DOCUMENTATION AND REPORTING IN THE CSP'S  
MINING PROJECT SITES (template)**

**CCAP LIVINGSTONIA SYNOD**

**CHURCH AND SOCIETY PROGRAMME**

Presbytery:..... Date:.....

Name of Officer:.....

Whether a visit to the scene was conducted: Yes:..... No:.....

Interviewing a witness: Yes:..... No:.....

**Victim Identification**

Name:.....

Age:..... Marital Status: Married:.... Single:.....

Gender: Male:..... Female:.....

Home Address:  
.....  
.....  
.....

Nationality:..... Religion:.....

53

Figure 7.2: Mining Governance Grievance Reporting Form for Church and Society

Figure 7.2 above point to how some of the NGOs that were involved in the review of the 2018 MMA took over the responsibilities of the state to the communities living in the mining areas. The above discussion suggests that, while helping to address the challenges that communities living the mining areas experienced, the NGOs that were involved in the review of the 1981 MMA suffocated the institutions responsible the empowerment of the marginalised groups of people in the mining areas. This is so because empowerment requires transformation in the way relations between the powerful and marginalised actors are structured. Rather than changing these relations, the NGOs just changed the actors in the relations of control but sustained the form of subjugation. As highlighted in the previous chapter, the NGOs used the conflict between the state and the communities in the mining areas to consolidate their power at a local area, arguing “we have come to a situation where the government cannot do anything in the mining areas without consulting us”<sup>169</sup>. The success of the NGOs in controlling the local political spaces has, however, big implications on the NGOs’ community empowerment agenda. This is so because both the central and local government required the support of the NGOs to manage the growing demands of volatile communities surrounding the mining sites. The growing fears among government officials over the demands of the diverse groups of people in the mining areas was clearly spelt by officials from Department of Mining.

---

<sup>169</sup> Interview with Kossam Munthali, Chairperson, NRJN in Malawi on 16/12/2019

“NGOs are being sensational about problems in the mining sector. They forget that volatile community protests and negative press about mining issues is not good for our small mining industry, it does not attract and retain existing investors”<sup>170</sup>.

While essential in controlling community protests against mining at a local level, good relations between the NGOs and the state sustained old policymaking practices. NGOs perpetuated top-down policymaking processes thus undermining transformation of local governance structures. While the NGOs became dominant actors at a local community space, local communities were reduced to followers waiting:

“for any NGOs that is ready to work with us, support us ... teach us how we can benefit from mining that is taking place in our land”<sup>171</sup>.

While NGOs that were involved in the review of the 1981 MMA managed to dislodge the state and establish their dominancy in the local political space, the above sentiments suggests reversals in the objective of institutionalising democratic governance at a local level. In this way, the NGOs did not only placate the local communities that they are fighting for their interests, but also perpetuated the subjugation of the local communities to external agents to which they had also become a part.

## **7.5. NGOs Demands and Key Aspect of the 2018 Mines and Minerals Act**

As highlighted in chapter 1, NGOs’ advocacy for the review of the 1981 MMA focused on five key issues namely: the need to vest mineral rights in the Republic and not the President, lack of transparent and accountability in the management of the mining sector, limited mechanisms for the participation of local communities in the management of the mining sector, absence of provisions for sharing mineral benefit with the communities living in the mining areas, and limited provisions for the protection of communities living in the mining areas from mining induced environmental harm. The 2018 MMA provided provisions that touched on all the concerns of the NGOs that were involved in the review of the 1981 Act. This section summarises some of the provisions in the 2018 MMA that responded to these issues. The objective of the 2018 MMA is

---

<sup>170</sup> Interview with anonymous Officials from Department of Mining in Lilongwe on 17/04/2019

<sup>171</sup> Interview with Executive members from Mchenga-Community-Based Organisation on 1/05/2019

“to regulate the development of the mineral resources of Malawi through adherence to sustainable development principles in order to— (a) benefit the economy and promote the economic growth of Malawi; (b) protect and improve the welfare of the present and future citizens of Malawi; (c) provide an attractive and conducive environment for investment in the mining sector; (d) minimize or prevent economic declines related to decreased mining activity by creating through training and other means a foundation for the future, social economic empowerment, uplifting and development of local communities and regions affected by mining; and (e) manage environmental impacts for the benefit of all present and future generations of Malawians<sup>172</sup>.

Unlike the 1981 MMA which vested all minerals in the President on behalf of the people of Malawi, the 2018 MMA has vested all minerals in the Republic<sup>173</sup>. This clause is in line with the spirit of section 207 of the 1995 Republican Constitution and provisions of Section 8 of the Land Act, 2016, which vests all land in the Republic. Generally, the demand to vest minerals rights in the Republic and not the President did not generate any controversies. Another significant provision that the 2018 MMA introduced was the creation of the Mineral Resources Committee (MRC). The responsibility of the MRC is to provide oversight on all matters pertaining to the management of the mining industry, including assessing and granting all applications submitted for mineral licences. The MRC was created in response to the criticism that there is a lot of secrecy and corruption in the management of the mining sector in the country. Inter alia, the MRC

“examines the qualifications, experience and character of persons applying for exploration licences, retention licences, medium-scale mining licences and large-scale mining licences and determine their eligibility to be granted the type of licence applied for; (b) recommends for granting, applications for exploration licences, retention licences, medium-scale mining licences and large-scale mining licences”<sup>174</sup>.

---

<sup>172</sup> 2018 Mines and Minerals Act, Section 3

<sup>173</sup> 2018 Mines and Minerals Act, Section 4

<sup>174</sup> 2018 Mines and Minerals Act, Section 6

While the essence of creating the MRC was to achieve transparency and accountability, the MRC consists of only individuals from government agencies. These include Principal Secretaries from Departments of mining, local government, lands, treasury, environmental affairs, geological survey, parks and wildlife, forestry, Malawi Police. Considering power dynamics in government, it is doubtful MRC will provide significant space for ending secrecy in the management of mining activities in the country. Another significant provision in the 2018 MMA relates to the sharing of mineral benefits with the communities in which mining is taking place. The Act stipulated that “a holder of a large-scale mining licence shall implement a community development agreement with each community that meets the definition of a “qualified community” as defined in section 2 that is willing and able to enter into a community development agreement”<sup>175</sup>. The Act also encourages medium and large-scale mining investors to prioritise communities within the mining areas when employ mining labour and procuring goods and services. The 2018 MMA also provides stipulations for the compensation and resettlement for the displaced households. The Act specifically refers all issues relating to land compensation, resettlement, and disputes over land ownership to the provisions of the 2016 Land Act.

Unlike the 1981 MMA, the new Act stipulates that Environmental and Social Impact Assessment shall be compulsory for medium and large-scale mining. The Act stipulates that

“The Mineral Resources Committee or the Commissioner, whichever is the approving authority, in deciding whether or not to approve any mineral tenement, shall take into account—(a) environmental protection and management principles set out in the Environment Management Act”

While the rationale of ESIA in mining was aimed at monitoring the effects of mining on rural livelihood and social life, lack of recognition of indigenous knowledge limits its usefulness. As highlighted in chapter 7, the EMA, 2017 sets western science and technocratic approach supreme to any other knowledge. The 2018 MMA requires that “a copy of its Environmental and Social Impact Assessment report along with an explanation that the report has been submitted under the Environment Management Act ...,”. The reliance on western science and technocratic approach bears resemblance to and is a continuation of the colonial and post-

---

<sup>175</sup> 2018 Mines and Minerals Act, Section 169(2)



colonial natural resources management practices that gave supremacy to western knowledge (see McCracken, 1982; Mulwafu, 2011; Kalipeni & Feder, 1999).

One significant feature of the 2018 MMA is that the Act has subordinated the environmental and economic rights of the communities in the mining areas to the interests of private mining investors. This is so as despite being subject to environmental harm from mining activities, their access to monetary benefits is contingent upon the establishment and/or profitability of the private mining investors. The 2018 MMA specifically stipulates that the communities have to wait for one year after the mining company start commercial production for them to receive CDAs. Again, the content of the CDA can be changed anytime depending on the business performance of the mining company. While this may be a normal practice, the ability of local communities to benefit from mining is also indirectly threatened by transfer pricing practices that is prevalent among mining MNCs (see Campbell, 2013). For instance, Eastern Produce Malawi Ltd, a MNC engaged in the growing and processing of tea in Malawi, was dragged to High Court in 2018 by Malawi Revenue Authority for practicing price transfer<sup>176</sup>.

## **7.6. Conclusion**

In this chapter, I have discussed the specific ways in which different NGOs interfaced with international donors, the state and communities living in the mining areas during the period of reviewing the 1981 MMA. The analysis from this chapter point to a continuation of past legacy of elite domination in public policymaking characterised by top-down and persuasive instruction. The chapter observes that NGOs were bifurcately co-opted into state and international donors rationalities and thus developed divided royalties to state and international donors on one hand and local communities on the other. The concept of bifurcated co-optation captures three forms of relations between the NGOs and international donors and within NGOs themselves. Firstly, instead of being a single entity, the NGOs that were involved in the review of the 1981 MMA in Malawi consisted of multiple actors pursuing diverse interests and “competed for resources, attribution and prominence”<sup>177</sup>. This situation resulted in some of the NGOs being closer to the circles of state power and donor funding while others stood outside

---

<sup>176</sup> Malawi vs Eastern Produce Malawi Ltd, July 2018 Malawi High Court, JRN 43 af 2016 <https://tpcases.com/malawi-vs-eastern-produce-malawi-ltd-july-2018-malawi-high-court-jrn-43-af-2016/>

<sup>177</sup> Interview with Mr Chandiwira Chisi, Executive Director, Tilitonse Fund, Lilongwe, 17/12/2019

these circles. Secondly, the individual NGOs that participated in the review of the 1981 MMA pursued both project normative as well as instrumental systematic objectives. The project objectives relate to the plans that were formally spelt out in the NGOs' advocacy projects' documents while the instrumental objectives relate to individual NGOs' unwritten interests. Consequently, the various NGOs established relations which enabled them to strategically pursue both project and systematic objectives. Lastly, NGOs that participated in the review of the 1981 MMA employed both mainstream neoliberal knowledge and indigenous knowledge. While the NGOs deployed lived experiences of the various groups of people living in the mining areas, they also paid attention and made use of western scientific knowledge such as ESIA<sup>178</sup>.

This chapter has observed how NGOs' bifurcated co-optation transformed them into persuasive agents of reconstructing the various groups of the local communities along the complex matrices of state, international donors, and private companies' interests. To this end, the chapter suggests the NGOs were a means through which the state governed local communities at a distance (see Miller, 2008). The chapter particularly observes that NGOs' limited influence in shaping the 2018 MMA towards the interests of the local communities in the mining sites can be explained by two factors. Firstly, the NGOs' financial dependency on international donors limited the ability of NGOs to independently define the solution to environmental issues that local communities were facing. Instead, NGOs supported the strategies that the international donors presented. Secondly, the NGOs competition over getting institutionalised into the national mining governing forums resulted in the development of NGO-state relations that compromised their emancipatory agenda. The next chapter compares how the environmental issues that the NGOs prioritised during the review of the 1981 MMA related those that the communities living around the mining areas experienced.

---

<sup>178</sup> Interview with Gracian Banda, Environmental Lawyer and Activists on 11/04/2019

## CHAPTER EIGHT

### ENVIRONMENTAL HARMS EXPERIENCED BY LOCAL COMMUNITIES IN MINING SITES: MANIFESTATIONS OF SOCIO-ECONOMIC VULNERABILITIES

#### 8.0. Introduction

The aim of this chapter is to discuss the environmental harms that different local communities at Mwaulambo and Mchenga coal mining sites experienced and the legislative context under which such environmental harms were experienced. The chapter explains how NGOs' participation in the review of the 1981 MMA was not only borne out of the harmful effects of mining, but legitimised the natural resources management structures that caused the harm. The period under discussion is from early 2000s when the Government of Malawi earmarked mining as a key economic development sector (GoM, 2006) to 2018 when the 2018 MMA was adopted. It is important to understand the experiences of the communities from these mining sites as it is through this consideration that we can perceive the impact of NGOs on the review of the Act.

The general observation of this chapter is that environmental issues in mining affected different communities at Mwaulambo and Mchenga in dissimilar ways and generated different responses from those communities. This is so as the local physical and socio-economic context dictated the way different communities were affected by the environmental issues from mining. In general, open cast/mountain removal method of coal mining at Mwaulambo amplified the exposure of the local communities and their agrarian livelihoods to the negative environmental effects of coal extraction. On the other hand, underground method of coal mining and hilly topography at Mchenga reduced the exposure of immediate communities and agriculture activities to some of negative effects of coal extraction.

Overall, the chapter observes that low-income households with fragile livelihood platforms as was the case at Mchenga supported coal mining as a complement to livelihood platforms. On the other hand, middle income households with stable land-based livelihoods systems, as was

the case at Mwaulambo, opposed coal mining. The observations from Mchenga and Mwaulambo suggest that support for or opposition against mining in Malawi is entangled in the questions of local communities' socio-economic vulnerabilities (see also Büscher, 2015; Bell & York, 2012; Bell, 2016). Thus, the negative effects of mining in Malawi point to continuities in conflict between capitalistic mode of production and subsistence livelihoods. As will be discussed later in this chapter, this observation is an irony that challenges the increasingly dominant assumptions that local communities can be protected from environmental injustices arising from extractives through FPIC (see Dunlap, 2018; Schilling-Vacaflor, 2017; Mahanty & Mcdermott, 2013; Bulkan & Palmer, 2016).

The chapter is organised as follows. Section 6.1 compares the major environmental issues in mining that local communities around Mchenga and Mwaulambo experienced to those that the NGOs pursued during the review of the 1981 MMA. Section 6.2 discusses the institutional and legislative framework under which the local communities at Mchenga and Mwaulambo experienced the environmental issues from mining. The section highlights the legislative arrangements that explain the conditions under which environmental harm from mining were experienced. This analysis is important as it helps to unpack the legislative conditions that the NGOs changed during the review of the 1981 MMA. Section 6.3 offers a conclusion which highlights key insights from the chapter.

### **8.1. Environmental Issues Facing Communities at the Study Sites**

This section presents major environmental issues in mining that local communities around Mchenga and Mwaulambo coal mining sites experienced. The aim is to explore how the local communities at the two sites experienced and responded to the mining-induced environment harm so as to locate the NGOs' advocacy for environmental justice within the experiences of different groups of local communities. At the heart of the discussion is how the environmental issues in mining negatively impacted on the local communities' socio-economic life by interfering with their health and livelihood systems. It is also important highlighting at this point that the environmental problems experienced at Mwaulambo have been central in shifting the local communities' perspective on mining from celebration for to protest against. For instance, while there were concerns over the undemocratic way Elland Coal Mining Company was introduced at Mwaulambo (see Human Rights Watch, 2016; CCJP, 2012), the local

communities initially welcomed the mining activity in order to pave way for development in the area.

In the words of Nagoya, a 75-years woman who supported her husband and three children on growing of rice, maize and cassava, there was hope that “digging coal would bring development to the village and some benefits such as job opportunities and healthcare infrastructure for her and her family” (reported in Human Rights Watch, 2016: 3). The positive expectation changed when local communities started experiencing the negative environmental effects of coal extraction. Justice Mwaulambo, a local community educator working with Church and Society Mining Governance project, emphatically reported that “We expected development which could have brought happiness to our area, only to be left in tears”(reported in Jere, 2017: 9). The following section particularly highlights the environmental harms that the local communities at Mwaulambo and Mchenga experienced and discusses their inclusion/exclusion in the NGOs environmental justice advocacy agenda.

#### **8.1.1. Land Degradation and Household Displacement**

Land degradation and displacement of rural households was one of the major environmental problems arising from mining that local communities at Mwaulambo and Mchenga experienced. Coal mining at the two sites specifically generated context-specific land-related problems associated with socio-economic structures within the sites. This was so because of two factors. Firstly, Mchenga and Mwaulambo had different physical characteristics and economic activities. While Mchenga coal mine is located in an area with stony and poor soil fertility, Mwaulambo was established in an area with fertile alluvial soils that support rice cultivation (see CCJP, 2012; Omuto & Vargas, 2019). The fertile soils at Mwaulambo area were a source of livelihood for the smallholder farmers as it supported bumpy rice harvests. Equally important, while coal at Mchenga was extracted in the uninhabited escarpment within the Livingstonia Coal Fields, coal mining at Mwaulambo was extracted close to the flood plain which smallholder farmers used for cultivating rice. The upland on which the coal mine was extracted at Mwaulambo was also used by the community to grow upland crops such as cassava and sweet potatoes. Due to frequent flooding of the flood plain during the rainy season, some of the households’ dwelling houses are located in the upland area close to the area where mining was taking place (see Figure 6.1b).

Secondly, while at Mwaulambo coal was extracted using the open cast method, at Mchenga coal was extracted using the underground method. Open mining involves the removal of top layers of soil to extract the underground coal and the process turns to be very destructive to the environment. Existing studies have highlighted how destructive open cast method of mining is to the environment than underground mining method employed at Mchenga (see Oskarsson, 2018; Oskarsson & Bedi, 2018; Bell and York, 2012; Bell, 2016). Underground mining on the other hand involves digging horizontally through the mountain and extracting the minerals through a tunnel. Thus, the observations from Mchenga and Mwaulambo reveals how the physical conditions under which coal is mined determines the dynamics of how different local communities experience environmental harm.

The method of mining coal at Mwaulambo directly exposed the local communities to environmental effects in several ways. Firstly, establishment of the coal mining at Mwaulambo resulted in the loss of farming land among smallholder farmers. For instance CCJP (2012), documents that more than 30 households at Mwaulambo were displaced from their farming land during the time the coal mined was being established in the area. Jere (2017: 4) also reported that during phase one of the project alone, “17 households were told to move and were given a meagre compensation of only US\$60 per household, \$20 for the house and \$40 for the land”<sup>179</sup>. According to an interview with Group Village Headman Mwaulambo of the area,

“The problem that was there with Elland Coal Mining Company was that we did not have information. They were working directly with government authorities in Lilongwe (Capital City). They could at any time decide to extend coal mining further into the rice fields, we did not know how much land was allocated to them.

This situation triggered a lot of community protests against the company”<sup>180</sup>.

A female smallholder farmer, whose upland was appropriated to pave way for the coal mining company, was visibly worried in case I was connected to mining company:

“Elland coal mining company did not bring any good to this village, they took away my only upland which I was using for cultivating cassava and they were planning to extend even to our rice fields. They destroyed my upland and now I do not have

---

<sup>179</sup> The amount has been converted at the current rate of US\$1 to 737.50 Malawi Kwacha

<sup>180</sup> An interview with Group Village Headman Mwaulambo at Mwaulambo, 12/06/2019

anywhere to plant cassava. Do not cheat us that you are a student and yet you have been sent by the company to entice us, we will not allow that this time”<sup>181</sup>.

In a female only organised FGD, females complained that:

“we were just living in fear because we did not know the truth about the aims of the company. The main problem was that the company had backing of government and could just dictate anytime they wanted to extend mining into our plots”<sup>182</sup>

Figure 8.1a below show the location of the mountains in which coal mining was taking place in relation to the smallholder rice fields at Mwaulambo.



Figure 8.1a: Location of the Elland Coal Mine in Relation to Rice Fields

---

<sup>181</sup> An interview with a female smallholder farmer at Mwaulambo, 10/06/2019

<sup>182</sup> FGD with female smallholder farmers at Mwaulambo Coal Mine, 11/06/2019





Figure 8.1b: Coal Mining Gully Close to Dwelling Houses

Figure 8.1a shows part of the half-levelled mountains near the rice field where coal was being extracted at Mwaulambo. According to the interview conducted with one of the Community Educators who worked under CCJP and Church and Society, “Elland coal mining company was extending coal extraction to the fields because their survey revealed that there was best coal under the fields”<sup>183</sup>. Figure 8.1b shows a big gully that was left behind after taking out the coal awfully close to the dwelling houses of the smallholder farmers.

Secondly, coal dust at Mwaulambo degraded the flood plain that was used for farming by the smallholder communities. For instance, Mr Mwakawoko, a middle-aged male farmer who was interviewed in his rice fields lamented that:

“coal dusts from the trucks that were transporting coal from the mining site to their markets heavily polluted our rice fields. Look for yourself, this soil is still black from coal five years after the mining closed”.

---

<sup>183</sup> An in-depth interview with a Community-Based Educator on Mining Governance at Mwaulambo on 11/06/2019



The local communities that were interviewed during the field visits to Mwaulambo indicated that degradation of rice fields by coal dusts negatively affected their livelihoods due to decreased rice productivity. For instance, Justice Mwaulambo, a community-based educator who worked with Church and Society under Mining Governance Project, reported to a PCNRCC in 2016 that “a farmer who used to produce ten bags of rice before Eland’ mining activity is now producing less than five bags, because rice fields are now contaminated with coal dusts”(Jere, 2017: 9). Figure 8.2 below shows the current situation of some rice fields along the road that was used to transport coal.



Figure 8.2: Rice Field Contaminated Showing Coal Dusts

Figure 8.2 shows that the effect of rice fields contamination from the coal dusts can still be seen five years after the company stopped mining coal in the area. Continued contamination of the rice fields may also be coming from the heaps of coal that were left in the area and the deep gullies where the coal wastes were dumped.

The discussion on the way coal mining was introduced at Mwaulambo raises two points of scholarly debate. Firstly, Government of Malawi’s preference of mining over local communities’ land-use reflects the historical struggle between the government and rural smallholder farmers centring on the extension of capitalist form of production into the customary lands. It is a struggle that reflects conflict between the conventional model of

development that has been adopted by governments in most developing countries other than the alternative development model that emphasizes indigenous knowledge and experience in resource utilisation (see Escobar, 2015). In the case of Mwaulambo, it highlights the government preferences not only for coal mining over local communities' subsistence farming, but also profit-driven capitalist mode of production. The Government of Malawi's preference for mining over subsistence livelihoods matches the enduring struggles between local communities living and commercial natural resources utilisation projects (see Conde & Kallis, 2012; Büscher, 2015; Murombo, 2013).

The promotion of large-scale mining has the potential to increase competition over land and thus facilitate land grabs in Africa. This development is coming against the backdrop that land grabs are contributing to worsening food security situation in sub-Saharan Africa (see Mihyo et.al, 2014; Chinsinga et al., 2013; Cotula, 2009)). The GoM's preference for coal extraction at Mwaulambo particularly contradicts the significant role that rice cultivation from the area plays in both local and national economic development. This is so as Kilombero Rice, grown by the smallholder farmers in the area enjoys a steady market within and outside the country. Interviews with a local chief at Mwaulambo indicated that gross annual wages for mining workers in the area averaged US\$400, whereas rice farmers could yield a minimum annual income of US\$700. In fact, the Ethical Consumer Magazine placed Kilombero Rice in 2019 as most ethical rice in the world with a 1Kg bag costing about £3.49 in UK (Carlile, 2019). During FGDs with female smallholder rice farmers at Mwaulambo, the women argued that

“we find money for our livelihood and school fees for our children from cultivating rice ... coal mining did not bring us any benefit, very few people from this area were employed in the mine ... the salaries from mining were also extremely low.

Coal mining here just brought a lot of problems for us”<sup>184</sup>.

The cases of Mwaulambo and Mchenga reflect how smallholder rural communities and their economies were incorporated into the capitalist mode of production where monetary assessment of poverty became more important than the other aspects of poverty such as lack of land resource. For instance, Chinsinga (2002) explains how large-scale estate tea and tobacco agriculture was imposed over customary lands of local communities in southern and

---

<sup>184</sup> FDG with smallholder rice farmers at Mwaulambo, 15/06/19

central regions of Malawi (see also Kanyongolo, 2008; Chinsinga et al., 2013). The two cases above are microcosms of many rural environments in developing countries that have experienced intrusion of the capitalist mode of production into their economic space through establishment of extractive activities (Briceño-León, 2007; Erickson, 2020). The contemporary mining projects in Malawi matches the unpleasant disruptions that mining activities places on community subsistence and alternative economic activities (Maconachie & Hilson, 2011). In this way, the case of Mchenga and Mwaulambo are not unique, but a continuation and symbol of how capitalist mode of production penetrate and change rural economies and ecologies. Unlike the 1970/80s capitalistic annexation of rural economies when NGOs were not well established (Edwards & Hulme, 1992; Temper, 2014; Martinez-Alier, 2012) the cases under study are unique in that the participation of NGOs in the processes of reviewing the 1918 MMA makes them partners in the dispossession and annexation of the rural economic space. While international donors and the government advances the narratives of win-win situation, the case of Mwaulambo and Mchenga illustrate how large-scale mining activities can displace rural communities and aggravate the plight of agrarian communities.

Thirdly, government granting of mining license to an upland closer to human habitation suggests that the state views allocation of this land to mining as more valuable than its present use. This perception is not only specific to the state, but also shared among NGOs. For instance, the common narration from the NGOs was that “land that the local communities do not use can be allocated to mining and both the local community and government can benefit from that land”<sup>185</sup>. Existing studies on land, however, highlight dissonance between technocrats’ and local communities understanding and value of idle land. Whilst hilly and upland areas are considered useless to the local community by government technocrats, uplands constitute a critical asset in rural livelihoods of the local communities (see arguments by Mihyo et.al., 2014; Oskarsson, 2018). For instance, a female smallholder farmer at Mwaulambo reported that “my upland was taken away from me when they were establishing the coal mine, this time it is of no use, it is completely degraded. This time I don’t have land to grow cassava”<sup>186</sup>. The narration above suggests that understanding the value specific groups of population assign to different

---

<sup>185</sup> In-depth interview with an anonymous NGO leader, Lilongwe, 30/03/2019

<sup>186</sup> In-depth interview with a female smallholder farmer at Mwaulambo, 11/06/2019



land is critical to achieving social and environmental justice for all groups of people. Extant literature shows that holding two pieces of land in Africa, one in the lowland and another in the upland, is a livelihood safety decision against uncertainties of drought and floods (see Eriksen et al. 2015; Peters & Kambewa, 2007). Zuka (2019: 687) particularly argues that in Malawi “dambo land<sup>187</sup> is periodically allocated to households as a livelihood insurance against unforeseen harsh weather conditions”. By approving that upland can be allocated for mining without paying close attention to how local communities are bound to be affected, NGOs sail with the discourse that privilege capitalist production at the expense of rural livelihoods. Figure 8.3 below showing a boy herding cow near a coal mining gully demonstrates the value that agrarian-based communities put on land that may be considered useless by technocrats.



Figure 8.3 A Boy Herding a Cow near Gullies created by Coal Mining at Mwaulambo

Figure 8.3 above shows how uncultivated land is productively used as part of grazing land for smallholder farmers’ livestock. It is, therefore, not an idle land as perceived by some government policy documents (see GoM, 2016a; GoM, 2016b). The figure above particularly highlights the challenges of compensating agrarian communities, such as those at Mwaulambo and Mchenga, based on the land that they actually farm. The case of Mwaulambo illustrates how narratives of underutilised natural resources may be erroneously driving natural resources management reforms in sub-Saharan Africa (Chinsinga et.al., 2014; Mihyo, 2014).

---

<sup>187</sup> This is a land along the riverbanks and is usually farmed during dry season as it retains water and moisture

### 8.1.2. Water Pollution

Water pollution was one of the negative environmental impacts that coal mining at Mwaulambo and Mchenga subjected the local communities to. Like with land related environmental problems, the different physical and socio-economic conditions that existed at Mwaulambo and Mchenga determined the way the two areas experienced the problem of water pollution and the gravity of the harm. As highlighted above, coal extraction at Mwaulambo was carried out close to the habitation and farms of the local community while at Mchenga it was taking place in the escarpment away from the community. The local communities at Mchenga were living upstream and most of their farms were on the opposite side of the mountain. Closeness of the coal mining activities to the local communities at Mwaulambo, however, resulted into coal wastes spreading into water sources used by the local communities. The following quote from a FGD conducted with women at Mwaulambo shows the gravity of water pollution that was experienced at Mwaulambo:

“we drink water from these streams and boreholes (pointing). However, due to heavy rains coal wastes from the dumping sites overflowed into the rivers and polluted several streams and rivers in this area. The coal wastes also killed fish and many other aquatic animals in the rivers”<sup>188</sup>.

Another woman in the same FGD reported that “we have stopped drawing domestic water from some of the streams because we think the water in those streams is still very polluted”<sup>189</sup>. The problem of water at Mwaulambo was worse because mining activities in the area also “cut the community’s existing drinking water supply by destroying the water pipes running through the mining area. They left the community with a few boreholes and river water for drinking and domestic use” (Human Rights Watch, 2016: 3). According to Group Village Headman Mwaulambo, a local chief in the area, “complaints of coal waste polluting our rivers were brought to the company’s attention, but the company paid limited attention until their coal waste dumping sites collapsed and heavily polluted the streams”<sup>190</sup>.

---

<sup>188</sup> FGD with female smallholder farmers at Mwaulambo, 10/06/2019

<sup>189</sup> FGD with female smallholder farmers at Mwaulambo, 10/06/2019

<sup>190</sup> Interview with Group Village Headman Mwaulambo at Mwaulambo, 12/06/2019

While not severe as at Mwaulambo, local communities at Mchenga also reported that “we believe that the streams from which we draw water for domestic purposes are polluted by coal dusts, but we are just using the water. Pollution of water sources is also coming from Jalawe<sup>191</sup> Mini Coal Mining site which is located closer to our water sources”<sup>192</sup>. However, most of the local communities at Mchenga feel coal mining at the area has not polluted their farms. For instance, smallholder female farmers reported during a FGD that “coal mining has not affected our farms here, we do not farm close to where they are mining coal”<sup>193</sup>. The sentiments from the FGDs conducted at Mchenga reflect the incapacity of the communities living in the mining areas to assess with certainty the degree of harm from mining. This observation reflects not only the dilemma communities have over defining the benefits and costs of mining but point to how large-scale mining thrive on uncertainties ( Conde & Kallis, 2012).

While the water pollution was not grave at Mchenga area, local communities residing about 5km down the escarpment reported that they are usually exposed to water pollution during the rainy season. This pollution was caused by the weakening of the walls of the coal dumping site which resulted in coal wastes escaping through the rocks seams into the river streams down the escarpment. According to CCJP (2012:26) the level of water acidity of all rivers around Mchenga “increased as a result of the waste that comes from washing of coal and leakages from weak and dilapidated drainage systems”. The local communities at Chiweta<sup>194</sup>, a small trading centre about 5km down the escarpment, reported that “during rainy seasons water from this river (pointing) turns black because its water gets mixed with coal that is mined up the mountain, especially at Chizindiri coal mine<sup>195</sup>. We have been complaining about this issue to the owners of the company, but every year we experience the same problem”<sup>196</sup>.

---

<sup>191</sup> Jalawe Mini Coal Mining site is a small coal mining company that is mining coal at Mchenga but unlike Mchenga, it is located closer to the villages.

<sup>192</sup> FGD with female smallholder farmers at Mchenga, 22/05/2019

<sup>193</sup> FGD with female smallholder farmers at Mchenga 22/05/2019

<sup>194</sup> Chiweta is a small trading centre at the foot of Livingstonia Escarpments. The area is about 500 metres from Lake Malawi

<sup>195</sup> Chizindiri is a mini-Coal Mining Company located about 1Km from the area where Mchenga Coal Mine is located.

<sup>196</sup> FGD with smallholder women at Chiweta on 12/06/2019

### 8.1.3. Air Pollution

Air pollution, originating from the processes of coal extraction and crushing, was one of the local communities' common complaints against coal mining at Mchenga and Mwaulambo. For instance CCJP (2012) indicated that coal mining activities at Mchenga produces 1.65 metric tonnes of dust per day. Existing studies on coal indicate that “mining, transportation, burning, and disposing of the products of coal, all have major impacts on our health” (Lockwood, 2012: 3; see also Bell, 2016; Oskarsson & Bedi, 2018). Local communities at Mchenga and Mwaulambo reported that coal mining subjected them to unpleasant smell, high presence of air pollutants and increased incidences of air borne related diseases. For instance, Executive Members of Mchenga Community Based Organisation, a local CBO that worked with Livingstonia Church and Society on mining issues, reported that “we breathe air that has a lot of coal dust particles, the smell all around this place becomes very bad and heavy once they start crushing the coal”<sup>197</sup>. A man who owns a shop along the road going to the coal crushing sites at Mchenga also lamented that “the problem with coal mining here is that we are constantly breathing bad air, there is need that that the company find solution to this problem, or they should stop mining, the smell is very bad for us”<sup>198</sup>.

Another man who has been in Zambia Copper Belt argued that “coal mining is not helping us here, we are just suffering from the unpleasant smell from the coal. Look at how poor this place is like after all these years of mining coal, can you believe that they have been mining coal at this place since 1980s”<sup>199</sup>. An increased number of people interviewed at both Mchenga and Mwaulambo felt that air pollution emanating from coal mining explain high incidences of people suffering from chest infections such as coughs and Tuberculosis in the area. In the words of Group Village Headman Mwaulambo, “most of the people here have complained about coughs and chest pain, especially when they were mining the coal”<sup>200</sup>. Recognising this problem, Ministry of Health has been implementing a Project focusing on Tuberculosis (TB)

---

<sup>197</sup> An interview with Mchenga/Njalawe Community-Based Organisation This is a committee which was working with Livingstonia Church and Society in sensitising the community about how they can take part in achieving good mining governance in the area, 1/05/2019

<sup>198</sup> Interview with a shop owner at Mchenga Coal Mine, 27/04/2019

<sup>199</sup> Interview with a middle-aged man who had lived in the Zambian Copper belt, Mchenga Coal Mine, 27/04/2019

<sup>200</sup> Interview with Group Village Headman Mwaulambo at Mwaulambo, 12/04/2019

prevalence in the mining sites in the country. According to the interview conducted with Mr Vipha Munthali, a health-personnel at Mchenga Health Centre:

“cases of TB among mining workers are increasing, the problem is that scanning of TB incidence is not done regularly and often come late. At present, a lot of people are complaining about coughing and chest pains, but we do not have a machine to do the screening. Last time we did the screening, out of 39 samples, 5 were found with active TB, a figure which is very high as compared to communities living outside the mining area”<sup>201</sup>.

As will be discussed in the next section, the measure of ambient air in areas surrounding the mining areas is contentious as there is dissonance between what is scientifically ambient air to what the local communities perceive to be good air for their healthy, active and good life. This dissonance was reflected in the response from Ms. Caroline Theka, an Officer in the Department of Environmental Affairs, who argued that “our assessment and monitoring shows that air quality around the coal mines in Malawi is within international scientific standards”<sup>202</sup>. The discussion above suggests that determination of what is safe air for breathing using international standards need to consider context-specific sensitivity of the different local populations. According to the Malawi Bureau of Standards:

“all standards need to be localised to the local conditions but the standards for ambient air for the mining areas have not been developed because there is no money. If there is need for the standards, those who want the standards should fund the process”<sup>203</sup>.

Even among natural scientists, the subject of ambient air in the mines remains a contested question. The case of uranium mining in Namibia attest to this dilemma (Conde and Kallis, 2012). Like many other countries in Africa, localising these standards, therefore, pose a challenge for Malawi due to the financial implication and divided interests. The need for developing local standards is important because scientific knowledge does not only have time,

---

<sup>201</sup> An interview with Vipha Munthali, a Surveillance Health Assistant at Mchenga, 20/04/2019

<sup>202</sup> An interview with Caroline Theka, Environmental Specialists at Ministry of Natural Resources, Energy and Mining on 15/04/2019

<sup>203</sup> An interview with Mr. Kera, Standards Officer, Malawi Bureau of Standards, 29/03/2019



spatial and context-specific meaning, but is always under contestation even among natural scientists (see Lidskog, 2014). The discussion above highlights the need to avoid catch-all generalisations about environmental issues facing local communities in mining sites but pay close attention to specificity on how mining differently affects different local communities. The case of Mchenga and Mwaulambo particularly point to the role of context-specific physical and socio-economic landscape in modifying how local communities get affected by mining

#### **8.1.4. Social Effects of Mining Activities**

According to interviews and discussions conducted with various groups of people at Mchenga and Mwaulambo, coal mining brought several social related problems. Inter alia, these included increased immigration, unstable sexual relationships and increased incidences of drug and substance abuse, including excessive beer consumption. For instance, in a female only FGDs conducted at Mchenga specifically, women lamented that “we feel sorry for our boys because of ladies (prostitutes) who come here to look for men, we are just hoping that our boys are taking care of themselves, but we have doubts”. During a FDG with men only at Mchenga, men argued that “several truck drivers come here to load coal, these drivers have money ... our women in the area are attracted to their money and this problem brought the problem of HIV and AIDS. We knew that a lot of people coming here can bring diseases into our families, so we had to discipline our women”<sup>204</sup>. The discussion above points to two issues of importance to this study. Firstly, the HIV and AIDS experiences of the people at Mchenga echoes the fears that mining open up separated indigenous communities not only to the vagaries of capitalism, but also expose them to new diseases that they are not well adapted to or have not developed effective coping mechanisms (see Briceño-León, 2007; Erickson, 2020). The social disruption that current mining projects in Malawi are causing parallels the colonial and post-colonial legacy of statist natural resources management (Murombo, 2013).

Secondly, the discussion above also points to how the negative social and health impacts of mining at Mchenga coal mining site are mobilised by men to perpetuate and legitimise men’s control over women. Men’s fear of women establishing relationship with men coming to work in the mining sector requires paying close attention to how gendered intra-household and community power dynamics result in subjugation of females. The view that mining is a double-

---

<sup>204</sup> FGD with male smallholder farmers and mine workers at Mchenga, 30/04/2019

edged-sword which provides material benefits as well as threatens the social fabric of the community is a well-established scholarly observation (Kolala & Bwalya Umar, 2019; Brown & Spiegel, 2017). However, the observations from Mchenga point to the need to unpack how the emancipatory agenda within the extractives may be producing latent effects that work against the same spirit of emancipation, especially against women. This is particularly important in Malawi where gendered power dynamics critically compound how women access productive resources (see Peters & Kambewa, 2007; Zuka, 2019).

### **8.1.5. Unsafe Working Conditions**

Unsafe working conditions was one of the major complaints from the mining workers at Mchenga. The mining workers specifically highlighted lack of Personal Protective Equipment (PPEs) and unsafe working environment as the major challenges that they faced. During FGD with male mining workers at Mchenga, the mining workers lamented that “we usually work without protective safety kits such as mouth and nose masks, head helmet and hand gloves. Protective wear is not there, if you complain about PPE, you end up losing your job. The salaries are also incredibly low”<sup>205</sup>. Another woman who was also working with Mchenga coal mining company narrated that:

“it’s dangerous working inside the coal mine, you have to be a brave person. When men come out of the mine, you cannot recognise your husband, you can only see eyes and mouth. They are dressed up in coal dust all over their body. Before they leave for home, they have to bathe and change into other clothes”<sup>206</sup>

The sentiments of mining workers were also echoed by the Acting District Labour Officer at Rumphi who reported that:

“our office is aware of the problems mining workers at Jalawe, and Mchenga coal mining sites face. We have cases of workers working without PPE, outstanding compensation for the injured workers and those that have died. There are also issues that some workers are receiving lower wages than the recommended government minimum wage.”<sup>207</sup>

---

<sup>205</sup> FGD with male mining workers at Mchenga Coal Mine, 8/06/2019

<sup>206</sup> An interview with a female mining worker at Mchenga Coal Mine, 9/06/2019

<sup>207</sup> Interview with Mr. Lydon Mkandawire, Acting District Labour Officer for Rumphi, 1/06/2019

Despite facing unsafe working conditions, some of the poor households at Mchenga were ready to work with minimum or without protective mining kits for extraordinarily low pay. For instance, a young man of 18 years who was working with Mchenga Coal Mine reported that: “the work inside the mine is difficult but there is nothing else we can do here, we just have to work for the little income that we can get”<sup>208</sup>. The discussion above highlights the impact of prevalent poverty at Mchenga and fragile livelihood systems of poor households. Unlike at Mwaulambo where rice cultivation is a profitable livelihood for several smallholder farmers, at Mchenga agricultural productivity is low and smallholder farmers have very few economic alternatives. Working in the coal mines is a valuable complement to the existing livelihood for the poor households at Mchenga. For instance, two mining workers who escorted me on foot during one of my fieldwork trips to the mining site local office about five kilometres from the main road narrated that “working inside the mine is arduous work and for strong people, but the wages are extremely low, currently we are paid between US\$25 to US\$40 per month. We are working simply because there is no other work here”<sup>209</sup>. Mining work is, however, highly treasured by poor women at Mchenga as a source of valuable employment for their husbands and male children arguing:

“problems are there, but mining is providing work for our husbands and our boys.

At least they have something to do. But what we want is that mining should open up more jobs for women such as sorting of coal and watchmen”<sup>210</sup>.

A good case illustrating about how poor households at Mchenga support coal mining despite the numerous challenges that they faced is a story of Jessica, a middle-aged female mine worker. Jessica supports her family by working with Jalawe Mini Coal Mining<sup>211</sup> just close to Mchenga coal mining site. Jessica’s salary is about US\$30 a month but has not been paid for 5 months. Despite going without pay for such a lengthy period, Jessica narrated that:

---

<sup>208</sup> An interview with an 18-years young man working with Mchenga Coal Mine, 10/06/2019

<sup>209</sup> Interview with two mining workers at Mchenga Coal Mine 6/06/2019

<sup>210</sup> FGD with female smallholder farmers at Mchenga 22/05/2019

<sup>211</sup> Jalawe is one of the small-scale mines that has been established in around Mchenga area

“I will continue working, they told us that they will pay us as soon as the company finds the money. The manager told us that the company is not making any profit as of now because they have not sold the coal. they will give us our salaries”<sup>212</sup>.

As if this is not enough, Jessica is still waiting for compensation for her brother who was killed in the mine about a year ago<sup>213</sup> and another one who was injured to permanent disability about six months ago. According to the words of one woman who was in the same FGD with Jessica:

“the young man who got injured in the mine will never be able to live a normal life again, he can’t move and do anything on himself, he will not even be able to sleep together with his wife”<sup>214</sup>.

Though the tragedy of Jessica stood out as a symbol of the plight of coal mining labourers at Mchenga in this FGD, her experiences represent many stories where mining workers in the area have either lost their life or got permanent disability. For instance, during a FGD with members of Mchenga CBO, the secretary of the CBO read out names of six different people who have been injured to permanent disability and were still pursuing compensation. The situation of mining workers was visibly painted by a certain woman in a female only FGD at Mchenga:

“people die and get injured in the coal mine, it’s a risky job, especially if you are working underground. Anything can happen! We work there because there is nothing else we can do”<sup>215</sup>.

It is worthwhile highlighting at this point that the position of local communities on coal mining at Mchenga and Mwaulambo was not uniform, but diverse based on the existing socio-economic structures. Three groups of people were specifically observed in relation to coal mining at Mchenga namely: poor households who supports mining and are employed or seek employment in the mining sector, middle income households who oppose mining and were not employed in the mining activities, and a group of local elites who support mining, but do not seek to be employed in the sector. Their role is to work for the NGOs as mediators between the

---

<sup>212</sup> Interview with Jessica at Mchenga Coal Mine, 22/05/2019

<sup>213</sup> The brother was killed at the spot when the coal mine subsided and a big rock fell on him.

<sup>214</sup> FGD with female smallholder farmers at Mchenga, 22/05/2019

<sup>215</sup> FGD with female smallholder farmers at Mchenga, 22/05/2019

people at the ground and the NGOs. The first group, poor households, see mining as providing alternative livelihood opportunities through employment. At the time of this study, Mchenga Coal Mining company employed about 300 people, about 80% of these are men (see also Jere, 2017).

While mining workers work under harsh conditions, as discussed earlier, suffering is not an iron narrative characterising mining workers. For this group of people, working in the coal mines is also astonishingly combined with imaginations of prowess that is necessary to overcome the unavoidable pangs of poverty in the area. For instance, in a female only FGD, the women emphatically argued that:

“we want progress on coal mining and that the company should eventually employ more local people. This is our blessing; it is from coal mining that we are able to find our daily needs such as soap and school fees”<sup>216</sup>.

The same sentiments were expressed by youthful male mining workers during FGDs:

“working in the mine is difficult, but you easily get used. We run with 120-wheel bars per day inside the tunnel. If you want money, you have to be a man”<sup>217</sup>.

The narration from the poor group of households at Mchenga suggests that working in coal mine has not only become a symbolic dream for socio-economic improvement but is also conditioning local communities into accepting the realities and vagaries of capitalistic mining activities. The case of Jesica, for instance, reveals how local communities are self-disciplining themselves into accept delays in salaries or low wages based on the idea that owners of mining company are not making profits. But how did this form of mining workers perception emerge? I return to this discussion in the next section where I discuss technologies that NGOs used to simultaneously empower local communities as well as bring them under self-subjugation.

Unlike the poor group of people, the middle-income group of people at Mchenga perceive mining work as “heavy and dangerous work that does not benefit the local communities but private owners of the mining company and politicians”<sup>218</sup>. This group of people constituted a

---

<sup>216</sup> FGD with female smallholder farmers at Mchenga, 22/05/2019

<sup>217</sup> FGD with male mining workers at Mchenga, 6/06/2019

<sup>218</sup> In-depth interview with a retired man at Mchenga 6/06/2019

small group of retired individuals, the economically better off (*opeza bwino*)<sup>219</sup> and local government staff. The third group of local people included the local elites who were not opposing mining but have never worked or were willing to work in the mining sector. This group of people included youths with secondary school education, members of the local political governance structures especially the VDC<sup>220</sup>, close relatives of the local chiefs, and cultural and religious leaders. The common characteristics of this group of people is that they command local respect through their education, public speaking and negotiation skills.

The following narration by the Executive Committee members of Jalawe/Mchenga Community-Based Educators help to define and put the work of this group into its proper perspective:

“our duty is to advise the local community about how they can deal with issues of mining and the problems that they meet; we were trained by Church and Society to enlighten the local people about the benefits and costs of mine so that they are well informed ... three of our friends have attended conferences even in Lilongwe, seating together with the Minister of Mines. As a committee, we work with different organisations and welcome each organisation which wants to work with us ... Our committee has been there since 2004, but originally, we were dealing more with issues of HIV and AIDS. But this is a development committee and must respond to the existing challenges. Now we are focusing more on mining governance. We have worked with CCJP and Livingstonia Church and Society and helped to improve the conditions that the people working in the mining sector face. We give them information and it is up to them to use the information. But we can see that the situation has improved ... Currently we don’t have a project and we will work with any NGO which comes to implement a project in this area”<sup>221</sup>.

The narration of the executive members of Jalawe/Mchenga Community-Based Educators suggests that the community educators perceive themselves as a separate group from the “local

---

<sup>219</sup> The “better off” (*opeza bwino*) is a well-known term in Malawi to describe households that are relatively economically better than the poor households see Khaila et al., 1999

<sup>220</sup> In Malawi Village Development Committee is a closest political structure to the local citizens made of representatives from a village or a group of villages see GoM, 2013

<sup>221</sup> FGD with Executive members of Jalawe/Mchenga Community-Based Educators, 1/05/2019

people” that they purport to serve. While not seeking employment in the mining, this group of people have been trained to teach those working in the mine on how they can navigate problems that they meet. At both Mchenga and Mwaulambo, all members of the community educators that were interviewed have never worked in the mine.

The role of this group of local communities raises two important points of scholarly debate. First, the organisation and work of community educators at Mchenga points to how NGOs in Malawi are re-organising local elites as a new form of specialised externally connected elites servicing external NGOs. The interviews carried out with this group of people suggests that their interests are multifaceted ranging from helping their local community address the existing problems to material gain from offering their services to NGOs. For instance, the executive members of Jalawe/Mchenga Community Educators specifically highlighted that “in order for us to carry out these functions we need resources for transport and an allowance, the NGOs give us resources to meet these costs”<sup>222</sup>. While the idea that NGOs work with grassroots organisation is well established, the observation from this study point to how the supply of work from NGOs and not necessarily the demand from local communities may be driving the reorganisation of professionalised local elites at Mchenga. The sentiments from the Mchenga educators point to how local elites may be mobilising themselves to instrumentally benefit from the NGOs’ advocacy agenda.

Secondly, the emergence of specialised local elites in the work of NGOs at Mchenga point to the need to pay close attention to how the discourse surrounding the successes of NGOs may be entangled in the interests of middlemen at a local level. For instance, while there is widespread outcry about the low pay and unsafe working conditions at Mchenga, the community educators argued that “with the work that we have been doing with CCJP Church and Society, the situation has greatly improved here, we have enlightened the people working in the mines and the local community about how mining should be carried out to safeguard their interests ... Even private companies are now afraid of us”<sup>223</sup>. The narration above suggests that community educators as middle-men between the NGOs and various groups of local

---

<sup>222</sup> FGD with Executive members of Jalawe/Mchenga Community-Based Educators, 1/05/2019

<sup>223</sup> FGD with Executive members of Jalawe/Mchenga Community-Based Educators, 1/05/2019

communities may be entangled in the complex interests of addressing the issues in their local communities as well as sustaining their role in local policymaking processes (see Hilhorst, 2000). In particular, local middle-men's reification of the successes of NGOs' advocacy work in mining governance obfuscated the shortcomings of NGOs.

Methodologically, the observation from Mchenga highlights the limitations of relying on research data generated from local elites that dominate local structures of community organisation. While the challenges of local elites in distorting information towards their interests is well established (Kitzinger, 1995; Jakobsen, 2012; Bryman, 2015), the observation from Mchenga points to how local elites may not only distort perceptions, but also how their interests may be co-imbricated with those of the external development actors.

The choices and behaviour of NGOs during the review of the 1981 MMA must be understood within the historical context of NGOs' participation in public policy space in Malawi. NGOs' participation in public policymaking processes is not a new phenomenon in Malawi but has deep historical roots to colonial native welfare associations. The way native welfare associations were organised has left path dependence tendencies that continue to structure institutional interaction between the NGOs, the state and local communities. Though advancing the language of community emancipation from colonial government, leaders of native associations were mainly composed of educated elites whose interests diverted from the people they claimed to represent (see Mhone, 1992; Chipeta, 1992). This model by which non-state actors were structured during colonial period has left institutional embeddedness in public policymaking processes. A critical analysis of the role of NGOs in public policymaking processes in Malawi reveals that it is not about their capability to serve the interests of local communities, but rather the historical institutional place that they have cultivated. After independence and post-independence, the view that NGOs represent communities was generally unchallenged. The advent of multiparty democracy in 1993/4 reinforced this view by reifying the divided roles of the state, market and non-state actors. Involvement of NGOs in institutional processes of reviewing the 1981 MMA, however, resulted into NGOs' subjectivities into rationalities of dominant actors.

## **8.2. Contextualizing Environmental Issues into the Past Mining Legal Framework**

This section contextualises environmental issues in mining experienced at Mchenga and Mwaulambo into past mining legislative framework. It particularly explains why the



communities at Mchenga and Mwaulambo experienced the environmental harm generated from mining amidst the existing legal framework for managing the environmental issues i.e., the 1981 MMA and its complementary legislation. It is important to consider this question as it allows gauging the extent to which the reviewed 2018 MMA has modified the contentious provisions of the 1981 MMA and other complementary legislation. This chapter has highlighted the following as contentious environmental issues that communities at Mchenga and Mwaulambo experienced: loss of land, unfair compensation, water and air pollution, unsafe working conditions and negative social effects such as increasing prevalence of HIV and AIDS and drug and substance abuse. Table 8.3 below presents key complementary legislation that regulated the environmental issues in mining highlighted above.

Table 8.3: Legislative Provisions that Regulated Key Issues in Mining

<b>Issue</b>	<b>Legislative Provision</b>
Loss of land - compulsory land appropriation	Land Act, 1965, Section 5(1) and 26 <sup>224</sup> , Land Act, 2016, Customary Land Act, 2016
Unfair compensation for the loss of land	Land Act, 1965, Section 28 <sup>225</sup> Land Act, 2016, Customary Land Act, 2016
Water and air pollution	EMA, 1996, Section 30(1,2,3) <sup>226</sup> , EMA, 2017

---

<sup>224</sup> Land Act, 1965, Section 5(1) “The Minister may make and execute grants, leases or other dispositions of public or customary land for any estates, interests or terms, and for such purposes and on such terms and conditions, as he may think fit” Section 26 “The Minister shall, subject to this Act, and to any other law for the time being in force, administer and control all customary land and all minerals in, under or upon any customary land, for the use or common benefit: direct or indirect, of the inhabitants of Malawi”

<sup>225</sup> Land Act, 1965, Section 26 “Any person who by reason of (a) any grant, disposition, permit or licence of or in respect customary land, made or given by the Minister under section 5, any declaration made under section 27 that such land is public land, or (c) the temporary use and occupation of customary land under 27 (2), suffers any disturbance of, or loss or damage to any interest which he may have or, immediately prior to the happening of any of the events above mentioned in this section, may have had in such land, shall be paid such compensation for such disturbance, loss or damage as shall be reasonable

<sup>226</sup> EMA, 1996, Section 30 “The Minister may, on the advice of the Council, prescribe environmental quality standards generally and, in particular, for air, water, soil, noise, vibrations, radiation, effluent and solid waste. The prescription of the environmental quality standards under subsection (1) shall be based on scientific and environmental principles and shall take into account the practicability and availability of appropriate technology for ensuring compliance with such standards. The Minister may prescribe different environmental quality standards to apply in different areas of Malawi with respect to different segments of the environment and the Minister may, from time to time, vary such standards”.

Social effects of mining	EMA, 1996, EMA, 2017 Occupational Health Act, 1997
Unsafe working conditions	EMA, 1996; EMA, 2017 Occupational Health Act, 1997

According to Table 8.3, environmental issues in mining in Malawi were addressed by different pieces of legislation. For instance, all issues concerning community land were addressed through the Land Act, 1967 and those relating to water and air pollution were addressed through the EMA, 1996. Notwithstanding inadequate implementation, the provisions within these pieces of legislation largely accounted for the community experiences with environmental issues in Malawi. In other words, exposure to environmental harm such as loss of land, unfair compensation, limited use of indigenous knowledge in determination of environmental impact, was enshrined in law. For instance, the 1965 Land Act (Amended 1967), which was in force till 2018, granted the Minister responsible for lands more powers to dispose of the customary land “for the use or common benefit: direct or indirect, of the inhabitants of Malawi” (Section 26). As highlighted in chapter 5, the narrative of what is of public interests is not only contentious but also imbued with asymmetrical power dynamics.

In the context of the 2018 MMA, narratives of national economic diversification and energy self-sufficiency was mobilised by the government and international donors as issues of national public good. The discussion in this chapter has, however, shown that such a narrative ignores how local communities were divided over the benefits of mining activities. Equally important, the provisions of the 1967 Land Act determined the value of compensation that communities losing land to compulsory appropriation, such as those at Mwaulambo received. According to the 1967 Land Act, the value of compensation represents the improvement value on the land such as fruit trees and crops on land. This is so as under the 1967 Act, customary land users only held usufruct and not ownership rights. Thus, the compensation that was legally due to customary land users represented the improvement that individuals have made on the land. This situation explains the low compensation that most smallholder land users received from

the loss of land. While the 2016 Customary Land Act has de jure transferred land ownership to customary land users, the question of unfair compensation for customary land remains debatable (see Kabanga & Mooya, 2017). This is so because the existing valuation methods of customary land do not adequately account for the value of customary land to its users.

Equally important, water and air pollution struggles at Mwaulambo and Mchenga coal mining sites reflect the way ESIA was conducted under the existing law that gives not only much credence to western science, but also to existing technology. According to EMA, 1996 Section 30, “The prescription of the environmental quality standards under subsection (1) shall be based on scientific and environmental principles and shall take into account the practicability and availability of appropriate technology for ensuring compliance with such standards. The Minister may prescribe different environmental quality standards to apply in different areas of Malawi with respect to different segments of the environment and the Minister may, from time to time, vary such standards”. Notwithstanding the rhetoric for public participation in the conduct of ESIA, technocrats have enjoyed much power and influence in the process of conducting ESIA. Existing studies, however, show how deployment of scientific principles has not only been mobilised to exclude certain groups from informing and participating in defined development intervention, but also to promote a particularly seated western science knowledge. For instance, local communities at Mwaulambo indicated that they were not involved in the exercise of conducting ESIA for the coal mine arguing:

“we were just taken by surprise when we saw heavy machinery moving into our area. We were then told that they have already concluded everything with government and that we were just required to comply. We had nothing to do but to welcome them into our area”<sup>227</sup>.

The experiences of the smallholder farmers at Mwaulambo point to the inadequacy of ESIA in protecting marginalised people from environmental harm generated from mining. The situation at Mwaulambo happened against the reports that the DEA considered and approved Elland’s ESIA before coal extraction started (Jere, 2017).

The legislation that guided resource utilisation during both pre-colonial and post-colonial Malawi were anchored in specific economic ideologies, rationalities and knowledges. Within

---

<sup>227</sup> FGD with female smallholder farmers at Mwaulambo on 10/06/2019

the modernisation project, Malawi's policy goal during colonial and post-colonial periods was aimed at modernising the country's key economic sectors. For instance, the GoM's policy in the agriculture sector has consistently focused on adoption of scientific methods of farming techniques and commercialisation of agricultural sector (Mandala, 1990; GoM, 1971; Mhone, 1992; Kayuni, 2011; Zuka, 2019). This observation, therefore, suggests that the objective of achieving economic growth may strife the interests of communities that depend on subsistence livelihoods. Current mining projects in Malawi, therefore, contribute to the practices of land grabbing that have stark historical parallels in southern Africa.

### **8.3. Conclusion**

In this chapter, I have discussed the mining-environmental harm that different local communities at Mwaulambo and Mchenga coal mining sites experienced since the 2000s when Malawi witnessed increased mining investments. The chapter has highlighted a series of land use conflicts between communities living in the mining areas and large-scale mining projects. This chapter has argued that different communities in the coal mining areas experienced environmental harm differently and responded differently to the environmental challenges. The differences in community exposure to mining-induced environmental harm arose from the different methods of mineral extraction, distance of mining activities to households dwelling units/farming land and the different physical terrain of the mining area. The chapter has observed that mining projects in Malawi are competing for the same land that communities surrounding the mines depend upon for their subsistence livelihoods. However, the chapter contends that land use conflicts between local communities and mining projects are not straight forward. While low-income households with fragile livelihood platforms suffered more from mining-induced environmental harm than those with stable income, mining benefits such as employment opportunities to complement their livelihood platforms generated support for mining. Thus, the chapter has argued that local communities' support for or opposition against mining is linked to existing socio-economic vulnerabilities of concerned communities.

This chapter also contends that understanding the legislative context under local communities' exposure occurred is critical to gauging the extent to which current reforms in the mining sector will address the environmental concerns of the local communities. Ironically, this chapter has observed that complementary pieces of legislation that explain communities' exposure to environmental harm remain unchanged. The key argument running through this chapter is that

the benefit of mining to rural communities in Malawi seem to outweigh the damages caused to the livelihoods of poor smallholder farmers. The next chapter presents a conclusion to this study by highlighting key observations, main argument and contribution of this study to the scholarship on NGOs and democratic natural resources management in Africa.

## CHAPTER NINE

### CONCLUSION AND RECOMMENDATIONS

#### 9.0. Introduction

This thesis was set to examine the key factors that impacted NGOs in Malawi in shaping the review of the 1981 MMA towards the interests of the local communities in the mining sites. The study is located in the policy reforms surrounding governance of largescale natural resources investments (land and minerals) in Southern Africa. This study has responded to the following questions: how did a particular narrative about mining emerge to guide the review of 1981 MMA out of the different narratives held by policymaking agents? what economic, political and ideological forces shaped NGOs' support for particular strategies for addressing environmental issues in mining that communities living in the mining areas faced? to what extent did the contingent events (global mineral price, drought, and shortage of electricity supply) experienced over the period of reviewing 1981 MMA affect NGOs in shaping the mining interests of the local communities at Mchenga and Mwaulambo coal mining sites? how did the NGOs' interface with different policymaking agents and communities at Mchenga and Mwaulambo coal mining sites affect NGOs' ability to shape the review of the 1981 MMA towards the interests of communities living in the mining area? how did the environmental issues that the NGOs pursued during the review of the 1981 MMA compare with those that the local communities at Mchenga and Mwaulambo coal mining sites experienced? These questions help to answer the broader question relating to what factors impacted on NGOs to shape the review of the 1981 MMA towards the interests of communities living in the mining sites.

Generally, the popularity of NGOs in development practice is founded on political pluralist literature that highlights the agency of NGOs in bringing about political and economic empowerment of marginalised communities, environmental justice and promotion of democratic governance (Clark, 1991; Fisher, 1998; Edwards & Hulme, 1992; Stewart, 1997; Chazan, 1992). The process of enacting legislation, just like any other public policymaking

exercise, however, involves activities of conflict, negotiation, cooperation and domination among different policymaking actors (Fioretos et al. 2016; Dean, 2013; Hay, 2002; Hudson & Martin, 2009). Thus, understanding the factors that impacted NGOs in Malawi in shaping the 1981 MMA towards the interests of communities living in the mining areas requires paying attention to how the conflicting interests in the mining sector were resolved. This task includes unpacking how the conflicting interests of the state, private mining companies, NGOs that took part in the review of the 1981 MMA, and communities living within the mining areas were contested, negotiated, and agreed upon.

Deploying the environmentality and historical institutionalism theoretical frameworks, the key argument of this thesis is how NGOs' involvement in the institutional processes of reviewing the 1981 MMA facilitated NGOs' subjectivities into state and private sector mining agenda. The findings from this study has pointed to how the review of the 1981 MMA was fundamentally a battle of rationalities that should guide governance of the mining sector in Malawi. The thesis adopts the definition of rationalities by Miller (2008: 14) as "styles of thinking, ways of rendering reality thinkable in such a way that it was amenable to calculation and programming". As embodiments of the way different policymaking agents perceive their interests, framing of particular rationalities in the mining sector reflects how the interests of different policymaking agents were designed to be achieved (Sending & Neumann, 2006; Gofas & Hay, 2010; Gofas & Hay, 2010). To that end, the ability of the NGOs to shape the 1981 MMA around the interests of communities within the mining sites required influencing the selection of the ideas and rationalities that would better serve the interests of the local communities.

The overall argument running throughout this thesis is how the state and international donors' mechanisms of control over generation of knowledge on mining governance occasioned the selection of strategies for managing the environmental issues in mining that were deeply anchored within the privatization agenda. This situation particularly ensued because of three reasons. Firstly, government's use of an independent mining expertise in drafting the mining Act narrowed down the discourse of mining governance to the pro-business ideas favoured by the consultant. Secondly, NGOs' financial dependence on and competition for international funding for implementation of their advocacy activities privileged the donors' pro-business discourse relating to how mining should be governed. Project-based model to funding NGOs'

advocacy activities limited NGOs' advocacy agenda to that favoured and supported by the donors. Lastly, the NGOs' competition for a seat into the national structures for governing the mining sector brought some of the key NGOs closer to the government. This situation weakened the agency of the NGOs closer to the government to shape the review of the 1981 MMA towards the rights of communities living in the mining areas.

While there were differences between mainstream and non-mainstream donors in terms of their discourses to mining in Malawi, this thesis observes that both explicitly and implicitly focused on the monetary benefit of mining. The focus of international donors on economic benefits of mining did not only result in NGOs' subjectivities into the formers' mining rationalities, but also valuing capital generation over local communities' livelihoods. The focus on economic benefits, however, fails to capture complexities within the environmental politics of mining. The focus on monetary benefits ignores that local communities suffer more if mining activities destroy land-based resources that most rural subsistence farmers depend on for their living. Furthermore, the focus on monetary compensations ignores that such compensations cannot make up for loss of land-based natural capital built over years and social lifestyle connected to current land. Thus, the voices of the NGOs communicated mixed signals to the question of large-scale mining in Malawi. The discussion in this chapter shows how the state and international donors' expert knowledge facilitated and legitimised private sector approach to mining development in Malawi. This thesis, therefore, underscores how existing structures of hegemonic power are sustained through legacies of institutional feedbacks and advantages (Pierson, 2016; Fioretos et al. 2016; Barnett & Finnemore, 1999).

This study contributes to the academic debate on complexities of participatory democracy in Africa through unpacking how existing structures of power are not only confronted by alternative leadership, but also how such alternative leadership are co-opted as well co-opt structures of grassroots organisation into the existing hegemonies. The study illustrates how participation of NGOs in the institutional processes of reviewing the 1981 MMA fails to achieve their set out agenda. In this way, this study shows how NGOs' community empowerment advocacy initiatives are not only political processes in which pre-defined interests are adjudicated (see Chazan, 1992; Banks & Hulme, 2012; Bratton, 1989; Stewart, 1997; Makuwira, 2011), but more also processes characterised by subject formation and



(re)construction of interests. In this way, this thesis extends the concept of empowerment as a tool for political freedom as well as subject formation and sustenance of dominant interests.

This study underscores how the NGOs environmental justice agendas in developing countries is not only imbued with competing interests, but also how the success of the NGOs is a double-edged sword. While the ability to win donor-funding and hold a seat in national structures of governing mining sector constituted the key successes of the NGOs in Malawi, the same successes subjected the NGOs to increased possibilities for co-optation by the state and international donors (see also Karim, 2018; Kamstra & Schulpen, 2015; Hermansen et al. 2017). Thus, these findings question the framing of the NGOs as agents of emancipation of marginalised groups of people from the existing socio-political structures of dominancy.

The next section summarises the key findings and conclusions of this study. It begins by highlighting the enduring environmental struggles between rural smallholder farmers on one hand and the state and capital on the other. This is followed by a synopsis of the divided discourses advanced by different policymaking actors in the mining sector in Malawi and the position of the NGOs in those narratives. A discussion of the strategies adopted in the 2018 MMA to manage the environmental issues in mining follow thereafter. The last part of this section discusses how environmental management strategies adopted in the 2018 MMA came to be framed and adopted by the policy making agents involved in the review of the 1981 MMA. This discussion highlights two important points raised in this study. Firstly, it unpacks how private capital rationalities that guided the review of the 1981 MMA were advanced by the state and international donors by controlling channels through which knowledge on mining development was generated. Secondly, the discussion highlights how NGOs' dependence on international donors for financial support and competition for a seat in the national structures for governing the mining sector facilitated the bifurcated co-optation of NGOs into state-international donors' dominancy. Finally, this section identifies areas for further research on NGOs and mining in Malawi.

### **9.1. Key Findings and Conclusions of the Study**

The first conclusion that links the various aspects of the arguments in this study is that while the grassroots environmental struggles in Malawi were divided in space and time, they were predominantly manifestations of the dynamic extension of capitalistic mode of production and its consequential interference with local communities' livelihoods and social systems. This

situation means that to understand the agenda of the grassroots' struggles and the role of NGOs in those struggles, one must pay attention to the historical contestations between private capital and the communities in which such activities take place. Notwithstanding the general summary explaining such private sector-local communities' struggles, this study demonstrates that concerned communities are not only heterogeneous but are also affected by capitalistic mode of production in dissimilar ways. Thus, the fight for environmental justice in Malawi has not been a movement of unity, but one with divisions and laden with conflicting interests between the state, private sector and local communities and also within the local communities.

The dissimilar ways in which local communities were affected by environmental issues generated different reactions from diverse groups of people within the communities. For instance, while environmental policies such as "*Nkhondo ya mtumbira*" (battle over making ridges) during colonial rule generated violent conflicts between the state and local communities in Chikwawa and Thyolo, it did not generate such violent struggles in other places of the country (Mandala, 1990). Equally important, Mollen Tengani, a traditional chief of Chikwawa District, supported colonial government *Nkhondo ya mtumbira* in exchange for protection offered by colonial government police forces (Mandala, 1990). In 2007, local chiefs in Karonga supported the GoM's stance of commencing uranium extraction against opposition from NGOs and local communities in exchange of government favours. Chapter 4 of this thesis has particularly highlighted how the state used local chiefs in Karonga District to reprimand the leaders of NGOs for mobilising local communities against mining.

This study has demonstrated that current environmental struggles in the mining sector do not only mirror past community environmental struggles but have also left path-dependent ways on how such struggles are negotiated, bargained and settled. Present community protests against mining depicts local communities' resentment to the extension of capitalistic mode of production into their geographical space. Like in the colonial and post-colonial periods, current environmental issues arising from mining generated different reactions from the communities living in the mining areas. Current forms of community struggles against environmental issues in mining are not specific to the period of reviewing the 1981 MMA, but a continuation of how local communities' resistance against natural resources management policies created spaces for pursuing competing interests. For instance, while environmental issues from mining resulted into community demonstrations against mining at Mwaulambo coal mine site, at

Mchenga mining did not generate community demonstrations. While local households with unstable livelihoods platforms at Mchenga welcomed mining as a complement to their livelihoods, households with stable land-based livelihoods at Mwaulambo resented the intrusion of mining activities into their geographical space. This observation suggests that understanding the dynamics of local communities' environmental struggles requires paying attention to how environmental struggles are modified by the way specific activities interfere with particular livelihood systems in a particular area.

The question of how local physical geographies affect acceptance and resistance to mining has been documented by a number of scholars (Temper & Martinez-Alier, 2013; Conde & Kallis, 2012; Clark, 1991). Conde & Le Billon (2017) particularly documents how the differences in damage to livelihoods by mining activities generated different responses to mining in Namibia and Latin America. These observations suggest that mining is not germane to all communities endowed with mineral resources, but dependent on how specific groups of local communities are affected by mineral extraction. Thus, it is imperative that the process of designing mining legislation aimed at improving the welfare of the marginalised communities pay attention to micro-level conditions rather than being driven by macro-level rationalisations.

The second conclusion of this study is that local communities' struggle for environmental justice in Malawi has since colonial rule faced common hostility from the private capital and the state. This situation ensued because the state's dependence on the private sector for tax revenue forced it to support pro-business economic policies (Chingaipe Ng'oma, 2010; Chinsinga, 2002). A critical analysis of the interviews conducted with government officials in Malawi suggests that the GoM considered the success of the private mining as central to achieving its objectives of revenue collection, foreign exchange generation and creation of employment. For instance, government officials from the Department of Mining justified the move by Mkango Resources, a private mining company, to withhold honouring its CSR responsibility promises until the company was able to make profit. Government officials support for the private mining companies cited above is but an example of the long history of collusive state-business relations in Malawi. For instance, both the colonial and post-colonial one party governments strongly supported capitalist commercial agriculture despite resistance from a cross section of rural communities (Chingaipe Ng'oma, 2010; Kanyongolo, 2008). The expansion of capitalist commercial estate agriculture in Malawi did not only result in

appropriation of customary land, but also incorporated rural subsistence farmers into the vagaries of capitalist economy.

In a drive to modernise the farming practices of the indigenous communities, the colonial and post-colonial state in Malawi forced smallholder farming communities to adopt “modern” methods of farming and management of the natural resources. For instance, under the Natural Resources Ordinance of 1946 and 1951, the colonial government not only institutionalised scientific measures of soil conservation but also forced subsistence farmers to adopt western scientific methods of farming. Whereas welfare associations and later nationalists movement promised to end statist natural resources management policies and practices, the focus of nationalists that supported grassroots movement against the colonial government policies changed soon after independence. The scientific prescriptions of natural resources management continued even after Malawi became independent through *Achikumbwe* programme (see Mulwafu, 2011; McCracken, 2012; McCracken, 1986; Chinsinga, 2002). Faced with a dictatorial state under Dr Hastings Kamuzu Banda that strongly favoured capitalist agricultural production, most leaders that supported the local communities’ protests against colonial agricultural policies dropped out and joined the state agenda of modernising farming methods.

Under Dr. Hastings Banda’s rule, all policy spaces for alternative independent voice was closed up through direct state force and coercion (Englund, 2002; Mhone, 1992). In this way, the different leaders in grassroots environmental struggles were co-opted not only into the state machinery, but into the rationalities of modernising the farming practices of the smallholder farmers. While NGOs existed during independent Malawi, they did not openly oppose the policies of the dictatorial state that they differed with. Instead, they concentrated on service delivery in line with government development policy programmes (see Makuwira, 2011). During this period, there was a very weak distinction between the interests of the state and the private sector as the state actively participated in the running of business activities. Consequently, both the colonial and post-colonial Malawi were characterised by rural communities’ struggle against the extension of capitalist production and its resulting environmental destruction. The current local communities struggle for environmental justice in the mining sector is, thus, deeply rooted in the history of the state, private sector, and local communities’ contestation over natural resources utilisation.

Existing literature on environmental justice presents environmental activists such as NGOs as positively contributing to the local communities' efforts in building a successful resistance against mining activities (Özkaynak et al., 2015; Marta Conde & Le Billon, 2017). Thus, NGO advocacy that followed the advent of multiparty democracy in Malawi was expected to change not only the patterns of relations between the state, the market, and the local communities, but also the distribution of power within them. Thus, NGOs' involvement in the review of the 1981 MMA was seen as a step towards responding to the interests of marginalised communities. The adoption of multiparty democracy in Malawi was a significant critical juncture when political institutions in the country were unstable to external crisis and susceptible to change. While critical junctures in the politics of Malawi, such as independence and adoption of multiparty government, have provided critical conditions for the emergence and operation of NGOs, they have not delivered the expected outcomes. While different in focus, the fight against environmental issues in mining in Malawi was not a new phenomenon, but a continuation of local communities' resistance against the extension of the capitalist mode of production. Understanding current community struggles against environmental issues in mining demands unpacking the factors that impacted NGOs' agency in changing this enduring struggles.

Findings from this study shows that the NGOs that were involved in the review of the 1981 MMA reproduced new forms of community divisions, subjectivities and intra-subjugation. The case of how NGOs interacted with the local communities at Mchenga coal mine indicate how the local leaders of CBOs became not only local intermediaries of NGOs' interventions, but also co-opted into rationalities of the international donors (see Mercer and Green, 2013). Contrary to framing NGOs' environmental justice initiatives as beneficial to local communities, this study exemplifies not only how new forms of subjectivities ensued during NGOs' advocacy, but also how NGOs' work may split different groups of people within the communities. Thus, understanding how diverse groups of people positioned themselves within and unequally benefited from the environmental justice agendas is key to unpacking the success of environmental justice initiative.

The third conclusion of this study is that the review of the 1981 MMA was essentially a battle of ideas over how the mining sector in Malawi could be developed in order to benefit private mining companies, government and communities living in the mining areas. This contestation was mainly centred on four interrelated questions namely: the role of mining to Malawi's

economic development agenda, the strategies required to develop the country's infant mining sector, strategies required to distribute mining benefits to the state and the different groups of people in the country, and the strategies needed to manage the environmental issues experienced by the different groups of communities in the mining areas. Existing literature on the role of ideas in policymaking present ideas either "as strategic tools mobilised by agents to achieve pre-given preferences"<sup>228</sup>; or as structures imposing constraints on what is considered legitimate or feasible"<sup>229</sup> (Boswell & Hampshire, 2017: 133). Constructivist and discursive institutionalisms see actors as both constrained by ideas and able to deploy ideas to achieve particular policy objectives (Gofas & Hay, 2010; Hay, 2002) Schmidt, 2016). The understanding is that ideas are mobilised to frame not only solutions to existing problems, but also how solutions are considered legitimate and feasible. For instance, Boswell & Hampshire (2017) have shown how policy-making agents in United Kingdom and Germany employed ideas to appeal to the elements of the immigration policy that they preferred (see also Hall, 1992; Hall & Taylor, 1996).

This study shows how the national government officials and international donors employed ideas that are anchored in privatization framework to not only push through a pro-capital regime to mining governance, but also to limit discussion about the benefits of mining to monetary measurement. For instance, the issues of CDAs, ESIA's, Compensation and EITI all have their origin and are based on monetary considerations. In this way, the consideration of monetary benefit from mining was over weighted over the livelihood's loss arising from mining activities. This situation means that to unpack the factors that impacted NGOs in Malawi in shaping the review of the 1981 MMA towards the interests of the communities living in the mining sites, one must unpack why and how particular rationalities gained traction to define the 2018 MMA. A critical analysis of the mining ideas and rationalities that gained traction during the review of the 1981 MMA suggests that most of them originated from the international donors and the state. While rightly tackling the environmental issues that

---

<sup>228</sup> This is the instrumentalist perspective which "treats ideas as resources that are mobilised by policy entrepreneurs to advance their policy preferences" (Boswell and Hampshire, 2017: 134; see also Cox and Beland, 2013)

<sup>229</sup> This the institutionalist perspective which "depict ideas as structural constraints on agents. Ideas are conceived as paradigms or frames, delimiting what is seen as feasible or legitimate" (Boswell and Hampshire, 2017: 134; see also Hall 1993; Hay 2010).

communities living in the mining sites faced, NGOs that participated in the review of the 1981 MMA did not address the key environmental concerns of the concerned communities. Before I move on to unpacking why this situation ensued, I summarise dominant mining discourses that existed in Malawi and how NGOs positioned themselves within those discourses.

This thesis has observed that three different mining discourses existed in Malawi namely: pro-mining, anti-mining, and ambivalent mining discourses. Generally, pro-mining discourses were advanced by the different government departments, politicians, private mining companies, international donor community and some sections of low-income groups of local communities. Inter alia, this group of stakeholders viewed mining as a source of foreign exchange earnings, local employment, and a catalyst for local economic development. The low-income groups of people particularly at Mchenga viewed mining as complementing their unstable livelihoods platforms. Anti-mining discourse, advanced by households with stable livelihood platforms at Mwaulambo, viewed mining as exerting disproportional costs than benefits by destroying households land-based livelihood assets.

This study notes that most of the NGOs advanced ambivalent mining discourse that, while accepting the negative effect of mining activities on the livelihood assets of groups of local communities, perceived good mining governance as a solution. The concept of good governance is not only contested but also biased towards a private sector approach to natural resource governance. A focus on good governance as guiding framework brought the question of power over ideas to the central stage of the review of the 1981 MMA. This study observes that the ability of the state and international donors to control knowledge generation regarding mining resulted in the Act being framed within the ambit of private capital. For instance, all the major strategies for managing the environmental issues in the Mining Act were framed within the broad principles of monetary benefit and compensation. The adoption of pro-mining discourse gained traction over others because of the institutional power that international donors and the state held. This finding demonstrates how NGOs' participation into the technocratic processes of reviewing the 1981 MMA was a process of subject formation that resulted in NGOs' subjectivities being co-opted into mining governance rationalities of the state and international donors. This observation enforces the view that political actors can selectively employ ideas and rationalities to advance issues "that are consistent with their preferences, while downplaying or ignoring others (Boswell & Hampshire, 2017).

The last conclusion of this study is that NGOs' participation into the technocratic processes of reviewing the 1981 MMA resulted into their subjectivities into the mining governance rationalities of the state and international donors. To maintain their relationship to communities living in the mining areas and international donors that funded their advocacy initiatives, NGOs were bifurcately co-opted into the rationalities of the latter. The point of departure is that the NGOs' task of shaping the review of the 1981 MMA toward the interests of the local communities living in the mining areas required bargaining with the state, private mining companies and international donors. As highlighted earlier, different policy-making agents held different ideas and rationalities on the way the mining sector in Malawi should be governed. The NGOs' positioned themselves as the benevolent stewards of the interests of the communities living around the mining sites against the malevolent interests of the state and private mining companies. This study argues that even though NGOs had the freedom to express their views and that some of the NGOs did advance alternative views about the way the mining sector in Malawi should be governed, they did not influence the policy direction. Instead, the interplay of two policy processes occasioned the dominance of the interests of the state and international donors and the compromise of NGOs with the dominant powers. Firstly, project-based approaches to financing NGOs' advocacy interventions enabled international donors to gain control of the channels through which knowledge relating to mining governance was generated. Project-based grants to NGOs limited the advocacy work of NGOs to implementation of strategies defined by international donors such as FPIC, CDAs, CSRs and monetary forms of community compensation. Consequently, NGOs' environmental justice in Malawi was a process that simultaneously delivered emancipation and subjugation. This study, therefore, illustrates how empowerment is a complex process that may deliver contradictory outcomes. In Malawi, mining was persuasively perceived as offering "the opportunity to catalyse broad-based economic development, reduce poverty and assist countries in meeting internationally agreed development goals, including the Sustainable Development Goals (SDGs)" (Mzungu, 2020: 1).

Secondly, the NGOs' competition for a seat in the national mining policy-making fora subjected the NGOs to the influence of the state. Although having a place in the national mining fora enhanced the NGOs' access to senior government officials that were critical in the objective of influencing mining policy issues, holding a seat in these fora weakened the agency of the NGOs advocacy agenda. This is so as the voices of the NGOs was outnumbered through



numerical representation and controlled through the requirement of avoiding open disagreements. For instance, EITI and MSG were comprised of fifteen members of which five belonged to the two NGOs in general. Furthermore, the sustenance of these fora was not only dependent on international donor support, but more importantly the principles that governed these institutions were fundamentally based on private sector led mining development. For instance, several scholars have demonstrated how the activities of the EITI, and MSG in Africa better serve the interests of the private capital and the state rather than the poor local communities surrounding the mining sites. The argument is that EITI is limited and does not deal adequately with the issues of the environment and resource distribution at a local level (McSparren, 2019; Sequeira et al. 2016; Lujala et al. 2018). NGOs that participated in the review of the 1981 MMA in Malawi can, therefore, be viewed “as agents often (but not always) keen to empower the poor but who frequently serve to extend political rationalities of control and surveillance to hitherto ‘marginal’ people and biota. To some extent, empowerment may be thought of here as a measure of subjection to, rather than of autonomy from, power” (Bryant, 2006: 286). To this extent, relations between NGOs, international and the state were a vehicle through which communities living in the mining areas were brought under the state mechanisms of control. This finding means that the environmental management strategies that NGOs supported during the review of the 1981 MMA were shaped by the dominant economic, political and ideological discourses relating to mining governance.

While the theme of co-optation that is prevalent in most literature, this study highlights how co-optation of the NGOs in Malawi was a bifurcated one characterised by three key features. Firstly, some NGOs that were successful in terms of winning donor funding were closer to the international donors and the government machinery while some NGOs remained outside these circles. Secondly, the NGOs that were involved in the review of the 1981 MMA mobilised both the hegemonic knowledge of the state and international donors and indigenous knowledge. This study, however, observes that although some of the NGOs were able to refer to the indigenous experiences, their connection to project-based donor funding disciplined the NGOs along the mining discourses of their donors. Lastly, bifurcation of the NGOs captures the instrumental and systematic goals that the NGOs that were involved in the review of the 1981 MMA pursued. The instrumental goals of the NGOs relate to NGOs moral project advocacy activities aimed at shaping the review of the 1981 MMA towards the interests of the local communities. The systematic goal on the other hand relates to the NGOs hidden interests aimed

at establishing themselves as dominant players in the country's mining governance structures. In this way, this study deepens the concept of co-optations by pointing to how multifaceted co-optation may become.

The discussion in this study suggests that a greater proportion of people in the mining sites perceived NGOs as championing a community emancipatory agenda. This situation requires understanding how the NGOs sustained their legitimacy among local communities over time and space. Existent literature on grassroots movements tends to depict the NGOs as playing two dominant roles: as providers of critical information needed by the local communities for self-mobilisation and as agents for linking the local communities to outside networks and financial resources needed for organising their mobilization (Marta Conde & Le Billon, 2017; Conde & Kallis, 2012). The findings from this study show that NGOs do not only provide information and link the local communities to outside networks championing emancipatory agenda, but also integrated the local communities into the rationalities of existing hegemonies. The discussion in chapter 7 particularly highlighted how the work of the NGOs at Mchenga created a group of local elites who were not only supportive of the work of NGOs, but also displayed clear instrumental goals for personal/group material interests. The membership of Mchenga CBO Executive constituted individuals who do not work in the mines but “our duty is to teach the community about how they can benefit from coal mining. Through working with Livingstonia Church and Society and other NGOs we have knowledge and skills that is important for this community. We are ready to work with any NGO which is ready to work with us in this area”. Thus, the relations of NGOs and communities living in mining areas in Malawi essentially depicts two things. Firstly, it signals that the grassroots movement in the country should be viewed from a Gramscian perspective where the systematic interests of the elites converge (see also Mercer, 1999). Secondly, the relations point to how programmes of political empowerment and presence of political freedom may mask how power works through the Foucault's ‘conduct of conduct’.

## **9.2. Issues for Further Research**

This study has identified some issues relating to governance of extractives in Malawi that calls for further research. Firstly, this study has focused on activities pertaining to the review of the 1981 MMA over a period of about 10 years from 2007 to 2018. The promulgated 2018 MMA has generated expectations and doubts about how local communities in the mining sites will

benefit from mining. This study has specifically highlighted that since independence different government regimes have not honoured the promises they made to the rural communities. Instead, after each critical juncture the state reneged on its promise to the smallholder rural communities and instead implemented policies that benefited a small section of pro-capitalist elites. Notwithstanding the doubts raised in this study about the extent to which marginalised groups of people stand to benefit from mining activities in the country, there is need for further studies on the how the implementation of the 2018 MMA is going to benefit the different groups of people living around the mining sites. The focus on different groups of people in communities is particularly important because existing studies on the role of mining in economic development in Africa highlight the disproportional benefits different groups, including women, get from mining (Kolala & Bwalya Umar, 2019; Jenkins, 2014).

Secondly, this study has focused on the role of NGOs in shaping legislation around the interests of the local communities around the mining sites. The main argument of this study is that involvement of NGOs in the technocratic processes of reviewing the 1981 MMA resulted into the subjectivities of NGOs into the rationalities of the state and international donors. The study has highlighted how the bifurcated co-optation of NGOs into the dominant mining discourses limited the ability of NGOs in shaping the 1981 MMA towards the interests of communities living within the mining areas. This study has highlighted that despite NGOs' bifurcated co-optation, diverse groups of people in communities perceived NGOs as championing their interests. The study has particularly highlighted how the work of NGOs at Mchenga was highly celebrated and sustained by a group of local elites who have established strong working relations with the NGOs. While serving diverse interests these local elites frame their interests as serving the broader interests of local communities. Thus, there is need for further research on the mechanisms through which the activities of the NGOs become integrated into the diverse groups of people in the local communities. This is important because existing studies present the NGOs' relations with grassroots communities as empowering the former to self-organise and resist activities that conflict with their livelihood such as mining (Conde & Le Billon, 2017; Urkidi, 2010; Walter and Martinez-Alier, 2010). The case of Malawi, however, reveals how NGOs are co-opted into dominant structures of power by entanglements of capitalist mining industry and political forces.

## References

- Aarts, V. (2009). *Unravelling the 'land grab' How to protect the livelihoods of the poor?* The Hague: Radboud University Nijmegen/Oxfam Novib.
- Acemoglu, D. (2012). *Why Nations Fail: The Origins of Power, Prosperity and Poverty*. London : Profile Books.
- Acemoglu, D., & Robinson, J. A. (2019). Rents and economic development: The perspective of Why Nations Fail. *Public Choice*, 181(1), 13–28. <https://doi.org/10.1007/s11127-019-00645-z>
- Addison, T., Addison, T., Roe, A., & Roe, A. (2018). *Extractive Industries: The Management of Resources as a Driver of Sustainable Development*. Oxford University Press. <https://doi.org/10.1093/oso/9780198817369.001.0001>
- Adebanwi, W. (2017). Africa Two Publics: Colonialism and Governmentality. *Theory, Culture & Society*, 34(4), 65–87. <https://doi.org/10.1177/0263276416667197>
- Africa Research Bulletin. (2013). Malawi: Mining Governance and Growth Support Project (MGGSP). *Africa Research Bulletin: Economic, Financial and Technical Series*, 50(1), 19855A-19855A. <https://doi.org/10.1111/j.1467-6346.2013.05000.x>
- African Union. (2009). *Africa Mining Vision*. African Union.
- Agee, J. (2009). Developing qualitative research questions: A reflective process. *International Journal of Qualitative Studies in Education*, 22(4), 431–447. <https://doi.org/10.1080/09518390902736512>
- Agrawal, A. (2005). *Environmentality: Technologies of government and the making of subjects*. Durham : Duke University Press.
- Agrawal, A., Gupta, A., Hathaway, M., Narotzky, S., Raffles, H., Skaria, A., Sundar, N., & Agrawal, A. (2005). Environmentality: Community, intimate government, and the making of environmental subjects in Kumaon, India. *Current Anthropology*, 46(2), 161–190.
- Agyeman, J., Bullard, R. D., & Evans, B. (2002). Exploring the nexus: Bringing together sustainability, environmental justice and equity. *Space and Polity*, 6(1), 77–90.
- Agyeman, J., Bullard, R. D., & Evans, B. (2003). *Just sustainabilities: Development in an unequal world*. MIT press.

- Aico Sipriano Nogueira. (2017). Lulism and the institutionalization of social movements in Brazil: Strengthening democratic inclusion and perpetuating hegemony. *Tempo Social*, 29(3), 229–260. <https://doi.org/10.11606/0103-2070.ts.2017.118722>
- Akabzaa, T. M. (2013). Constraints to Maximization of Net National Retained Earnings from the Mining Sector: Challenges for National Economic Development and Poverty Reduction in Sub Saharan Africa as Illustrated by Ghana. In *Modes of Governance and Revenue Flows in African Mining* (pp. 101–137). Palgrave Macmillan UK.
- Aldashev, G., & Verdier, T. (2009). When NGOs go global: Competition on international markets for development donations. *Journal of International Economics*, 79(2), 198–210. <https://doi.org/10.1016/j.jinteco.2009.07.007>
- Álvarez, L., & Coolsaet, B. (2020). Decolonizing environmental justice studies: A Latin American perspective. *Capitalism Nature Socialism*, 31(2), 50–69.
- Alvina Board, A. (2018, September 5). Malawi: President Mutharika Pushes for Coal-Fired Power Plant With China Energy Group. *IEA Clean Coal Centre*. <https://www.iea-coal.org/malawi-president-mutharika-pushes-for-coal-fired-power-plant-with-china-energy-group/>
- Ambe-Uva, T. (2017). Whither the state? Mining codes and mineral resource governance in Africa. *Canadian Journal of African Studies / Revue Canadienne Des Études Africaines*, 51(1), 81–101. <https://doi.org/10.1080/00083968.2016.1277148>
- Anders, G. (2010). *In the shadow of good governance: An ethnography of civil service reform in Africa*. Leiden.
- Anderson, N. J. (2017). Ephemeral Development Agendas and the Process of Priority Shifts in Malawi. *Journal of Asian and African Studies*, 52(7), 915–931. <https://doi.org/10.1177/0021909616630567>
- Arko-Cobbah, A. (2008). The Right of Access to Information: Opportunities and challenges for civil society and good governance in South Africa. *IFLA Journal*, 34(2), 180–191. <https://doi.org/10.1177/0340035208092154>
- Aron, E., Bebbington, A., & Dammert, J. L. (2019). NGOs as innovators in extractive industry governance. Insights from the EITI process in Colombia and Peru. *The Extractive Industries and Society*, 6(3), 665–674. <https://doi.org/10.1016/j.exis.2019.01.004>

- Ayana, A. N., Arts, B., & Wiersum, K. F. (2018). How environmental NGOs have influenced decision making in a 'semi-authoritarian' state: The case of forest policy in Ethiopia. *World Development*, *109*, 313–322.
- Bachrach, P., & Baratz, M. S. (1962). Two Faces of Power. *The American Political Science Review*, *56*(4), 947–952. <https://doi.org/10.2307/1952796>
- Baker, C. (1991). *The Development of Government Policy Concerning Africans on Private Estates in Nyasaland, With Particular Reference to the Period 1946-1964*.
- Baker, C. (2001). *Revolt of the ministers: The Malawi cabinet crisis, 1964-1965*. London : I.B. Tauris.
- Ballard, C., & Banks, G. (2003). RESOURCE WARS: The Anthropology of Mining. *Annual Review of Anthropology*, *32*(1), 287–313. <https://doi.org/10.1146/annurev.anthro.32.061002.093116>
- Banda, C. (2018). *Administrative law and environmental governance in Malawi*. <https://hdl-bnc-idrc.dspacedirect.org/handle/10625/56964>
- Banda, H. (2018). Migration, Economy and Politics: Unprecedented Increase in Informal Labour Migration from Northern Malawi to South Africa in the 1990s. *African Renaissance*, *15*(4), 53–74. <https://doi.org/10.31920/2516-5305/2018/v15n4a3>
- Bank, W., Mearns, R., & Norton, A. (2009). *Social Dimensions of Climate Change: Equity and Vulnerability in a Warming World*. Herndon: World Bank Publications. <https://doi.org/10.1596/978-0-8213-7887-8>
- Banks, N., & Hulme, D. (2012). The role of NGOs and civil society in development and poverty reduction. *Brooks World Poverty Institute Working Paper 171*.
- Banks, N., Hulme, D., & Edwards, M. (2015). NGOs, States, and Donors Revisited: Still Too Close for Comfort? *World Development*, *66*, 707–718. <https://doi.org/10.1016/j.worlddev.2014.09.028>
- Bannon, I., & Collier, P. (2003). *Natural resources and violent conflict: Options and actions*. The World Bank.
- Baran, P. (1957). The Political Economy of. *Growth*.
- Baum, A., Crosby, N., & Macgregor, B. (1996). Price formation, mispricing and investment analysis in the property market. *Journal of Property Valuation and Investment*, *14*(1), 36–49. <https://doi.org/10.1108/14635789610107480>

- Baur, D., & Schmitz, H. (2012). Corporations and NGOs: When Accountability Leads to Co-optation. *Journal of Business Ethics*, 106(1), 9–21. <https://doi.org/10.1007/s10551-011-1057-9>
- Bebbington, A. (2004). NGOs and uneven development: Geographies of development intervention. *Progress in Human Geography*, 28(6), 725–745. <https://doi.org/10.1191/0309132504ph516oa>
- Bebbington, A., Humphreys Bebbington, D., Bury, J., Langan, J., Munoz, J. P., & Scurrah, M. (2008). Mining and Social Movements: Struggles Over Livelihood and Rural Territorial Development in the Andes. *World Development*, 36(12), 2888–2905. <https://doi.org/10.1016/j.worlddev.2007.11.016>
- Bell, S. E. (2016). *Fighting king coal: The challenges to micromobilization in central Appalachia*. The MIT Press.
- Bell, S. E., & York, R. (2012). Coal, Injustice, and Environmental Destruction: Introduction to the Special Issue on Coal and the Environment. *Organization & Environment*, 25(4), 359–367. <https://doi.org/10.1177/1086026612468138>
- Besada, H., & Martin, P. (2015). Mining codes in Africa: Emergence of a ‘fourth’ generation? *Cambridge Review of International Affairs*, 28(2), 263–282.
- BHRRRC. (2019a). *Paladin lawsuit (re Malawi)*. <https://www.business-humanrights.org/en/paladin-lawsuit-re-malawi>
- BHRRRC. (2019b, August 9). *Globe Metals and Mining lawsuit (re lack of resettlement & compensation in Malawi)*. <https://www.business-humanrights.org/en/latest-news/globe-metals-and-mining-lawsuit-re-lack-of-resettlement-compensation-in-malawi/>
- Blunt, P. (2014). Whose resources are they anyway? Development assistance and community development agreements in the Mongolian mining sector. *Progress in Development Studies*, 14(4), 383–399. <https://doi.org/10.1177/1464993414521491>
- Bodenhamer, A. (2016). King Coal: A Study of Mountaintop Removal, Public Discourse, and Power in Appalachia. *Society & Natural Resources*, 29(10), 1139–1153. <https://doi.org/10.1080/08941920.2016.1138561>
- Booth, D. (2006). *Drivers of change and development in Malawi*. Overseas Development Institute.

- Borgstein, E., Santana, S., Li, B., Wade, K., & Wanless, E. (2019). *Malawi Sustainable Energy Investment Study*. Rocky Mountain Institute.
- Boswell, C., & Hampshire, J. (2017). Ideas and agency in immigration policy: A discursive institutionalist approach. *European Journal of Political Research*, 56(1), 133–150. <https://doi.org/10.1111/1475-6765.12170>
- Boulding, C. E. (2010). NGOs and political participation in weak democracies: Subnational evidence on protest and voter turnout from Bolivia. *The Journal of Politics*, 72(2), 456–468.
- Bowman, A. (2018). Financialization and the extractive industries: The case of South African platinum mining. *Competition and Change*, Vol. 22, No. 4, Pp. 388-412. <https://doi.org/10.1177/1024529418785611>
- Bratton, M. (1989). The politics of government-NGO relations in Africa. *World Development*, 17(4), 569–587. [https://doi.org/10.1016/0305-750X\(89\)90263-5](https://doi.org/10.1016/0305-750X(89)90263-5)
- Briceño-León, R. (2007). Chagas disease and globalization of the Amazon. *Cadernos de Saude Publica*, 23 Suppl 1, S33.
- Brockington, D., & Scholfield, K. (2010). The work of conservation organisations in sub-Saharan Africa. *The Journal of Modern African Studies*, 48(1), 1–33. <https://doi.org/10.1017/S0022278X09990206>
- Brookfield, S. D. (2017). *Becoming a critically reflective teacher*. John Wiley & Sons.
- Brown, B., & Spiegel, S. J. (2017). Resisting coal: Hydrocarbon politics and assemblages of protest in the UK and Indonesia. *Geoforum*, 85(C), 101–111. <https://doi.org/10.1016/j.geoforum.2017.07.015>
- Bruckner, K. D. (2016). Community development agreements in mining projects. *Denver Journal of International Law and Policy*, 44(3), 413.
- Bryant, R. (2002). Non-Governmental Organizations and Governmentality: “Consuming” Biodiversity and Indigenous People in the Philippines. *Political Studies*, 50(2), 268–292.
- Bryant, R. L. (2009). Born to Be Wild? Non-governmental Organisations, Politics and the Environment. *Geography Compass*, 3(4), 1540–1558. <https://doi.org/10.1111/j.1749-8198.2009.00248.x>
- Bryman, A. (2008). *Social research methods* (Third edition.). Oxford, England.
- Bryman, A. (2015). *Social research methods* (Fifth edition.). Oxford : Oxford University Press.



- Bulkan, J., & Palmer, J. (2016). Rentier nation: Landlordism, patronage and power in Guyana gold mining sector. *The Extractive Industries and Society*, 3(3), 676–689. <https://doi.org/10.1016/j.exis.2016.05.001>
- Bullard, R. D. (Robert D. (2000). *Dumping in Dixie: Race, class, and environmental quality* (Third edition.). Boulder, Colo : Westview Press.
- Böhm, S., Dinerstein, A. C., & Spicer, A. (2010). (Im)possibilities of Autonomy: Social Movements in and beyond Capital, the State and Development. *Social Movement Studies*, 9(1), 17–32. <https://doi.org/10.1080/14742830903442485>
- Büscher, B. (2015). Investing in Irony? Development, Improvement and Dispossession in Southern African Coal Spaces. *The European Journal of Development Research*, 27(5), 727–744. <https://doi.org/10.1057/ejdr.2014.59>
- Cameron, P. D., & Stanley, M. C. (2017). *Oil, gas, and mining: A sourcebook for understanding the extractive industries*. The World Bank.
- Cammack, D. (2017). Malawi's Political Settlement: Crafting Poverty and Peace, 1994–2014. *Journal of International Development*, 29(5), 661–677.
- Campbell, B. (2011). Revisiting the Reform Process of African Mining Regimes. *Revue Canadienne d'Études Du Développement*, 30(1–2), 197–217. <https://doi.org/10.1080/02255189.2010.9669288>
- Campbell, B. (2013). *Modes of Governance and Revenue Flows in African Mining*. Palgrave Macmillan UK, London. <https://doi.org/10.1057/9781137332318>
- Campbell, B. K. (2004). *Regulating mining in Africa: For whose benefit?* Sweden : NIAS.
- Campbell, J. (2002). A critical appraisal of participatory methods in development research. *International Journal of Social Research Methodology*, 5(1), 19–29. <https://doi.org/10.1080/13645570110098046>
- Capoccia, G. (2016). When Do Institutions Bite? Historical Institutionalism and the Politics of Institutional Change. *Comparative Political Studies*, 49(8), 1095–1127. <https://doi.org/10.1177/0010414015626449>
- Capoccia, G., & Kelemen, R. D. (2007). The Study of Critical Junctures: Theory, Narrative, and Counterfactuals in Historical Institutionalism. *World Politics*, 59(3), 341–369. <https://doi.org/10.1017/S0043887100020852>

- Cardoso, A., & Turhan, E. (2018). Examining new geographies of coal: Dissenting energyscapes in Colombia and Turkey. *Applied Energy*, 224, 398–408. <https://doi.org/10.1016/j.apenergy.2018.04.096>
- Cardoso, F. H., & Faletto, E. (1979). *Dependency and development in Latin America (Dependencia y desarrollo en América Latina, engl.)*. Univ of California Press.
- Carlile, C. (2019, May 16). Rice: In this guide we investigate, score and rank the ethical and environmental record of 22 rice brands. *Ethical Consumer*, UK. <https://www.ethicalconsumer.org/food-drink/shopping-guide/rice>
- CCJP. (2012). *Mapping of Extractive companies in Malawi*. Catholic Commission for Justice and Peace. <https://mininginmalawi.files.wordpress.com/2013/05/2013-08-jacobsen-mapping-of-extractive-companies-in-malawi-final-report-current.pdf>
- Chang, H.-J. (2011). Institutions and economic development: Theory, policy and history. *Journal of Institutional Economics*, 7(4), 473–498.
- Chanock, M. L. (1975). Ambiguities in the Malawian political tradition. *African Affairs*, 74(296), 326–346.
- Chareyon, B. (2015). *Impact of the Kayelekera uranium mine, Malawi*. EJOLT Report.
- Chauluka, J. (2019, September 6). Government sets ambitious power supply target. *The Times Group Malawi*. <https://times.mw/government-sets-ambitious-power-supply-target/>
- Chazan, N. (1992). Africa Democratic Challenge. *World Policy Journal*, 9(2), 279–307.
- Chimwala, M. (2017). *Malawi coal industry in ruins—Mining & Trade Review (February 2017) | Mining in Malawi*. Mining in Malawi | News, Research and Initiatives in Malawi's Extractive Industries. <https://mininginmalawi.com/mining-in-malawi-345/>
- Chimwala, M. (2018a, August 23). New Coal Mine Launched in Karonga. *Mine and Trade Review*, 64. <https://mininginmalawi.files.wordpress.com/2018/08/mining-trade-review-august-2018-electronic-copy.pdf>
- Chimwala, M. (2018b, October). Mangochi illegal gold mining. *Mining and Energy Review*, 66.
- Chingaipe Ng'oma, H. (2010). *Business and the state in Malawi: The politics of institutional formation, maintenance and change*.
- Chinig'o, D. (2016). Rural Radicalism and the Historical Land Conflict in the Malawian Tea Economy. *Journal of Southern African Studies*, 42(2), 283–297. <https://doi.org/10.1080/03057070.2016.1141514>

- Chinsinga, B. (2002). A Democracy of Chameleons Politics of Culture in The New Malawi. In *The Politics of Poverty Alleviation in Malawi: A Critical Review* (pp. 25–42). Christian Literature Association of Malawi (CLAIM).
- Chinsinga, B. (2006). The interface between tradition and modernity. The struggle for political space at the local level in Malawi. *Civilisations. Revue Internationale d'anthropologie et de Sciences Humaines*, 54, 255–274.
- Chinsinga, B. (2007). District assemblies in a fix: The perils of self-seeking tendencies in decentralisation policy reforms in Malawi. *Africa Development*, 32(1).
- Chinsinga, B. (2008). Malawi's Democracy Project at a Crossroads'. *Towards the Consolidation of Malawi's Democracy*, 7–20.
- Chinsinga, B. (2011). The politics of land reforms in Malawi: The case of the Community Based Rural Land Development Programme (CBRLDP). *Journal of International Development*, 23(3), 380–380. <https://doi.org/10.1002/jid.1776>
- Chinsinga, B. (2015). An unfinished agenda in a neoliberal context: State, land and democracy in Malawi. *State, Land and Democracy in Southern Africa*, 23–38.
- Chinsinga, B., & Chasukwa, M. (2018). Narratives, climate change and agricultural policy processes in Malawi. *Africa Review*, 10(2), 140–156. <https://doi.org/10.1080/09744053.2018.1485253>
- Chinsinga, B., Chasukwa, M., & Zuka, S. P. (2013). The Political Economy of Land Grabs in Malawi: Investigating the Contribution of Limphasa Sugar Corporation to Rural Development. *Journal of Agricultural and Environmental Ethics*, 26(6), 1065–1084. <https://doi.org/10.1007/s10806-013-9445-z>
- Chinsinga, B., Chasukwa, M., Zuka, S.P. (2014). Large-Scale Land Deals in the Sugar Industry and Rural Development in Malawi: A Political Economy Inquiry in International Land Deals in Eastern and Southern Africa. OSSREA, Addis Ababa.
- Chipeta, M. (1992). Political Process, Civil Society and The State. In *Malawi at the Crossroads, The Postcolonial Political Economy* (pp. 34–49). SAPES BOOKS.
- Chirwa, E. W. (2004). Access to land, growth and poverty reduction in Malawi. *University of Malawi, Chancellor College*.
- Chiweza, A. L. (2007). The ambivalent role of chiefs: Rural decentralization initiatives in Malawi. In *State recognition and democratization in Sub-Saharan Africa* (pp. 53–78). Springer.

- Chopra, K. (2017). *Development and Environmental Policy in India The Last Few Decades* (1st ed. 2017.). Singapore : Springer Singapore : Imprint: Springer.
- Clark, J. (1991). *Democratizing development*. London : Earthscan.
- Comaroff, J. L., & Comaroff, J. (1999). *Civil society and the political imagination in Africa: Critical perspectives*. University of Chicago Press.
- Comstock, A., Benson, T., & Nankhumi, F. (2019). *A critical review of Malawi's Special Crops Act and Agriculture (General Purposes) Act* (0 ed.). International Food Policy Research Institute. <https://doi.org/10.2499/p15738coll2.133043>
- Conde, M., & Kallis, G. (2012). The global uranium rush and its Africa frontier. Effects, reactions and social movements in Namibia. *Global Environmental Change-Human And Policy Dimensions*, 22(3), 596–610. <https://doi.org/10.1016/j.gloenvcha.2012.03.007>
- Conde, M., & Le Billon, P. (2017). Why do some communities resist mining projects while others do not? *The Extractive Industries and Society*, 4(3), 681–697. <https://doi.org/10.1016/j.exis.2017.04.009>
- Cotula, L. (2009). *Land grab or development opportunity? Agricultural investment and international land deals in Africa*. IIED.
- Crosby, N., & Henneberry, J. (2010). Changing Valuation Practices—A Critical History Of UK Investment Valuation. *IDEAS Working Paper Series from RePEc*.
- Dahl, R. A. (1957). The concept of power. *Systems Research and Behavioral Science*, 2(3), 201–215. <https://doi.org/10.1002/bs.3830020303>
- Dai, J., & Spires, A. J. (2018). Advocacy in an authoritarian state: How grassroots environmental NGOs influence local governments in China. *The China Journal*, 79(1), 62–83.
- Daley, E. (2011). *Commercial pressure on lands: Gendered impacts of commercial pressures on land in Morocco*. International land coalition meeting, Oxford, UK
- Darby, S., & Ravat, A. (2008). *Implementation Lessons Learned: EITI Policy Implications*. World Bank, Washington, DC.
- Daugbjerg, C. (1998). Linking Policy Networks and Environmental Policies: Nitrate Policy Making in Denmark and Sweden 1970-1995. *Public Administration*, 76(2), 275–294.
- Dean, M. (2013). *The signature of power: Sovereignty, governmentality and biopolitics*. Los Angeles : SAGE.

- Death, C. (2010). *Governing sustainable development partnerships, protests and power at the world summit*. Milton Park, Abingdon, Oxon England.
- Dequin, H. (1970). *Agricultural development in Malawi*. ((Second unchanged edition)). München: IFO-Institut für Wirtschaftsforschung, Afrika-Studienstelle.
- Dick, A. (2005). Power is information: South Africa's promotion of access to information act in context. *Context: Nature, Impact, And Role, Proceedings*, 3507, 212–225.
- Doucouliaqos, H., & Paldam, M. (2011). The ineffectiveness of development aid on growth: An update. *European Journal of Political Economy*, 27(2), 399–404. <https://doi.org/10.1016/j.ejpoleco.2010.11.004>
- Dryzek, J. S. (2003). *Green states and social movements: Environmentalism in the United States, United Kingdom, Germany and Norway*. Oxford : Oxford University Press.
- Dunlap, A. (2018). “A Bureaucratic Trap:” Free, Prior and Informed Consent (FPIC) and Wind Energy Development in Juchitán, Mexico. *Capitalism Nature Socialism*, 29(4), 88–108. <https://doi.org/10.1080/10455752.2017.1334219>
- D'Angelo, L., & Pijpers, R. J. (2018). Mining Temporalities: An Overview. *The Extractive Industries and Society*, 5(2), 215–222. <https://doi.org/10.1016/j.exis.2018.02.005>
- Easterly, W., & Williamson, C. R. (2011). Rhetoric versus Reality: The Best and Worst of Aid Agency Practices. *World Development*, 39(11), 1930–1949. <https://doi.org/10.1016/j.worlddev.2011.07.027>
- Edwards, M., & Hulme, D. (1992). *Making a difference: NGOs and development in a changing world*. London : Earthscan.
- EITI. (2015). *Malawi admitted as EITI candidate*. EITI. <https://eiti.org/news/malawi-admitted-as-eiti-candidate>
- EITI. (2019). *EITI Board decision on the Validation of Malawi*. Extractive Industry Transparency Initiative. <https://get.adobe.com/reader/>
- Englund, H. (2002). *A democracy of chameleons: Politics and culture in the new Malawi*. Uppsala.
- Erickson, B. (2020). Anthropocene futures: Linking colonialism and environmentalism in an age of crisis. *Environment and Planning D: Society and Space*, 38(1), 111–128. <https://doi.org/10.1177/0263775818806514>

- Eriksen, S. H., Nightingale, A. J., & Eakin, H. (2015). Reframing adaptation: The political nature of climate change adaptation. *Global Environmental Change*, 35(C), 523–533. <https://doi.org/10.1016/j.gloenvcha.2015.09.014>
- Escobar, A. (1992). Imagining a Post-Development Era? Critical Thought, Development and Social Movements. *Social Text*, 31–32, 20–56.
- Escobar, A. (2007). Worlds and knowledges otherwise: The Latin American modernity/coloniality research program. *Cultural Studies*, 21(2–3), 179–210.
- Escobar, A. (2015). Degrowth, postdevelopment, and transitions: A preliminary conversation. *Sustainability Science*, 10(3), 451–462. <https://doi.org/10.1007/s11625-015-0297-5>
- Esteves, A. M., Franks, D., & Vanclay, F. (2012). *Social impact assessment: The state of the art, Impact Assessment and Project Appraisal*. 30(1), 34–42. <https://doi.org/10.1080/14615517.2012.660356>
- Ettah-Phoya, R. (2014). *Mines and Minerals Act Review Symposium, 16-17 July 2014 Lilongwe / Mining in Malawi*. Mining in Malawi | News, Research and Initiatives in Malawi's Extractive Industries. <https://mininginmalawi.com/mining-in-malawi-132/>
- Ettah-Phoya, R., & Malunga, G. (2019). *Exploring the Past to Extract Better Development Outcomes from Malawi's Mineral Sector* [https://www.academia.edu/42191430/Exploring\\_the\\_Past\\_tho\\_Extract\\_Better\\_Development\\_Outcomes\\_from\\_Malawi\\_s\\_Mineral\\_Sector](https://www.academia.edu/42191430/Exploring_the_Past_tho_Extract_Better_Development_Outcomes_from_Malawi_s_Mineral_Sector)
- Ettlinger, N. (2011). Governmentality as Epistemology. *Annals of the Association of American Geographers*, 101(3), 537–560. <https://doi.org/10.1080/00045608.2010.544962>
- Fioretos, O., Falleti, T. G., Sheingate, A., & Pierson, P. (2016). *Power in Historical Institutionalism*. Oxford University Press. <https://doi.org/10.1093/oxfordhb/9780199662814.013.7>
- Fisher, J. (1998). *Nongovernments: NGOs and the political development of the Third World*. West Hartford, Conn. : Kumarian Press.
- Fletcher, R. (2010). Neoliberal environmentality: Towards a poststructuralist political ecology of the conservation debate. *Conservation and Society*, 8(3), 171–181.
- Forsyth, T., & Walker, A. (2014). Hidden alliances: Rethinking environmentality and the politics of knowledge in Thailand's campaign for community forestry. *Conservation and Society*, 12(4), 408–417.
- Foucault, M. (1979). Ideology and consciousness. *Governmentality*, 6, 5–21.

- Foucault, M. (1980). *Power/knowledge: Selected interviews and other writings, 1972-1977*. Vintage.
- Fowler, A. (1991). The Role of NGOs in Changing State Society Relations: Perspectives from Eastern and Southern Africa. *Development Policy Review*, 9(1), 53–84. <https://doi.org/10.1111/j.1467-7679.1991.tb00175.x>
- Fozzard, A., & Simwaka, C. (2002). *How, When and Why Does Poverty Get Budget Priority? Poverty Reduction Strategy and Public Expenditure in Malawi*. Overseas Development Institute.
- Frank, A. G. (1967). *Capitalism and underdevelopment in Latin America* (Vol. 93). NYU Press.
- Gabay, C. (2011). Consenting to “Heaven”: The Millennium Development Goals, Neo-liberal Governance and Global Civil Society in Malawi. *Globalizations*, 8(4), 487–501. <https://doi.org/10.1080/14747731.2011.585852>
- Gabay, C. (2014). Two “transitions”: The political economy of Joyce Banda’s rise to power and the related role of civil society organisations in Malawi. *Review of African Political Economy*, 41(141), 374–388. <https://doi.org/10.1080/03056244.2014.901949>
- Girvan, N. (1976). *Corporate imperialism: Conflict and expropriation*. White Plains, N.Y. : M. E. Sharpe.
- Glenn, J. G. (2019). *Foucault and Post-Financial Crises Governmentality, Discipline and Resistance* (1st ed. 2019.). Cham : Springer International Publishing : Imprint: Palgrave Macmillan.
- Gofas, A., & Hay, C. (2010). *Narratives of neoliberalism: The role of everyday media practices and the reproduction of dominant ideas* (p. 131). Routledge. <https://doi.org/10.4324/9780203087022-14>
- GoM. (1981). *Mines and Minerals Act, 1981*. <https://malawilii.org/mw/legislation/act/1981/1>
- GoM. (2006). *Malawi Growth and Development Strategy 2006 – 2011 | Eldis*. <https://www.eldis.org/document/A59140>
- GoM. (2007). *Mines and Mineral Policy of Malawi*. Ministry of Energy and Mining. <https://resourcegovernance.org/sites/default/files/Mines%20&%20Minerals%20Policy%20of%20Malawi.pdf>

- GoM. (2011). *Processes and work done in the EITI debate in Malawi*. Malawi Government, Ministry of Finance and Development Cooperation. <https://eiti.org/document/processes-work-done-in-eiti-debate-in-malawi>
- GoM. (2013). *Guidebook on the Local Government System in Malawi*. Ministry of Local Government and Rural Development. <https://www.resakss.org/sites/default/files/Malawi%20MLGRD%202013%20Guidebook%20on%20the%20Local%20Government%20System%20in%20Malawi.pdf>
- GoM. (2015). *Intended Nationally Determined Contribution*. UNFCCC. <https://www4.unfccc.int/sites/ndcstaging/PublishedDocuments/Malawi%20First/MALAWI%20INDC%20SUBMITTED%20TO%20UNFCCC%20REV.pdf>
- GoM. (2016a). *Customary Land Act*. Ministry of Lands, Housing and Urban Department. <https://malawilii.org/mw/legislation/act/2016/19>
- GoM. (2016b). *Land Act*. Department of Lands, Housing and Urban Development. <https://malawilii.org/mw/legislation/act/2016/19>
- GoM. (2016c). *Land Act, 2016*. <https://malawilii.org/mw/legislation/act/2016/16>
- GoM. (2018a). *Mines and Minerals Act, 2018*. Government of Malawi, Department of Mining.
- GoM. (2018b). *National Seed Policy 2018*. Ministry of Agriculture, Irrigation and Water Development. <http://extwprlegs1.fao.org/docs/pdf/mlw180417.pdf>
- GoM. (2019). *2019/20 Budget Statement*. Department of Finance, Economic Planning and Development. <https://www.finance.gov.mw/index.php/blog/documents/budget>
- GoM, M. D. of E. P. and. (1971). *Statement of Development Policies, 1971-1980*. The Department. <https://books.google.co.uk/books?id=MtPutwEACAAJ>
- GoM, M. J. (2011). *Malawi Growth and Development Strategy II. Department of Economic Planning, Lilongwe*, 1–290.
- Goodin, R. E. (1996). *The theory of institutional design*. Cambridge : Cambridge University Press.
- Gottlieb, J. (2015). *The Logic of Party Collusion in a Democracy: Evidence from Mali*. 67(1), 1–36. <https://doi.org/10.1017/S0043887115000325>
- Graulau, J. (2008). Is mining good for development? The intellectual history of an unsettled question. *Progress in Development Studies*, 8(2), 129–162. <https://doi.org/10.1177/146499340700800201>



- Grendstad, G. & SpringerLink (Online service). (2006). *Unique environmentalism a comparative perspective*. New York : Springer.
- Grundmann, R. (2019). The Rise of the Experts. *Issues in Science and Technology*, 35(4), 89–91.
- Guha, R., & Alier, J. M. (2013). *Varieties of environmentalism: Essays North and South*. Routledge.
- Hajat, R. (2008). Kayelekera and the uranium mining saga in Malawi. *Towards the Consolidation of Malawi's Democracy*, 75.
- Hall, P. A. (1992). The movement from Keynesianism to monetarism: Institutional analysis and British economic policy in the 1970s. In S. Steinmo, K. Thelen, & F. Longstreth (Eds.), *Structuring Politics* (1st ed., pp. 90–113). Cambridge University Press. <https://doi.org/10.1017/CBO9780511528125.005>
- Hall, P. A., & Taylor, R. C. R. (1996). Political Science and the Three New Institutionalisms. *Political Studies*, 44(5), 936–957. <https://doi.org/10.1111/j.1467-9248.1996.tb00343.x>
- Hall, R. (2011). Land grabbing in Southern Africa: The many faces of the investor rush. *Review of African Political Economy*, 38(128), 193–214.
- Hall, S. (1988). Thatcherism and the Crisis of the Left: The Hard Road to Renewal. *London and New York: Verso*, 46–48.
- Hamann, T. H. (2009). Neoliberalism, Governmentality, and Ethics. *Foucault Studies*, 6, 37–59. <https://doi.org/10.22439/fs.v0i0.2471>
- Hamer, S. (2016). *Championing the poor: Branding around poverty reduction as a response to electoral competition in Malawi, 2005-2014*.
- Hammarberg, K., Kirkman, M., & de Lacey, S. (2016). Qualitative research methods: When to use them and how to judge them. *Human Reproduction (Oxford)*, 31(3), 498–501. <https://doi.org/10.1093/humrep/dev334>
- Harrabin, R. (2015, November 24). COP21: Malawi's battle to hold on to forests. *BBC News*. <https://www.bbc.com/news/science-environment-34902788>
- Harrison, J. L. (2014). Neoliberal environmental justice: Mainstream ideas of justice in political conflict over agricultural pesticides in the United States. *Environmental Politics*, 23(4), 650–669. <https://doi.org/10.1080/09644016.2013.877558>

- Harriss, J. (2006). Notes on a Historical Institutional Approach to the IIPG Agenda, Discussion Paper No 1. *Research Programme Consortium for Improving Institutions for Pro-Poor Growth*.
- Harsh, M., Mbatia, P., & Shrum, W. (2010). Accountability and Inaction: NGOs and Resource Lodging in Development. *Development and Change*, 41(2), 253–278. <https://doi.org/10.1111/j.1467-7660.2010.01641.x>
- Haufler, V. (2010). Disclosure as Governance: The Extractive Industries Transparency Initiative and Resource Management in the Developing World. *Global Environmental Politics*, 10(3), 53–73. [https://doi.org/10.1162/GLEP\\_a\\_00014](https://doi.org/10.1162/GLEP_a_00014)
- Hay, C. (2002). *Political analysis*. Basingstoke : Palgrave.
- Hearn, J. (2007). African NGOs: The new compradors? *Development And Change*, 38(6), 1095–1110.
- Hecht, G. (2009). Africa and the Nuclear World: Labor, Occupational Health, and the Transnational Production of Uranium. *Comparative Studies in Society and History*, 51(4), 896–926. <https://doi.org/10.1017/S001041750999017X>
- Held, D. (1980). *Introduction to critical theory: Horkheimer to Habermas*. Cambridge : Polity Press.
- Helmke, G., & Levitsky, S. (2004). Informal Institutions and Comparative Politics: A Research Agenda. *Perspectives on Politics*, 2(4), 725–740. <https://doi.org/10.1017/S1537592704040472>
- Hermansen, E., Mcneill, D., Kasa, S., & Rajão, R. (2017). Co-Operation or Co-Optation? NGOs<sup>SB</sup>™ Roles in Norway International Climate and Forest Initiative. *Forests*, 8(3), 64. <https://doi.org/10.3390/f8030064>
- Hildyard, N., Hegde, P., Wolvekamp, P., & Reddy, S. (2001). Pluralism, participation and power: Joint forest management in India. *Participation: The New Tyranny*, 56–71.
- Hilhorst, D. (2000). *Records and reputations: Everyday politics of a Philippine Development NGO*.
- Hilson, G. (2001). Mining and Sustainable Development: The African Case. *Minerals & Energy - Raw Materials Report*, 16(2), 27–36. <https://doi.org/10.1080/140410401300226930>
- Hirata, K. (2002). Whither the developmental state? The growing role of NGOs in Japanese aid policymaking. *Journal of Comparative Policy Analysis*, 4(2), 165–188.

- Hoffman, A. J. (2001). Linking organizational and field-level analyses: The diffusion of corporate environmental practice. *Organization & Environment*, 14(2), 133–156.
- Horowitz, L. (2006). Section 2: Mining and sustainable development. *Journal of Cleaner Production*, 14(3–4), 307–308. <https://doi.org/10.1016/j.jclepro.2005.03.005>
- Horowitz, L. S. (2011). Interpreting Industry’s Impacts: Micropolitical Ecologies of Divergent Community Responses.(Report). *Development and Change*, 42(6), 1379. <https://doi.org/10.1111/j.1467-7660.2011.01740.x>
- Howell, J. (2002). In their own image: Donor assistance to civil society. *Journal of Development Studies*, 1(1), 117–130.
- Hudson, D., & Leftwich, A. (2014). *From Political Economy to Political Analysis*. <https://www.dlprog.org/publications/research-papers/from-political-economy-to-political-analysis>
- Hudson, D., & Martin, M. (2009). *Narratives of neoliberalism: The role of everyday media practices and the reproduction of dominant ideas* (p. 117). <https://doi.org/10.4324/9780203087022>
- Human Rights Watch. (2016). “*They Destroyed Everything.*” Human Rights Watch. <https://www.hrw.org/report/2016/09/27/they-destroyed-everything/mining-and-human-rights-malawi>
- Humphreys, M., Sachs, J., & Stiglitz, J. E. (2007). *Escaping the resource curse*. New York : Columbia University Press.
- Hurd, A. S. (1898). Coal, trade, and the empire. *The Nineteenth Century and after: A Monthly Review*, 44(261), 718–723.
- Hussein, M. (2003). Good governance and decentralisation at the local level: The case of Malawi. *Politeia*, 22(2), 78–93.
- Igoe, J., & Kelsall, T. (2005). *Between a rock and a hard place: African NGOs, donors and the state*. Durham, N.C. : Carolina Academic Press.
- Immergut, E. M. (1992). The rules of the game: The logic of health policymaking in France, Switzerland, and Sweden. In *Structuring Politics: Historical Institutionalism in Comparative Analysis* (pp. 57–89). Cambridge University Press.
- Iseri, E., Günay, D., & Almaz, A. (2018). Contending narratives on the sustainability of nuclear energy in Turkey. *Environment and Planning C: Politics and Space*, 36(1), 160–177. <https://doi.org/10.1177/2399654417704199>

- Jacob, T., & Pedersen, R. H. (2018). New resource nationalism? Continuity and change in Tanzania extractive industries. *The Extractive Industries and Society*, 5(2), 287–292. <https://doi.org/10.1016/j.exis.2018.02.001>
- Jakobsen, H. (2012). Focus groups and methodological rigour outside the minority world: Making the method work to its strengths in Tanzania. *Qualitative Research*, 12(2), 111–130. <https://doi.org/10.1177/1468794111416145>
- Jalali, R. (2013). Financing Empowerment? How Foreign Aid to Southern Ngos and Social Movements Undermines Grass-Roots Mobilization. *Sociology Compass*, 7(1), 55–73.
- Karonga CSO Network (2018). A Call for Justice in Extractive Industries in Malawi
- Jänicke, M. (2008). Ecological modernisation: New perspectives. *Journal of Cleaner Production*, 16(5), 557–565.
- Jenkins, K. (2014). Women, mining and development: An emerging research agenda. *The Extractive Industries and Society*, 1(2), 329–339. <https://doi.org/10.1016/j.exis.2014.08.004>
- Jere, C. (2017, January). Mining communities urge MPs to pass Mines Bill. *Mining and Energy Review*, 45, 9–10. <https://mininginmalawi.files.wordpress.com/2017/01/mining-trade-review-january-2017-electronic-copy-2.pdf>
- Jevons, W. S. (1866). The Coal Question; An Inquiry Concerning the Progress of the Nation, and the Probable Exhaustion of our Coalmines. *Fortnightly*, 6(34), 505–507.
- Johnson, J. A. (2017). After the mines: The changing social and economic landscape of Malawi–South Africa migration. *Review of African Political Economy*, 44(152), 237–251.
- Jordan, A. G. (1987). *Government and pressure groups in Britain*. Oxford : Clarendon.
- Joseph, J. (2012). *The Social in the Global: Social Theory, Governmentality and Global Politics*. Cambridge : Cambridge University Press.
- Jørgensen, M. (2002). *Discourse analysis as theory and method*. Thousand Oaks, Calif. : SAGE.
- Kabanga, L., & Mooya, M. M. (2017). *Assessing compensation for customary property rights in Malawi: The case of Mombera University project*.
- Kachika, T. (2017). Land grabbing in Africa: A review of the impacts and the possible policy responses. *Pan Africa Programme of Oxfam International*.

- Kadzamira, E. C., & Kunje, D. (2002). *The Changing Roles of Non-Governmental Organisations in Education in Malawi*.
- Kalinga, O. (1996). Resistance, Politics of Protest and Mass Nationalism in Colonial Malawi, 1950-1960. A Reconsideration. *Cahiers de Africaines*, 36(3), 443.
- Kalinga, O. J. (1985). Colonial Rule, Missionaries, and Ethnicity in the North Nyasa District, 1891–1938. *African Studies Review*, 28(1), 57–72.
- Kalipeni, E., & Feder, D. (1999). A Political Ecology Perspective on Environmental Change in Malawi with the Blantyre Fuelwood Project Area as a Case Study. *Politics and the Life Sciences*, 18(1), 37–37.
- Kalu, K. (2017). State-Society-Relations, Institutional Transformation and Economic Development in sub-Saharan Africa. *Development Policy Review*, 35(S2), O234–O245. <https://doi.org/10.1111/dpr.12320>
- Kalu, K. (2018). *Foreign Aid and the Future of Africa*. Cham: Springer International Publishing AG. <https://doi.org/10.1007/978-3-319-78987-3>
- Kambewa, D., Chimombo, M., Kakwera, M. N., Chiwasa, H., Ngwale, P., Lupesya, O., & Galimoto, M. (n.d.). *District Level Stakeholders' Understanding of the Current Land Context, the Customary Land Act (2016) and their Desired Future in Mzimba District*. 28.
- Kamlongera, P. J. (2013). The mining boom in Malawi: Implications for community development. *Community Development Journal*, 48(3), 377–390. <https://doi.org/10.1093/cdj/bst020>
- Kamlongera, P. J. (2020). Domesticating the Africa Mining Vision in Malawi: Approaches and experiences. *Revue Canadienne d'Études Du Développement*, 1–19. <https://doi.org/10.1080/02255189.2020.1801392>
- Kamphuis, C. (2020). The Transnational Mining Justice Movement: Reflecting on Two Decades of Law Reform Activism in the Americas. *Canadian Yearbook of International Law/Annuaire Canadien de Droit International*, 57, 286–352.
- Kamstra, J., & Schulpen, L. (2015). Worlds Apart But Much Alike: Donor Funding and the Homogenization of NGOs in Ghana and Indonesia. *Studies in Comparative International Development*, 50(3), 331–357. <https://doi.org/10.1007/s12116-014-9169-8>

- Kanyongolo, F. (2008). Law, Land and sustainable development in Malawi. In *Land and Sustainable Development in Africa*. Zed Books.
- Kanyongolo, F. E. (2005). *Land occupations in Malawi: Challenging the neoliberal legal order*. na.
- Karim, L. (2018). Reversal of Fortunes: Transformations in State-NGO Relations in Bangladesh. *Critical Sociology*, 44(4–5), 579–594. <https://doi.org/10.1177/0896920516669215>
- Karonga CSO Network (2018). *A Call for Justice in the Extractive Industries*, Karonga
- Kasfir, N. (1998). *Civil society and democracy in Africa*. London : F. Cass.
- Kashwan, P. (2017). *Democracy in the Woods: Environmental Conservation and Social Justice in India, Tanzania, and Mexico*. Oxford University Press. <https://doi.org/10.1093/acprof:oso/9780190637385.001.0001>
- Kayuni, H. (2011). Malawi’s economic and development policy choices from 1964 to 1980: An epitome of “pragmatic unilateral capitalism.” *Nordic Journal of African Studies*, 20(2), 112–131.
- Kayuni, H. M., & Tambulasi, R. I. C. (2010). The Malawi 1964 cabinet crisis and its legacy of ‘perpetual regression of trust’ amongst contemporary Malawian politicians. *Social Dynamics*, 36(2), 410–427. <https://doi.org/10.1080/02533952.2010.487996>
- Keane, J. (2010). *The life and death of democracy*. London : Pocket Books.
- Kerr, R. B. (2014). Lost and Found Crops: Agrobiodiversity, Indigenous Knowledge, and a Feminist Political Ecology of Sorghum and Finger Millet in Northern Malawi. *Annals of the Association of American Geographers*, 104(3), 577–593. <https://doi.org/10.1080/00045608.2014.892346>
- Khaila, S. W., Mvula, P. M., & Kadzandira, J. M. (1999). *Consultation with the Poor Country Synthesis Report*. Centre for Social Research, University of Malawi. [https://www.participatorymethods.org/sites/participatorymethods.org/files/Malawi%20Oconsultations%20with%20the%20poor\\_Khaila.pdf](https://www.participatorymethods.org/sites/participatorymethods.org/files/Malawi%20Oconsultations%20with%20the%20poor_Khaila.pdf)
- Kingdon, J. W. (1995). *Agendas, alternatives, and public policies* (Second edition.). New York : HarperCollins College Publishers.
- Kirsch, S. (2010). Sustainable Mining. *Dialectical Anthropology* , 34(1), 87–93. <https://doi.org/10.1007/s10624-009-9113-x>

- Kirsch, S. (2014). *Mining Capitalism* (1st ed.). University of California Press; JSTOR. [www.jstor.org/stable/10.1525/j.ctt6wqbtm](http://www.jstor.org/stable/10.1525/j.ctt6wqbtm)
- Kitzinger, J. (1995). Qualitative Research: Introducing focus groups. *British Medical Journal Publishing Group, Vol.311(7000)*, 299–302. <http://www.jstor.com/stable/29728251>
- Kolala, C., & Bwalya Umar, B. (2019). National benefits, local costs? Local residents' views on environmental and social effects of largescale mining in Chingola, Zambia. *Natural Resources Forum, 43(4)*, 205–217. <https://doi.org/10.1111/1477-8947.12182>
- Kolstad, I., & Wiig, A. (2009). Is Transparency the Key to Reducing Corruption in Resource-Rich Countries? *World Development, 37(3)*, 521–532. <https://doi.org/10.1016/j.worlddev.2008.07.002>
- Kothari, A., Demaria, F., & Acosta, A. (2015). Buen Vivir, Degrowth and Ecological Swaraj: Alternatives to sustainable development and the Green Economy. *Development (Society for International Development), 57(3–4)*, 362–375. <https://doi.org/10.1057/dev.2015.24>
- Krasner, S. D., Nordlinger, E., Geertz, C., Skowronek, S., Tilly, C., Grew, R., & Trimberger, E. K. (1984). Approaches to the State: Alternative Conceptions and Historical Dynamics. *Comparative Politics, 16(2)*, 223–246. <https://doi.org/10.2307/421608>
- Kumah, A. (2006). Sustainability and gold mining in the developing world. *Journal of Cleaner Production, 14(3–4)*, 315–323. <https://doi.org/10.1016/j.jclepro.2004.08.007>
- Kydd, J., & Christiansen, R. (1982). Structural change in Malawi since independence: Consequences of a development strategy based on large-scale agriculture. *World Development, 10(5)*, 355–375. [https://doi.org/10.1016/0305-750X\(82\)90083-3](https://doi.org/10.1016/0305-750X(82)90083-3)
- Kyra Grieco. (2017). Fabiana Li, Unearthing Conflict: Corporate Mining, Activism, and Expertise in Peru. *Cahiers Des Amériques Latines, 83*, 179–184.
- LeCain, T. J. (2009). *Mass destruction: The men and giant mines that wired America and scarred the planet*. Rutgers University Press.
- Leftwich, A. (2004). *What is politics? The activity and its study*. Cambridge, UK : Polity Press.
- Lemke, T. (2002). Foucault, Governmentality, and Critique. *Rethinking Marxism, 14(3)*, 49–64. <https://doi.org/10.1080/089356902101242288>
- Lemm, V., & Vatter, M. E. (2014). *The government of life: Foucault, biopolitics, and neoliberalism*. New York : Fordham University Press.

- Leonard, L. (2017). Examining environmental impact assessments and participation: The case of mining development in Dullstroom, Mpumalanga, South Africa. *J. Environ. Assess. Policy Manage. Journal of Environmental Assessment Policy and Management VOL. 19, NO. 01, 19(01)*.
- Leonard, L. (2018). Mining corporations, democratic meddling, and environmental justice in South Africa. *Social Sciences*, 7(12), 259.
- Lewis, D. (2002). Civil Society in African Contexts: Reflections on the Usefulness of a Concept. *Development and Change*, 33(4), 569–586. <https://doi.org/10.1111/1467-7660.00270>
- Lewis, D., & Opoku-Mensah, P. (2006). Policy arena: Moving forward research agendas on international NGOs: Theory, agency and context. *Journal of International Development*, 18(5), 665–675. <https://doi.org/10.1002/jid.1306>
- Lewis, D. (2005). Actors, ideas and networks: trajectories of the nongovernmental in development studies. In U. Kothari (Ed.), *A radical history of development studies*. London: Zed Books.
- Lewis, D. (2007). *The management of non-governmental development organizations* (2nd ed.). London: Routledge
- Lewis, D. (2010) Political ideologies and non-governmental organizations: an anthropological perspective, *Journal of Political Ideologies*, 15:3, 333-345
- Lindblom, C. E. (Charles E. (1977). *Politics and markets: The world's political-economic systems*. New York : Basic Books.
- Lindsay Prior. (2003). *Documents in Action I. Documents in Organizational Settings*. <https://doi.org/10.4135/9780857020222.n3>
- Lockwood, A. H. (2012). *The silent epidemic: Coal and the hidden threat to health*. Cambridge, Mass. : The MIT Press.
- Lockwood, M., Kuzemko, C., Mitchell, C., & Hoggett, R. (2017). Historical institutionalism and the politics of sustainable energy transitions: A research agenda. *Environment and Planning C: Politics and Space*, 35(2), 312–333. <https://doi.org/10.1177/0263774X16660561>
- Lokanc, M. (2016). *Malawi-MW: Mining Governance and Growth Support Project: P120825-Implementation Status Results Report: Sequence 09*. The World Bank.



- Lujala, P. (2018). An analysis of the Extractive Industry Transparency Initiative implementation process. *World Development*, *107*, 358.
- Lujala, P., Brunnschweiler, C., & Edjekumhene, I. (2018). Transparent for whom? Dissemination of information on Ghana petroleum and mining revenue management. *IDEAS Working Paper Series from RePEc*.
- Lungu, J. (2008). Copper mining agreements in Zambia: Renegotiation or law reform? *Review of African Political Economy*, *35*(117), 403–415.
- Lwanda, J., & Chanika, E. (2017). Democracy, Donors and Dependency: The Rises and Falls of Non-Governmental and Civil Society Organisations' Agency in Malawi Opposition Politics, 1992 - 2017. *The Society of Malawi Journal*, *70*(1), 19–54. JSTOR. <https://www.jstor.org/stable/26382822>
- Lysack, M. (2015). Effective policy influencing and environmental advocacy: Health, climate change, and phasing out coal. *International Social Work*, *58*(3), 435–447. <https://doi.org/10.1177/0020872814567485>
- MacKendrick, N. A., & Davidson, D. J. (2007). State—Capital Relations in Voluntary Environmental Improvement. *Current Sociology*, *55*(5), 674–695.
- Maconachie, R., & Hilson, G. (2011). Artisanal Gold Mining: A New Frontier in Post-Conflict Sierra Leone? *The Journal of Development Studies*, *47*(4), 595–616. <https://doi.org/10.1080/00220381003599402>
- Mahanty, S., & Mcdermott, C. L. (2013). How does Free, Prior and Informed Consent (FPIC) impact social equity? Lessons from mining and forestry and their implications for REDD+. *Land Use Policy*, *35*, 406–416. <https://doi.org/10.1016/j.landusepol.2013.06.014>
- Mahoney, J., & Thelen, K. (2009). *A Theory of Gradual Institutional Change*. 1–37. <https://doi.org/10.1017/CBO9780511806414.003>
- Makuwira, J. (2011). Civil Society Organizations (CSOs) and the Changing Nature of African Politics: The Case of the CSO-Government Relationship in Malawi. *Journal of Asian and African Studies*, *46*(6), 615–628. <https://doi.org/10.1177/0021909611407152>
- Mamdani, M. (1996). *Citizen and subject: Contemporary Africa and the legacy of late colonialism*. Kampala : Fountain London : James Currey.
- Mandala, E. C. (1990). *Work and control in a peasant economy: A history of the lower Tchiri Valley in Malawi, 1859-1960*. Madison, Wis. : University of Wisconsin Press.

- March, J. G., & Olsen, J. P. (1984). The new institutionalism: Organizational factors in political life. *The American Political Science Review*, 734–749.
- Markovitz, I. L. (1998). Uncivil society, capitalism and the state in Africa. *Commonwealth & Comparative Politics: Civil Society and Democracy in Africa: Critical Perspectives*, 36(2), 21–53. <https://doi.org/10.1080/14662049808447766>
- Martinez-Alier, J. (2001). Mining conflicts, environmental justice, and valuation. *Journal of Hazardous Materials*, 86(1–3), 153–170. [https://doi.org/10.1016/S0304-3894\(01\)00252-7](https://doi.org/10.1016/S0304-3894(01)00252-7)
- Martinez-Alier, J. (2012). *Mining conflicts, environmental justice and valuation* (p. 228). <https://doi.org/10.4324/9781849771771>
- Martinez-Alier, J., Temper, L., Del Bene, D., & Scheidel, A. (2016). Is there a global environmental justice movement? *The Journal of Peasant Studies*, 43(3), 731–755. <https://doi.org/10.1080/03066150.2016.1141198>
- Masina, L. (2018, December 7). Malawi NGOs Protest Amended NGO Bill. *Voice of America*. <https://www.voanews.com/africa/malawi-ngos-protest-amended-ngo-bill>
- Matanga, F. (2010). NGOs and the Politics of Development in Africa. *Development*, 53(1), 114–119. <https://doi.org/10.1057/dev.2009.91>
- McCracken, J. (1982). Planters, Peasants and the Colonial State: The Impact of the Native Tobacco Board in the Central Province of Malawi. *Journal of Southern African Studies*, 9, 172.
- McCracken, J. (1986). Coercion and Control in Nyasaland: Aspects of the History of a Colonial Police Force. *The Journal of African History*, 27(1), 127–147. <https://doi.org/10.1017/S0021853700029236>
- McCracken, J. (2012). *A history of Malawi, 1859-1966*. Boydell & Brewer Ltd.
- Mcsparran, J. (2019). *Seeking a Nexus Between Transparency, Accountability and Sustainable Development in the Extractive Industries: Analysis of the Mali Extractive Industries Transparency (MEITI)*.
- Meagher, K. (2019). Reflections of an engaged economist: An interview with Thandika Mkandawire. *Development and Change*, 50(2), 511–541.
- Mercer, C. (1999). Reconceptualizing state-society relations in Tanzania: are NGOs ‘making a difference’? in *Area* 31(3), 247-258

- Mercer, C. (2002). NGOs, civil society and democratization: A critical review of the literature. *Progress in Development Studies*, 2(1), 5–22. <https://doi.org/10.1191/1464993402ps027ra>
- Mercer, C. (2006). Working with Partners: NGOs and CBOs in Desai, V. & Potter, R.B. (Eds). *Doing Development Research*, Sage Publications; London, 94–103.
- Mercer, C., & Green, M. (2013). Making civil society work: Contracting, cosmopolitanism and community development in Tanzania. *Geoforum*, 45, 106–115. <https://doi.org/10.1016/j.geoforum.2012.10.008>
- Mhone, G. C. Z. (1992). *Malawi at the crossroads: The post-colonial political economy*. Harare : SAPES Books.
- Mignolo. (2007). INTRODUCTION Coloniality of power and de-colonial thinking. *Cultural Studies*, 21(2–3), 155–176. <https://doi.org/10.1080/09502380601162498>
- Mikulewicz, M. (2020). The Discursive Politics of Adaptation to Climate Change. *Annals of the American Association of Geographers*, 110(6), 1807–1830. <https://doi.org/10.1080/24694452.2020.1736981>
- Miller, P. (2008). *Governing the present: Administering economic, social and personal life*. Cambridge : Polity.
- Miller, P., & Rose, N. (2008). *Governing the present: Administering economic, social and personal life*. Polity.
- Mitchell, T. (2013). *Carbon democracy: Political power in the age of oil* (Revised second edition.). London : Verso.
- Mkandawire, P. T. (1999). *Agriculture, employment, and poverty in Malawi*. International Labour Organization.
- Mkandawire, R. (1992). The Land Question and Agrarian Change in Malawi. In *MALAWI AT THE CROSSROADS The Postcolonial Political Economy* (pp. 171–187). SAPES BOOKS.
- Mkandawire, T. (2004). Can Africa Have a Developmental state? In Bromley Making the International: Economic interdependence and political order: A world of whose making, 291-329. *Making the International: Economic Interdependence and Political Order: A World of Whose Making*, 291–329.
- Mkandawire, T. (2010). Aid, Accountability, and Democracy in Africa. *Social Research*, 77(4), 1149-0\_3.

- Mihyo, P.B., (Ed), International Land Deals in Eastern and Southern Africa, Organisation for Social Science Research in Eastern and Southern Africa (OSSREA): Addis Ababa,
- Mohai, P., & Saha, R. (2007). Racial Inequality in the Distribution of Hazardous Waste: A National-Level Reassessment. *Social Problems (Berkeley, Calif.)*, 54(3), 343–370. <https://doi.org/10.1525/sp.2007.54.3.343>
- Mohan, G., & Stokke, K. (2010). Participatory development and empowerment: The dangers of localism. *Third World Quarterly*, 21(2), 247–268. <https://doi.org/10.1080/01436590050004346>
- Mol, A. P., & Spaargaren, G. (2000). Ecological modernisation theory in debate: A review. *Environmental Politics*, 9(1), 17–49.
- Morris, B. (2016). *An Environmental History of Southern Malawi: Land and People of the Shire Highlands*. Springer.
- Morris-Suzuki, T. (2000). For and against NGOs. *New Left Review*, March/April, 63–84
- Moyo, B. H. Z. (2010). *The use and role of indigenous knowledge in small-scale agricultural systems in Africa: The case of farmers in northern Malawi* [Ph.D., University of Glasgow (United Kingdom)]. <http://search.proquest.com/docview/1314574251?pq-origsite=primo>
- Moyo, D. (2010). *Dead aid: Why aid is not working and how there is another way for Africa*. London : Penguin.
- Moyo, S. (2004). African land questions, the state and agrarian transition: Contradictions of neoliberal land reforms. *African Institute for Agrarian Studies, Harare*.
- Mulwafu, W. O. (2011). *Conservation Song: A History of Peasant-State Relations and the Environment in Malawi, 1860-2000*. White Horse Press.
- Murombo, T. (2013). Regulating mining in South Africa and Zimbabwe: Communities, the environment and perpetual exploitation. *Law Env't & Dev. J.*, 9, 31.
- Murtaza, N. (2012). Putting the lasts first: The case for community-focused and peer-managed NGO accountability mechanisms. *VOLUNTAS: International Journal of Voluntary and Non-profit Organizations*, 23(1), 109–125.
- Mzale, D. (n.d.). Parliament To Discuss Draft Minerals Act | The Nation Online | Malawi Daily Newspaper. *The Nation Online*. Retrieved July 7, 2020, from <https://www.mwnation.com/parliament-discuss-draft-minerals-act/>

- Mzungu, W. (2020, September 19). Despair as miners betray communities trust. *The Daily Times*. <https://times.mw/despair-as-miners-betray-communities-trust/>
- NRJN (nd). Natural Resources Justice Network Position on the Policy and Legal Framework for Mining In Malawi, Lilongwe
- NCA. (2016). *Norwegian Church Aid Malawi Strategy 2016-2020*. Norwegian Church Aid in Malawi. <https://www.kirkensnodhjelp.no/contentassets/5aee9aae093d450092e0044cebb10b28/malawi-country-strategy-2016-2020.pdf>
- NCA, Action Aid, & CEPA. (2014). *Joint Baseline Study on Malawi's Mining Sector*, <https://mininginmalawi.files.wordpress.com/2014/12/2014-tilitonse-actionaid-mining-baseline-study.pdf>
- Ndegwa, S. N. (1996). *The two faces of civil society: NGOs and politics in Africa*. West Hartford, Conn. : Kumarian Press.
- Neumann, L., & Kumwenda, H. (2016). *Malawi Extractive Industries Transparency Initiative (MWEITI): Scoping Study (Minerals, Oil and Gas, Forestry)*. GoM and GIZ -Ministry for Economic Cooperation and Development (BMZ), Germany. [https://mininginmalawi.files.wordpress.com/2016/02/160208\\_mweiti\\_scoping\\_study\\_2016.pdf](https://mininginmalawi.files.wordpress.com/2016/02/160208_mweiti_scoping_study_2016.pdf)
- Neumann, R. P. (2001). Africa's Last Wilderness: Reordering Space for Political and Economic Control in Colonial Tanzania. *Africa*, 71(4), 641–665. <https://doi.org/10.3366/afr.2001.71.4.641>
- Nevin, T. (2011). The ugly face of South African mining. *African Business*, 45(374), 66–67.
- Nikolaou, J. (2019). *Developing a model for effective community development agreements in the extractive industries* [Senior Theswa, Claremont Colleges]. [https://scholarship.claremont.edu/cmc\\_theses/2142](https://scholarship.claremont.edu/cmc_theses/2142)
- North, D. C. (Douglass C. (1990). *Institutions, institutional change, and economic performance*. Cambridge : Cambridge University Press.
- Novellino, D., & Dressler, W. H. (2009). The Role of “Hybrid” NGOs in the Conservation and Development of Palawan Island, The Philippines. *Society & Natural Resources*, 23(2), 165–180. <https://doi.org/10.1080/08941920902756141>
- NRJN, & PWYP. (2018, December 11). *Uranium Doesn't Grow on Trees – Rectify Malawi's Mines and Mineral Bill*, <https://mininginmalawi.com/>

- NSO. (2017). *Integrated Household Survey, 2016-2017*. National Statistics Office.  
<http://www.nsomalawi.mw/>
- NSO. (2018). *2018 Malawi Population and Housing Census*. National Statistics Office.  
<https://malawi.unfpa.org/sites/default/files/resource-pdf/2018%20Census%20Preliminary%20Report.pdf>
- NSO, (1966). *Malawi Population Census, 1966: Provisional Report*. Government Printer.
- Nwapi, C. (2017). Legal and institutional frameworks for community development agreements in the mining sector in Africa. *The Extractive Industries and Society*, 4(1), 202–215.  
<https://doi.org/10.1016/j.exis.2016.11.010>
- Nyasulu, T. (2007). *2007. 'Watchdog NGOs in Malawi: The case of Centre for Human Rights and Rehabilitation in Malawi*. Institute of Social Studies.
- O'Connor, J. (1988). Capitalism, nature, socialism a theoretical introduction. *Taylor and Francis*.
- O'Faircheallaigh, C. (2010). Aboriginal-Mining Company Contractual Agreements in Australia and Canada: Implications for Political Autonomy and Community Development. *Canadian Journal of Development Studies*, 30(1/2), 1.
- O'Faircheallaigh, C. (2013). Community development agreements in the mining industry: An emerging global phenomenon. *Community Development*, 44(2), 222–238.  
<https://doi.org/10.1080/15575330.2012.705872>
- Ofori, J. J. Y., & Lujala, P. (2015). Illusionary Transparency? Oil Revenues, Information Disclosure, and Transparency. *Society & Natural Resources*, 28(11), 1187–1202.  
<https://doi.org/10.1080/08941920.2015.1024806>
- Oliva Campos, C., Prevost, G., & Vanden, H. E. (2012). *Social movements and leftist governments in Latin America confrontation or co-optation?* London : Zed Books.
- Olson, M. (2009). *Document Analysis. 1*, 318–320.
- Omuto, C. T., & Vargas, R. (2019). *Soil Loss Atlas of Malawi*. FAO, Rome.  
<http://www.fao.org/3/ca3624en/ca3624en.pdf>
- Opong, N. (2018). Negotiating transparency: NGOs and contentious politics of the Extractive Industries Transparency Initiative in Ghana. *Contemporary Social Science*, 13(1), 58–71. <https://doi.org/10.1080/21582041.2017.1394483>
- Oskarsson, P. (2018). *Landlock: Paralyzing dispute over minerals on Adivasi land in India*. Acton, A.C.T. : ANU Press.

- Oskarsson, P., & Bedi, H. P. (2018). Extracting environmental justice: Countering technical renditions of pollution in India coal industry. *The Extractive Industries and Society*, 5(3), 340–347. <https://doi.org/10.1016/j.exis.2018.05.003>
- Oskarsson, P., & Lahiri-Dutt, K. (2019). India resource (inter)nationalism: Overseas mining investments shaped by domestic conditions. *The Extractive Industries and Society*, 6(3), 747–755. <https://doi.org/10.1016/j.exis.2018.11.006>
- Otto, J., Craig, A., Cawood, F., Doggett, M., Guj, P., Stermole, F., Stermole, J., & Tilton, J. (2006). Mining Royalties A Global Study of Their Impact on Investors, Government, and Civil Society. *Directions in Development, Energy and Mining, Washington DC, World Bank*. <http://hdl.handle.net/10986/7105>
- Oxfam. (2016). *Future Mining Revenues for Malawi: A Case Study of Mkango's Songwe Hill Project*. Oxfam in Malawi. <https://books.google.co.uk/books?id=0yIaywEACAAJ>
- Özkaynak, B., Rodríguez-Labajos, B., Aydın, C. İ., Yanez, I., & Garibay, C. (2015). Towards environmental justice success in mining conflicts: An empirical investigation. *EJOLT Report*, 14, 96.
- Pachai, B. (1973). *Malawi: The history of the nation*. Harlow : Longman.
- Page, S. (2019). The Development Aid Situation in Malawi. In S. Page, *Development, Sexual Cultural Practices and HIV/AIDS in Africa* (pp. 43–60). Springer International Publishing. [https://doi.org/10.1007/978-3-030-04119-9\\_3](https://doi.org/10.1007/978-3-030-04119-9_3)
- Paladin Energy. (2007). *Kayelekera Uranium Project, Malawi: Development Agreement Approval*. Paladin Resources Limited. <https://www.asx.com.au/asxpdf/20070223/pdf/3113nlwl87t3gp.pdf>
- Paladin Energy Limited. (2017). *Explanatory Statement 22 December 2017*. <https://assets.kpmg/content/dam/kpmg/au/pdf/paladin/paladin-explanatory-statement-22-december-2017.pdf>
- Pelenc, J., Wallenborn, G., Milanesi, J., Sébastien, L., Vastenaekels, J., Lajarthe, F., Ballet, J., Cervera-Marzal, M., Carimentrand, A., Merveille, N., & Frère, B. (2019). Alternative and Resistance Movements: The Two Faces of Sustainability Transformations? *Ecological Economics*, 159, 373–378. <https://doi.org/10.1016/j.ecolecon.2019.01.013>
- Peters, P. E., & Kambewa, D. (2007). Whose security? Deepening social conflict over customary land in the shadow of land tenure reform in Malawi. *The Journal of Modern African Studies*, 45(3), 447–472. <https://doi.org/10.1017/S0022278X07002704>

- Peterson St-Laurent, G., & Billon, P. L. (2015). Staking claims and shaking hands: Impact and benefit agreements as a technology of government in the mining sector. *The Extractive Industries and Society*, 2(3), 590–602. <https://doi.org/10.1016/j.exis.2015.06.001>
- Petras, J. (1999). NGOs: In the service of imperialism. *Journal of Contemporary Asia*, 29(4), 429–440. <https://doi.org/10.1080/00472339980000221>
- Pierson, P. (2004). *Politics in time: History, institutions, and social analysis*. Princeton, N.J.
- Pierson, P. (2016). *Power in Historical Institutionalism*. 1. <https://doi.org/10.1093/oxfordhb/9780199662814.013.7>
- Potter, D. C. (1996). *NGOs and environmental policies: Asia and Africa*. London : Frank Cass.
- Prebisch, R. (1980). Towards a Theory of Global Change. *UNCLA Review*.
- Prowse, M. (2013). A history of tobacco production and marketing in Malawi, 1890–2010. *Journal of Eastern African Studies*, 7(4), 691–712.
- Pulido, L. (2017). Conversations in Environmental Justice: An Interview with David Pellow. *Capitalism Nature Socialism*, 28(2), 43–53. <https://doi.org/10.1080/10455752.2016.1273963>
- Pulido, L., Kohl, E., & Cotton, N.-M. (2016). State Regulation and Environmental Justice: The Need for Strategy Reassessment. *Capitalism Nature Socialism*, 27(2), 12–31. <https://doi.org/10.1080/10455752.2016.1146782>
- PWYP, & NRJN. (2016). *Publish What You Earn Narrative Annual Report*. Publish What You Pay Malawi Chapter.
- Rich, E. (2015). *Beyond governments: Making collective governance work: Lessons from the Extractive Industries Transparency Initiative*. Sheffield : Greenleaf Pub. Limited.
- RICS (2014). *The Red Book: RICS Valuation Professional Standards*.
- Roberts, C. W. (2015). The other resource curse: Extractives as development panacea. *Cambridge Review of International Affairs*, 28(2), 283–307.
- Rodríguez, I., & Inturias, M. L. (2018). Conflict transformation in indigenous peoples' territories: Doing environmental justice with a 'decolonial turn.' *Development Studies Research*, 5(1), 90–105.
- Rodríguez-Labajos, B., & Özkaynak, B. (2017). Environmental justice through the lens of mining conflicts. *Geoforum*, 84, 245–250. <https://doi.org/10.1016/j.geoforum.2017.06.021>



- Roesch, R. (2016). The story of a legal transplant: The right to free, prior and informed consent in sub-Saharan Africa. *African Human Rights Law Journal*, 16(2), 505. <https://doi.org/10.17159/1996-2096/2016/v16n2a9>
- Rosser, A. (2006). *The political economy of the resource curse: A literature survey*. <https://opendocs.ids.ac.uk/opendocs/handle/20.500.12413/4061>
- Rostow, W. W. (1962). The process of economic. *Growth, 2a. Ed. Nueva York*.
- Royal Institution of Chartered Surveyors. (2014). *RICS Professional Standards, Global and UK RICS Valuation – Professional Standards January 2014*. Royal Institution of Chartered Surveyors. [www.rics.org](http://www.rics.org)
- Rugg, G. (2007). *A gentle guide to research methods*. Maidenhead : Open University Press.
- Sabola, T. (2020, July 29). Mining Minister challenges firms. *The Daily Times*. <https://times.mw/mining-minister-challenges-firms/>
- Sachs, J. (2006). *The end of poverty: Economic possibilities for our time*. New York.
- Sachs, J. D., & Warner, A. (1995). *Natural Resource Abundance and Economic Growth*. <https://doi.org/10.3386/w5398>
- SADC Land Reform Support Facility, 2008. Land reform for poverty reduction in Southern Africa. Proceedings of a Multi-Stakeholder Conference 15–16.
- Sakue-Collins, Y. (2020). (Un)doing development: A postcolonial enquiry of the agenda and agency of NGOs in Africa. *Third World Quarterly*, 1–20. <https://doi.org/10.1080/01436597.2020.1791698>
- Samati, G. (2020, October 18). Fight over mining licenses gets dirty. *Daily Times Malawi Online*. [https://times.mw/101531-2/?fbclid=IwAR3iZGV6lqORV7B1TIDUtOg0yYfLtavI3soTH8a-iun1hV8\\_sVvLqbsrzhM](https://times.mw/101531-2/?fbclid=IwAR3iZGV6lqORV7B1TIDUtOg0yYfLtavI3soTH8a-iun1hV8_sVvLqbsrzhM)
- Sandbrook, J. B. K. (2012). *The corruption chameleon: A case study of corruption within a Malawian NGO : a thesis presented in partial fulfilment of the requirements for the degree of Master of Philosophy in Development Studies at Massey University, Palmerston North, New Zealand*. [Thesis, Massey University]. <https://mro.massey.ac.nz/handle/10179/4014>
- Sangala, T. (2018, May 8). *Kayelekera Mining never benefited Malawians—Peter Mutharika*. <https://times.mw/kayelekera-mine-never-benefited-malawians-peter-mutharika/>

- Sayer, J. (2007). *Confrontation, cooperation and co-optation: NGO advocacy and corporations* (p. 155). <https://doi.org/10.4324/9780203939215>
- Schilling-Vacaflor, A. (2017). Who controls the territory and the resources? Free, prior and informed consent (FPIC) as a contested human rights practice in Bolivia. *Third World Quarterly: Special Issue: New Mechanisms of Participation in Extractive Governance Between New Technologies of Governance and Resistance Work*, 38(5), 1058–1074. <https://doi.org/10.1080/01436597.2016.1238761>
- Schlosberg, D. (2002). *Approaches to Difference in the US Environmental Movement: Classification Schemes, Hegemonic Definitions, and Singular Motivations*. Oxford University Press. <https://doi.org/10.1093/0199256411.003.0002>
- Schlosberg, D. (2013). Theorising environmental justice: The expanding sphere of a discourse. *Environmental Politics*, 22(1), 37–55.
- Sending, O. J., & Neumann, I. B. (2006). Governance to Governmentality: Analyzing NGOs, States, and Power. *International Studies Quarterly*, 50(3), 651–672. <https://doi.org/10.1111/j.1468-2478.2006.00418.x>
- Sequeira, A. R., Mchenry, M. P., Morrison-Saunders, A., Mtegha, H., & Doepel, D. (2016). Is the Extractive Industry Transparency Initiative (EITI) sufficient to generate transparency in environmental impact and legacy risks? The Zambian minerals sector. *Journal of Cleaner Production*, 129(C), 427–436. <https://doi.org/10.1016/j.jclepro.2016.04.036>
- Shepard, D., & Mittal, A. (2009). (Mis) Investment in agriculture: The role of the international finance corporation in global land grabs. Oakland, USA: The Oakland Institute.
- Shivji, I. (1991). The democracy debate in Africa—Tanzania. *Review of African Political Economy*, 50, 79–91.
- Shivji, I. G. (2006). The Silences in the NGO Discourse: The role and future of NGOs in Africa. *Africa Development / Afrique et Développement*, 31(4), 22–51.
- Sikor, T., & Newell, P. (2014). Globalising environmental justice? Themed issue. *Geoforum*, 54, 151–241.
- Simukonda, P. (1992). The Non-Government Sector in Malawi's Socio-Economic Development. In *Malawi at The Crossroads The Post-Colonial Political Economy* (pp. 298–348). SAPES BOOKS.

- Smith, M. J. (1990). Pluralism, reformed pluralism and neopluralism: The role of pressure groups in policymaking. *Political Studies*, 38(2), 302–322.
- Smoke, P. (2003). Decentralisation in Africa: Goals, dimensions, myths and challenges. *Public Administration and Development*, 23(1), 7–16. <https://doi.org/10.1002/pad.255>
- Sousa, R., Veiga, M., Van Zyl, D., Telmer, K., Spiegel, S., & Selder, J. (2011). Policies and regulations for Brazil artisanal gold mining sector: Analysis and recommendations. *Journal of Cleaner Production*, 19(6–7), 742–750. <https://doi.org/10.1016/j.jclepro.2010.12.001>
- Spiegel, S. J. (2017). EIAs, power and political ecology: Situating resource struggles and the techno-politics of small-scale mining. *Geoforum*, 87, 95–107. <https://doi.org/10.1016/j.geoforum.2017.10.010>
- Steinmo, S., Thelen, K. A., & Longstreth, F. (1992). *Structuring politics: Historical institutionalism in comparative analysis*. Cambridge England : Cambridge University Press.
- Stewart, S. (1997). Happy ever after in the marketplace: Non-government organisations and uncivil society. *Review of African Political Economy*, 24(71), 11–34. <https://doi.org/10.1080/03056249708704236>
- Strambo, C., & Espinosa, A. C. G. (2020). Extraction and development: Fossil fuel production narratives and counternarratives in Colombia. *Climate Policy*. <https://www.tandfonline.com/doi/abs/10.1080/14693062.2020.1719810>
- Streeck, W., & Thelen, K. A. (2005). *Beyond continuity institutional change in advanced political economies*. Oxford.
- Swyngedouw, E., & Kaika, M. (2014). Urban Political Ecology: Great Promises, Deadlock and New Beginnings? *Documents d'anΓ Lisi GeogrΓ Fica*, 60(3), 459–481.
- Tambulasi, R. I. (2015). Conditionality, Path Dependence and Veto Points: The Politics of Hospital Autonomy Reforms in Malawi. *Journal of Asian and African Studies*, 50(2), 176–195. <https://doi.org/10.1177/0021909613515812>
- Tambulasi, R. I. C. (2011). Local Government Without Governance: A New Institutional Perspective of Local Governance Policy Paralysis in Malawi. *Public Policy and Administration*, 26(3), 333–352. <https://doi.org/10.1177/0952076710374915>

- Tangri, R. (1971). Inter-war “Native Associations” and the formation of the Nyasaland African Congress. *Transafrican Journal of History*, 1(1), 84–102. JSTOR. <http://www.jstor.org/stable/24520354>
- Temper, L. (2014). *Environmentalism of the dispossessed: Mapping ecologies of resistance*.
- Temper, L., Del Bene, D., & Martinez-Alier, J. (2015). Mapping the frontiers and front lines of global environmental justice: The EJAtlas. *Journal of Political Ecology*, 22(1), 255–278.
- Temper, L., & Martinez-Alier, J. (2013). The god of the mountain and Godavarman: Net Present Value, indigenous territorial rights and sacredness in a bauxite mining conflict in India. *Ecological Economics*, 96, 79–87. <https://doi.org/10.1016/j.ecolecon.2013.09.011>
- Temple, B. (2016). Crossed Wires: Interpreters, Translators, and Bilingual Workers in Cross-Language Research. *Qualitative Health Research*, 12(6), 844–854. <https://doi.org/10.1177/104973230201200610>
- Terje Tvedt. (2002). Development NGOs: Actors in a Global Civil Society or in a New International Social System? *Voluntas (Manchester, England)*, 13(4), 363–375. <https://doi.org/10.1023/A:1022010026305>
- Thelen, K. (1999). Historical Institutionalism in Comparative Politics. *Annual Review of Political Science*, 2(1), 369–404. <https://doi.org/10.1146/annurev.polisci.2.1.369>
- Thelen, K. (2002). The explanatory power of historical institutionalism. *Mayntz, Renate (Hg.): Akteure-Mechanismen–Modelle. Zur Theoriefähigkeit Makro-Sozialer Analysen. Frankfurt, New York*, 91–107.
- Thelen, K. (2004). *How Institutions Evolve: The Political Economy of Skills in Germany, Britain, the United States, and Japan*. Cambridge : Cambridge University Press.
- Thomas, S. (1975). Economic developments in Malawi since independence. *Journal of Southern African Studies*, 2(1), 30–51.
- Thorp, R. (2012). *The developmental challenges of mining and oil: Lessons from Africa and Latin America*. Basingstoke : Palgrave Macmillan.
- Tilitonse. (2013). *Political Economy Analysis of Mining in Malawi*. Tilitonse. [http://tilitonsefund.org/wp-content/uploads/2013/05/Final-report\\_mining\\_Tilitonse\\_2\\_.pdf](http://tilitonsefund.org/wp-content/uploads/2013/05/Final-report_mining_Tilitonse_2_.pdf)

- Tindall, P. E. N. (1968). *A history of Central Africa*. London : Longmans.  
<https://trove.nla.gov.au/version/25166969>
- Tostensen, A. (2017). Malawi: A Political Economy Analysis. *Xi*, 63 p.  
<https://nupi.brage.unit.no/nupi-xmlui/handle/11250/2461122>
- Tvedt, T. (1998). *Angels of mercy or development diplomats? : NGOs & foreign aid*. Oxford : James Currey Trenton, N.J. : Africa World Press.
- Tvedt, T. (2007). Development NGOs revisited: A new research agenda. In *Reconceptualising NGOs and their Roles in Development: NGOs, Civil Society and the International Aid System*. (pp. 25–54).
- Ulloa, E. A. (2004). *The ecological native: Indigenous peoples' movements and eco-governmentality in Colombia*.
- Vakil, A. C. (1997). Confronting the classification problem: Toward a taxonomy of NGOs. *World Development*, 25(12), 2057–2070.
- Vondoepp, P. (2002). Malawi's Local Clergy as Civil Society Activists? The Limiting Impact of Creed, Context and Class. *Commonwealth & Comparative Politics*, 40(2), 21–46.  
<https://doi.org/10.1080/713999588>
- Wälde, T. (2002). Mining law reform in South Africa. *Minerals and Energy*, 17(4), 10–17.
- Weir, M. (1992). *Ideas and the politics of bounded innovation in Steinmo, S., Thelen, K. and Longstreth, F.(eds.) Structuring Politics: Historical Institutionalism in Comparative Analysis*.
- Whitmore, A. (2006). The emperor's new clothes: Sustainable mining? *Journal of Cleaner Production*, 14(3–4), 309–314.
- Wiegink, N. (2018). Imagining booms and busts: Conflicting temporalities and the extraction-“Development” nexus in Mozambique. *The Extractive Industries and Society*, 5(2), 245–252.
- Williams, G., & Mawdsley, E. (2006). Postcolonial environmental justice: Government and governance in India. *Geoforum*, 37(5), 660–670.
- Wise, T. (2017). Did Monsanto Write Malawi's Seed Policy. *Intellectual Property Watch Online*. <https://www.ip-watch.org/2017/08/25/monsanto-write-malawis-seed-policy/>
- Witmos, B. (2019, December 17). Community Investors battle ranges in Chitipa. *The Daily Times*.

- Wolf, R. (2015). Why wealthy countries must not drop nuclear energy: Coal power, climate change and the fate of the global poor. *International Affairs*, 91(2), 287–301. <https://doi.org/10.1111/1468-2346.12235>
- World Bank. (1992). *Strategy for African Mining*. World Bank.
- World Bank. (1992). *Strategy for African mining*. World Bank. <https://documents.worldbank.org/en/publication/documents-reports/documentdetail>
- World Bank. (2006). *Malawi—Poverty and Vulnerability Assessment: Investing in Our Future*. <https://Openknowledge.Worldbank.Org/Handle/10986/7909>. <https://openknowledge.worldbank.org/handle/10986/7909>
- World Bank. (2009). *Malawi Mineral Sector Review-Source of Economic Growth and Development*.
- World Bank. (2012a). *Implementing EITI for Impact: A Handbook for Policy Makers and Stakeholders*. Washington, DC.
- World Bank. (2012b). *Mining Community Development Agreements: Source Book*. Washington, DC.
- World Bank. (2017). *Harnessing the Urban Economy, Malawi Economic Monitor*. World Bank.
- Wright, G. W. (2012). NGOs and Western hegemony: Causes for concern and ideas for change. *Development in Practice*, 22(1), 123–134.
- Yearley, S. (2005). *Cultures of environmentalism: Empirical studies in environmental sociology* (p. vii). <https://doi.org/10.1057/9780230514867>
- Zoomers, A. (2010). Globalisation and foreignisation of space: Seven processes driving the current land grab. *Journal of Peasant Studies*, 37(2), 429-447
- Zucker, L. G. (1983). Organizations as Institutions. *Research in the Sociology of Organisation*, 1–42.
- Zuka, S. P. (2016). Contesting Institutional Engineering for Decentralized Natural Resource Governance in Malawi. *SAGE Open*, 6(3). <https://doi.org/10.1177/2158244016659527>
- Zuka, S. P. (2019). Customary Land titling and inter-generational wealth transfer in Malawi: Will secondary Land rights holders maintain their Land rights? *Land Use Policy*, 81, 680–688. <https://doi.org/10.1016/j.landusepol.2018.11.039>

Zulu, L., & Wilson, S. (2012). Whose Minerals, Whose Development? Rhetoric and Reality in Post-Conflict Sierra Leone. *Development and Change*, 43(5), 1103–1131. <https://doi.org/10.1111/j.1467-7660.2012.01788.x>

## **Appendix 1: Information Sheet for Interview/FGD/Verbal Consent**

### **Research Project Title:**

Non-Governmental Organisations and the Politics of Environmental Mining Law Review in  
Malawi: Subjectivities and Bifurcated Loyalties

Research investigator: Mr. Sane Pashane Zuka, University of Edinburgh, Chrystal Macmillan  
Building 15a George Square Edinburgh UK EH8 9LD,

### **About the Project**

The main objective of this study is to examine the factors that impacted non-governmental organisations (NGOs) in Malawi in shaping the country's environmental mining regime and particularly the review of the Mines and Minerals Act (MMA) of 1981. This project is a response to increased mining investment in Malawi and the environmental challenges that have come with this increased mining activity. The aim is to contribute to the generation of knowledge regarding how NGOs in Malawi interfaced with the state and local communities during the review of the 1981 MMA. This research project is for a PhD in International Development at the University of Edinburgh. The study directly contributes to a discussion on the formation of environmental regulation needed to guide mining activities in Malawi.

### **Who is responsible for the data collected in this study?**

Data for this project will be collected by Mr. Sane Pashane Zuka who will be responsible for sourcing documents and conducting Individual Interviews and Focus Group Discussions.

This study will mainly use three main methods of data collection namely: qualitative document analysis, semi-structured individual interviews and FGDs. In terms of document analysis, the researcher will documents produced by government, private sector and civil society's documents relating to review of environmental mining laws in Malawi and particularly those discussing the 1981 MMA and other complementary legislation such as the EMA of 1996, EMA of 2016, Land Act of 1967, Land Act of 2016. Other documents to be collected include mining policy, media and private mining publication on environment, parliamentary proceedings relating to the processes leading to the promulgation of 201MMA. Individual interviews will be conducted with key government staff in the Department of Mines and Environmental Affairs, representatives of private mining companies, academicians, staff from CEPA, FOCUS, CCJP, Church and Society and other NGOs working in the mining sector,



environment experts and traditional and development leaders at Mchenga and Mwaulambo Coal Mining sites. The researcher will collect data on the following areas: environmental issues in mining that were prioritised and reasons why they were prioritised, rules that guided the review of the 1981 MMA, policy-making stakeholders that participated in the review of the Act, working relations that were established or developed, and role of NGOs in the process of reviewing the Act. FGDs will be conducted with local communities and mining workers at Mchenga and Mwaulambo Coal Mining sites.

Data collected from this study will firstly be transcribed to remove any identities of individuals participating in this study. The data will then be stored in password protected files on a personal laptop. This data will be kept for two years which is the period for writing the thesis. After this period, the data be deleted from the laptop. Data collected in this study is purely for my PhD studies and will not be shared with any other organisation. This study has been reviewed and passed by the University of Edinburgh, School of Social and Political Science in February 2019.

#### **What is involved in the study?**

Data collection for this study will take six months and will involve interviewing different policy-making actors from government sector, academia, private sector, civil society, independent environmental experts, traditional leaders and selected local communities at Mchenga and Mwaulambo where coal mining is taking place. Where there will be information gaps in the data collected, follow ups will be made to fill up the gaps and you will be notified of the follow up. The follow up interviews/discussions will only dwell on the gaps that have been identified but you have freedom to add any information you so wish. You will also have the freedom to opt out of the follow up interview/discussion if you so wish.

#### **What are the risks involved in this study?**

The data collected through this interview/discussion will be kept confidential and will not be shared by anyone. You have the opportunity to request that your information be removed from the collected data at any time within the next two years. If that happens, your information will be deleted and will not be used as part of the study.

#### **What are the benefits for taking part in this study?**

This study focuses on laws relating environmental mining regulation in Malawi and will make two major contributions. Firstly, it will contribute to generation of academic knowledge about the role that non-government organisations can play in the production of environment mining

regulations in the country. This knowledge will be used by different students and scholars in the colleges and Universities. Secondly, by contributing to understanding of the processes involved in the establishment of regulations regarding environmental issues in mining in Malawi, the study will contribute to good governance of mining activities in the country. The final product of this study is a thesis that will be submitted to the University of Edinburgh, School of Social and Political Science, and copies of the Thesis will be made available to the University of Malawi main Library.

**What are your rights as a participant?**

Taking part in the study is voluntary. You may choose not to take part or subsequently cease participation at any time. However, taking part in the research is good to achieve the benefits outlined above.

**Will I receive any payment or monetary benefits?**

You will receive no payment for your participation. I will not use the data will for commercial purposes. Therefore, you should not expect any royalties or payments from the research project in the future.

**For more information**

This research has been reviewed and approved by the Edinburgh University Research Ethics Board. If you have any further questions or concerns about this study, please contact:

Name of researcher: Mr Sane Pashane Zuka

Full address. University of Edinburgh, Chrystal Macmillan Building, 15a George Square Edinburgh UK EH8 9LD Tel: +44(0)7553281668,

E-mail:

You can also contact Mr. Sane Zuka's supervisor:

Name of Research Supervisor: Dr Sam Spiegel

Full address: University of Edinburgh, Chrystal Macmillan Building  
19 George Square Edinburgh UK EH8 9LD, Tel: +44 (0) 131 651 3066,

E-mail:

Name of Research Supervisor: Dr Andrew Bowman

Full address: University of Edinburgh, Chrystal Macmillan Building  
19 George Square Edinburgh UK EH8 9LD

Tel: +44 (0) 131 651 1617, E-mail:

**What if I have concerns about this research?**

If you are worried about this research, or if you are concerned about how it is being conducted, you can contact the Chair of the School of Social and Political Science Research Ethics Subcommittee, University of Edinburgh, Chrystal Macmillan Building, 15a George Square Edinburgh UK EH8 9LD. (or email at \_\_\_\_\_).

**Appendix 2: Letter of Approval to Collect Data from Local Health Centres**



**KARONGA DISTRICT COUNCIL**

P. O Box 35  
Karonga  
Malawi

Tel. **01362 222**  
Fax: **01362298**  
e-mail: [REDACTED]

Ref:KDC/1/15/1/41

7th June, 2019.

TO WHOM IT MAY CONCERN

**INTRODUCTORY LETTER MR SANE PASHANE ZUKA – MSC, MA BED PHD CANDIDATE –  
INTERNATIONAL DEVELOPMENT UNIVERSITY OF EDINBURGH**

The above is a PHD research student from the University of Edinburgh conducting his research in Karonga district mining areas. He will be consulting stakeholders in the sector including CSOs, local communities, Government officials, private sectors in the mining industry.

Please lets give support and cooperate with him.

Regards,

[REDACTED]  
F.S Mufungwe  
For/District Commissioner

DISTRICT COMMISSIONER  
KARONGA DISTRICT COUNCIL  
07 JUN 2019  
BOX 35. KARONGA

Telephone :( 265)01 372222/287  
Fax: (265) 01 372338  
All communications should be addressed  
The District Health Officer



Rumphi District Hospital  
P.O. Box 225  
Rumphi  
Malawi

08/05/2019

Sane Pashane Zuka,  
University of Edinburgh  
Department of Social and Political Science  
EH8 9LD, Scotland  
UK

**Dear Zuka,**

I write on behalf of Rumphi District Health Office in support of the proposed study titled “**effectiveness of environmental non-governmental organization (ENGOS) in Malawi**”. We are aware that the study is for academic purposes and we would like to assure you that we will support you including further support for respondents that would need further understanding of the study.

Through this letter, we acknowledge specific roles and responsibilities that we will fulfill in this collaboration. The district health staffs will participate in consultations about the organization of study and will support the research team as needed. In addition, I also look forward to working with you on ensuring that study participants who will be conducted during the study will be voluntarily participating.

We look forward to working together as findings from study will help to inform and equip us in eliminating health disparities in our community and achieving equity.

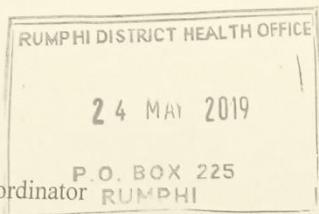
Yours sincerely,

[Redacted signature]

Andrew Mzumara

Acting Research Coordinator

[andrewmzumaraw@gmail.com](mailto:andrewmzumaraw@gmail.com) / 0888362812



**For: ACTING DIRECTOR FOR HEALTH AND SOCIAL SERVICES**

### Appendix 3: List of Respondents

No	Name	Company/Organisation	Position
1	Ms. Victoria Kachimera	Department of Environment Affairs, Headquarters, Lilongwe	Director of Legal Affairs
2	Mr. Christopher Mwambene	CURE	Director
3	Ms. Gloria Majiga	CEPA	Project Manager – Mining
4	Mr. Gracian Banda	Banda and Banda Law Company	Environmental Law Consultant
5	Mr G. Mphepo	LEAD	Project Manager
6	Mr Dzinjalama	Malawi Bureau of Standards – MBS -Environmental Standards Section	Department Officer
7	Mr Kera	Malawi Bureau of Standards – MBS -Environmental Standards Section	Department Officer
8	Dr. Ishmael Kosamu	University of Malawi, The Polytechnic	Ass Prof in Environment Sciences – involved in the formulation of EMA
9	Mr Kondwani Dombola	Department of Mining	Deputy Director of Mining
10	Ms. Caroline Theka	Department of Environmental Affaires	Environmental Officer- Legal Section
11	Mr. Burnet Msiska	Department of Mining, Lilongwe	Mining Engineer
12	Mr. Bwanalori Mwamlima	Rumphi District Hospital –	Project Coordinator of TB Control in Mining (North)
13	Mr. Kelvin Banda	Rumphi District Council	District Environmental Officer
14	Mr. Richard Mlambe	Polytechnic Department of Commerce	Lecturer in Law

15	Mr. Kelvin Banda	Rumphi District Council	District Environmental Officer
16	Mr. Frank Mkandawire	Rumphi District Council	Director of Development and Planning
17	Mr. Emanuel Bulukutu	Karonga District Council	District Commissioner
18	Mr Kalua	Karonga District	Community Leader
19	Acting GVH Kamguza	Karonga District	Local Chief
20	Mr. Jones Sichali	Karonga District FOCUS	Programme Coordinator Mining
21	Mr. Moses Mkandawire	Church and Society-Synod of Livingstonia	Executive Director
22	Mr Chingaipe Mkandawire	Mchenga Community-Based Organisation	Executive Member
23	Mr. Fransisco Mkanani	Rumphi District Hospital	Environmental Health Officer
24	Mr. Edwin Msiska	Rumphi District Hospital	TB Officer
25	Mr. Edwin Banda	Department of Lands, Rumphi District	Lands Officer
26	Mr. Theba Njikula Mkandawire	Jalawe/Mchenga	Sub Traditional Authority
27	Mr. Viphya Munthali	Jalawe Health Centre	Health Surveillance Assistant
28	Mr Lydon Mkandawire	Rumphi District Labour Office	Labour Officer
29	Mr. Winston Mkandawire	Mchenga Community-Based Organisation	Community Educator
30	Mr. Isaac Mkandawire	Karonga District	Director of Development and Planning
31	Mr. Khumbo Mbeye	Karonga District	Environmental Officer

32	Mr. Vincent Binga	Karonga Catholic Commission for Justice and Peace	Field Officer
33	GVH Mwaulambo	Karonga	Group Village Headman
34	Mr. Felix Manda	Mzuzu- Catholic Commission for Justice and Peace	Project Officer