

# *CITIZEN PARTICIPATION IN MINING GOVERNANCE*



**A RESOURCE KIT TO STRENGTHEN PARTICIPATORY,  
TRANSPARENT, ACCOUNTABLE AND RESPONSIVE  
MINING GOVERNANCE**

**A TONSE TIPINDULE PROJECT  
PUBLICATION WITH SUPPORT FROM TILITONSE FUND**

**Contents**

Preface..... 3

I.0. Background Information..... 4

2.0. RESOURCE KIT OUTLINE ..... 5

SECTION 1: RIGHTS BASED APPROACH AND DEVELOPMENT: ..... 6

SECTION II: THE MINING SECTOR IN MALAWI..... 17

SECTION III: SOCIAL AUDIT AND DEMOCRATIC GOVERNANCE ..... 30

SECTION IV: GRASSROOT ADVOCACY: MOBILISING COMMUNITIES FOR ACTION. .... 45

**BIBLIOGRAPHY** ..... 65

Preface

by **Chris Chisoni**

## I.0. Background Information

The Catholic Commission for Justice and Peace (CCJP), in partnership with Qadria Muslim Association of Malawi, Evangelical Association of Malawi, Church and Society Program of the CCAP Synod of Livingstonia and Malawi Council of churches, is implementing a project called Tonse Tipindule in 10 districts (Chitipa, Karonga, Mzimba, Dowa, Ntcheu, Balaka, Mangochi, Mwanza, Mulanje and Phalombe).

The goal of the project is to contribute towards having a more transparent, accountable inclusive and responsive mining regime that benefits all Malawians. In order to achieve this goal there are a number of activities that are being undertaken both at National and Local level. One of the key result areas of the project is to establish a stakeholder engagement framework at community level; hence the formation of Community Action Groups (CAGs). The CAGs are a small grouping that are comprised of representatives of the larger community leadership dealing with mining issues in each community.

Realizing the capacity gaps of CAGs on governance, mining and local advocacy; Tonse Tipindule Project has developed this resource kit which contains key principles of governance; methodologies for conducting social accountability initiatives and conducting local level advocacy and campaigning to enhance the skills of the CAGs.

The purpose of this resource kit is to provide information to trainers and learners on mining governance processes. Therefore it must be used to impart information and knowledge about mining in Malawi and provide skills towards effective community lobbying and advocacy initiatives on mining governance.

## 2.0. RESOURCE KIT OUTLINE

Section One of the resource kit looks at the rights based approach and development as the basis for citizen participation in mining governance.

Section Two of the resource kit looks at the mining sector in Malawi. This section enhances users' understanding of the mining sector in Malawi.

Section Three of the resource kit looks at social audit as key to citizens' demand for transparency and accountability from duty bearers.

Section Four of the resource kit looks at grassroots advocacy and is aimed at enhancing users' understanding of grassroots advocacy processes and actions used by advocates

## SECTION 1: RIGHTS BASED APPROACH AND DEVELOPMENT:

### *A. Objectives:*

The broader objective of this module is to acquaint users with the legal basis for citizens and communities to claim their rights and make government officials, civil servants and private sector accountable to the people for their action.

### *B. Key Terms and Definitions*

- ✓ ***Duty bearers - Those whose action can enable or ensure the enjoyment of rights. These are people or institutions that have an obligation to deliver basic rights.***
- ✓ ***Rights holders- men, women, girls and boys who claim an entitlement to their rights. Because it is their right, they can demand from duty bearers their rights to development.***
- ✓ ***Human rights- Human Rights are universal legal guarantees/ entitlements protecting individuals and groups against actions which interfere with fundamental***

### *C. Human Rights and Development*

*“Human rights standards contained in, the principles derived from, the Universal Declaration of Human Rights and other international human rights instruments guide all development cooperation and programming in all sectors and in all phases of the programming process” (UN, May 2003)*

After the end of World War Two in 1945 the terms “development” and “human rights” became linked. Up to that time “human rights” was mainly seen as a task for lawyers and “development” was largely reserved for economists. The first United Nations document to mention “Human Rights” was The UN Charter in 1945. It was followed by The Universal Declaration of Human Rights adopted in 1948. This identified an internationally agreed list of human rights which a person has simply because he or she is a human being.

In 1986 the Declaration on The Right to Development was adopted by the UN. It states that human beings are at the centre of development and identifies key development elements including participation, fair distribution, self-determination, fulfilment of state obligations.

In the Malawi constitution, the right to development has been recognized and is included in section 30.

#### *Development*

Development can be defined as a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the distribution of benefits there from.

Development should be looked at broadly than in money terms only. Development should be economic, social, and political as well as cultural development. Further, development need to be people oriented and gender sensitive. Development should therefore be understood as a process designed to progressively create conditions in which men and women can exercise their economic, social, cultural, civil and political rights. In this sense, it was then agreed that development is a right recognised under international law as provided for in the United Nations Declaration on the Right to Development.

- Development and development work is about advancing human well-being or the quality of life

- Development is a comprehensive economic, social, cultural and political process
- Development and human rights are synergistic
- Development is a human right

The human rights approach gives a moral and legal basis for people to demand development as their right(s). It also changes the way that development agencies are supposed to do their work, as they can be held accountable for their actions. For instance, it obliges agencies to identify root causes of problems, use disaggregated gender and other data, approach rights with relevant responsibilities, as well as the conducting of a vulnerability analysis.



## *Rights Based Approaches to Development*

### *Examples of Definitions of RBA*

- ❑ *A rights-based approach to development describes situations not simply in terms of human needs, or developmental requirements, but in terms of society's obligations to respond to the inalienable rights of individuals, empowers people to demand justice as a right, not as a charity, and gives communities a moral basis from which to claim international assistance when needed. – UN Secretary-General 1998*
  
- ❑ *A democracy and human-rights approach translates poor people's needs into rights, and recognises individuals as active subjects and stakeholders. It further identifies the obligations of states that are required to take steps - for example through legislation, policies and programmes - whose purpose is to respect, promote and fulfil the human rights of all people within their jurisdiction. – Sida 2002*
  
- ❑ *A rights-based approach affirms that all citizens are entitled to the resources that satisfy their basic needs. Additionally, every citizen - rich and poor - has the right to information and participation in the development process. – ActionAid Kenya 2002*
  
- ❑ *A rights based approach to development makes use of the standards, principles and approaches to human rights, social activism and of development to tackle the power issues that lie at the root of poverty and exploitation to promote justice, equality and freedom- Save the Children, 2003*
  
- ❑ *A rights-based approach deliberately and explicitly focuses on people achieving the minimum conditions for living with dignity. It does so by exposing the root causes of vulnerability and marginalization and expanding the range of responses. It empowers people to claim and exercise their rights and fulfil their responsibilities. A rights-based approach recognises poor people as having inherent rights essential to livelihood security - rights that are validated by international standards and laws. – CARE 2000*

## *Duties and Responsibilities in Development – The Individual and State*

### **The State has a responsibility**

After a state has signed a particular convention it is required to ensure that its entire people are protected by that convention. This frequently involves the state in developing national legislation on social justice, protection of minorities, women, children etc. In Malawi, this is strengthened by the commitment the state has made by including various provisions of human rights in its constitution. These rights are found in chapter 4 of the Malawi Constitution.

#### **TYPES OF DUTIES FOR STATE**

##### **❑ *The Obligation/Duty to Respect***

- ✓ *Requires the duty-bearer to refrain from interfering directly or indirectly with the enjoyment of the right. E.G. in right to food it requires the state not to take measures that result in preventing access to adequate food or in occurrence of famines (e.g by marketing unsafe foods).*

##### **❑ *The Obligation/Duty to Protect***

- ✓ *Requires the duty-bearer to take measures that prevent third parties from interfering with the enjoyment of the right. E.G. on right to food- government ensuring that enterprises or individuals do not deprive people of access to food; in right to health-government ensuring that privatisation of health sector will not threaten accessibility, acceptability and quality of health services*

##### **❑ *The Obligation/Duty to Fulfill (Facilitate)***

- ✓ *Requires the duty-bearers to adopt appropriate legislative, administrative, budgetary, judicial, promotional, and other measures towards the full realization of the right. E.g positive measures to promote access and use of food (e.g price regulation; input subsidy policy); primary health care is extended to all (e.g Essential Health Package)*

##### **❑ *The Obligation/Duty to Fulfill (Provide)***

- ✓ *Requires the duty-bearers to directly provide assistance or services for the realization of the right. E.G. providing food to those unable for reasons beyond their control – providing food to disaster victims; education bursaries to the needy; health insurance schemes (e.g government paying for specialist treatment outside the country).*

## RIGHTS HOLDER- DUTY BEARER RELATIONSHIP



### *Principles of RBA*

Rights-based approaches represent much more than linking development goals with human rights standards, they represent a way of working, a cross-cutting approach to development that promotes human rights values of equality, justice, and freedom by prioritizing principles of **participation**, **accountability**, and **inclusion** or **non-discrimination** at every stage of the programme cycle.

- ❑ **Accountability** - Rights-based approaches emphasize issues of accountability, identifying actors whose actions impact on the realisation and enjoyment of Human Rights with a view to holding these duty-bearers accountable for respecting, promoting or fulfilling basic human rights.
- ❑ **Participation** - Participation refers to people's right and ability to be involved in decision-making processes that impact upon their lives. It is a fundamental human right<sup>1</sup> and a key principle of rights-based approaches. Participation is about respecting people living in poverty as citizens with rights and responsibilities rather than objects of charity, and supporting them to become genuine protagonists in their own development, enabling them to ask not only

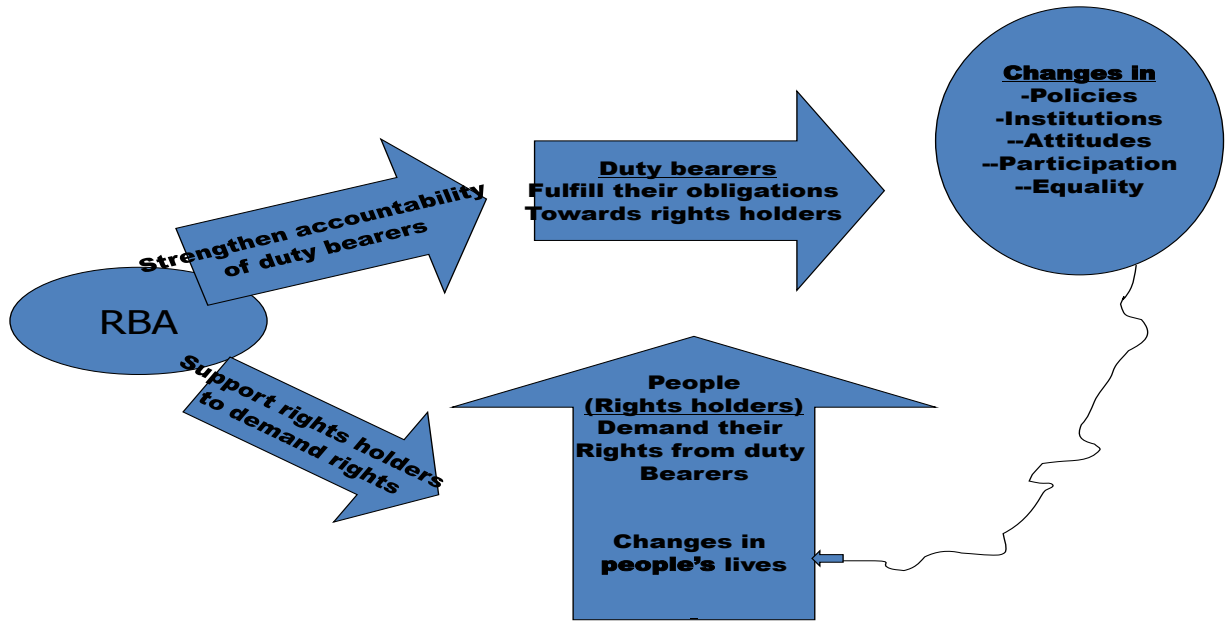
<sup>1</sup> United Nations Declaration on the Right to Development

‘how do we make the most of what we have?’ but also ‘why is this all we have got when we are entitled to more?’<sup>2</sup>.

- *Non-discrimination and social inclusion*- Rights-based approaches build upon the human rights principle of universality and are concerned with issues of non-discrimination and inclusion, paying particular attention to vulnerable groups. RBA highlights the fact that a great deal of poverty originates from discriminatory practices at all levels that result in fundamentally unequal distributions of power and resources. Moreover, those living in poverty are not a homogenous group, and there is a need to ensure that those who are the most vulnerable and therefore the hardest to reach are not overlooked or excluded by development. Therefore development processes should actively seek to fight discrimination and incorporate express safeguards against reinforcing existing power imbalances and inequalities.
  
- *Empowerment* - Rights-based approaches also give preference to strategies for empowerment over charitable responses. They focus on beneficiaries as the owners of rights and the directors of development, and emphasize the human person as the centre of the development process. The goal is to give people the power, capacities, capabilities and access needed to change their own lives, improve their own communities and influence their own destinies.

---

<sup>2</sup> Oxfam Shire Highlands IPSL Programme, “Draft Programme Plan 2000- 2005”



24

#### ***D. RIGHTS BASED APPROACH AND CITIZEN PARTICIPATION IN MINING GOVERNANCE***

The Rights-Based Approach to development encourages us to look into the root causes of poverty and marginalization, instead of mainly looking at the symptoms. The poor and marginalised have their individual and collective rights violated on a daily basis while they are marginalized economically, socially, culturally, and politically. On a daily basis many poor and marginalised people are confronted by sponsored development and corporate projects one of which is the mining sector that lead to gross and wide-scale violations of their collective rights, especially to their lands, territories, and resources.

## IMPACTS OF MINING

NEGATIVE IMPACTS OF MINING	POSITIVE IMPACTS OF MINING
<ul style="list-style-type: none"> <li>✓ physical or economic displacement and resettlement</li> <li>✓ reduced ability to carry on traditional livelihoods due to loss of access to land and/or damage or destruction of key resources (forests, water, fisheries)</li> <li>✓ displacement of artisanal miners</li> <li>✓ destruction of, or damage to, culturally significant sites and landscapes – both tangible and intangible</li> <li>✓ social dislocation and erosion of cultural values as a result of rapid economic and social change (e.g. the shift from a subsistence to a cash economy)</li> <li>✓ social conflicts over the distribution and value of mining-related benefits (e.g. royalties, jobs)</li> <li>✓ increased risk of exposure to diseases such as AIDS, tuberculosis and other communicable diseases</li> <li>✓ increased exposure to alcohol, gambling and other “social vices”</li> <li>✓ further marginalization of some groups (e.g. Women)</li> <li>✓ “outsiders” (e.g. artisanal miners) moving on to traditional lands due to areas being opened up by the construction of roads</li> <li>✓ large-scale uncontrolled in-migration contributing to increased competition for resources and social tensions.</li> </ul>	<ul style="list-style-type: none"> <li>✓ improved infrastructure and services (e.g. access to clean water, power, roads)</li> <li>✓ better health outcomes, due to improved services and delivery , better preventive measures (e.g. spraying for malaria)</li> <li>✓ improved support for education and better resources and facilities</li> <li>✓ enhanced employment and business</li> <li>✓ opportunities, both in mining and ancillary industries</li> <li>✓ increased income flows through royalty streams and compensation payments</li> <li>✓ improved living standards due to increased wealth</li> <li>✓ company and government assistance for community development initiatives and livelihood support programs</li> <li>✓ company support for identification, protection and promotion of cultural heritage</li> <li>✓ environmental restoration and protection (e.g. through reforestation initiatives, improved fire management)</li> <li>✓ special measures for the improvement of marginal groups (e.g. through education, small business development programs).</li> </ul>

Given this situation, the Rights-Based Approach should serve as framework for advocacy and lobbying of the poor and marginalised. The objective is basically to empower people towards helping them claim their individual and collective rights in a sustainable manner.

The community action groups (CAGs) have a responsibility to demand rights and transparency and accountability from government and other duty bearers like mining companies on behalf of the communities

## E. THE COMMUNITY ACTION GROUPS

### *What is CAG?*

- A Community Action Group (CAG) according to TIWONE project is defined as a group of community members actively involved in taking appropriate actions on issues of community concerns as result of mining activities in their areas.
- CAG is composed of animators, members from CBOs, Religious leaders, business individuals and opinion leaders in the community.
- Traditional leaders, Village and Area Development Committee members cannot be selected for CAGs.
- CAGs work hand in hand with Traditional leaders, Village and Area Development Committee members. CAGs are supposed to share their reports and activities with the local governance structures

### **UNITED NATIONS DECLARATION ON RIGHTS OF INDIGENOUS PEOPLE**

- ❑ ***Right of self-determination- Indigenous people have the right to self-determination, which means that they freely determine collectively their political, economic, social and cultural systems and development***
- ❑ ***Right of lands, territories and resources-Indigenous peoples have the right to lands, territories and resources***
- ❑ ***Right to Free, Prior and Informed Consent***
- ❑ ***Right to development-Indigenous people have the right to maintain and develop their political, economic and social systems and institutions and to secure their own means of subsistence and development, including the freedom to engage in traditional and other economic activities.***
- ❑ ***Right to culture and cultural heritage – Indigenous peoples and individuals have the right not to subjected to forced assimilation or destruction of their culture***
- ❑ ***Right to education***
- ❑ ***Right to health***

### ***Roles and Responsibilities of CAGs***

- Mobilising communities on issues affecting their communities as a result of mining operations
- Facilitating change or actions to address issues of community concerns as a result of mining operations in their areas.
- Drawing plans of action for their advocacy efforts in the area.
- Verify cases of concerns reported to them by animators before taking action.
- Demand transparency and accountability from both mining companies in their areas and government officials.
- Negotiate and lobby with mining companies on their corporate social responsibility –a responsibility which ensures that host communities benefit from extractive industry proceeds.

### ***Role and Responsibilities of Animators in CAG***

Community Action Groups will also include Animators who will have the following roles in CAG:

- Lead the identification of cases resulting from mining activity in the areas
- Share the issues identified with CAG for action.
- Help mobilize community when there is need for community assembly for action. These are such activities like community rallies, open days or demonstration.
- Animators will play the role of secretary on quarterly CAG meetings.



## SECTION II: THE MINING SECTOR IN MALAWI

### *A. Objectives:*

The broader objective of this module is to enhance users' understanding of the mining sector in Malawi.

### *B. Key Facts*

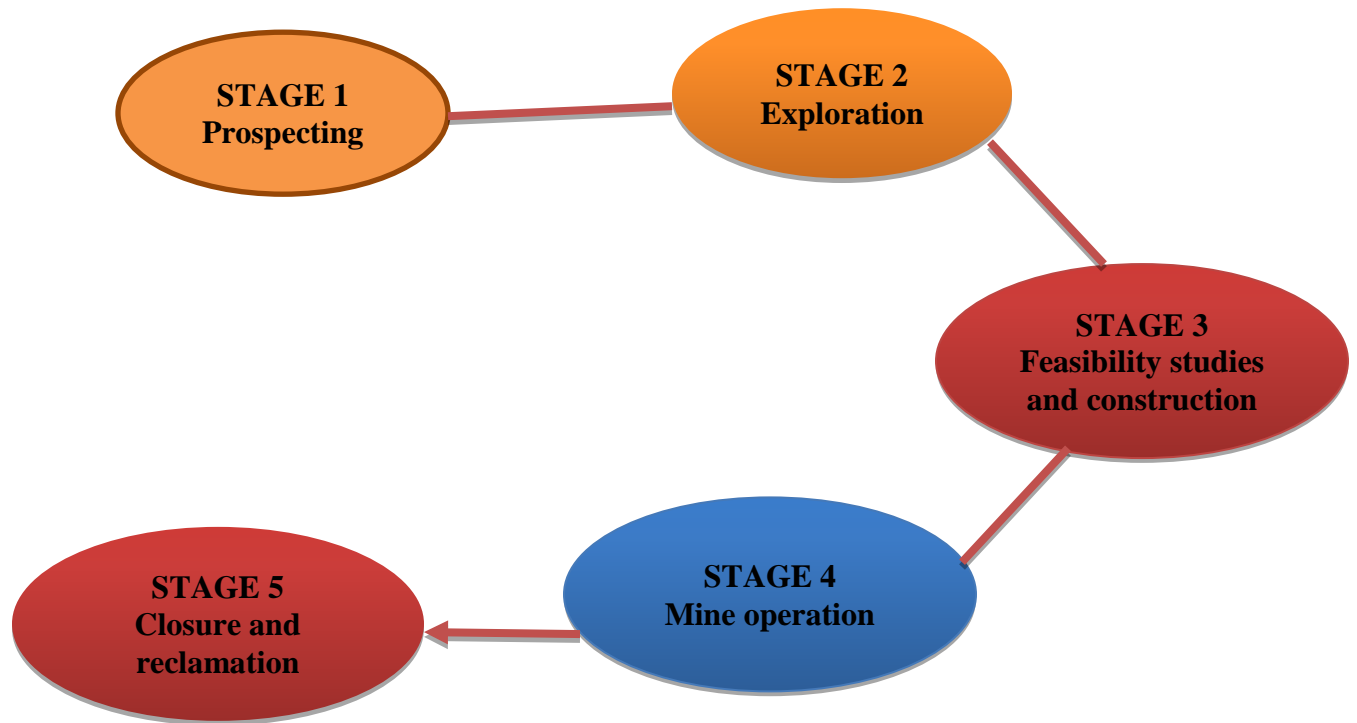
- ✓ ***Artisanal & Small-scale Mining (ASM) broadly refers to mining practised by individuals, groups or communities formally and informally. The mining activities are labour intensive and capital, mechanization and technology poor. Usually these mines may have work groups of between four to 10 people, sometimes a family. A group of people digging gold; a group of people involved in quarrying.***
- ✓ ***Large-scale mining is formal, with mines employing thousands of people. The mining activities are capital, mechanization and technology advanced. For example Kayelekera Uranium Mining is a large-scale mining***
- ✓ ***Malawi has a variety of known mineral resources that include uranium, heavy mineral sands, rare earth minerals etc***
- ✓ ***The mining sector has contributed to countries GDP though the actual figures are non-conclusive***
- ✓ ***The policies, laws and institutions that presently govern the mineral sector in Malawi need significant reform if the sector is to grow sustainably and contribute to economic development and poverty reduction.***

### ***C. THE LIFE CYCLE OF A MINE***

Although there are many activities in the mine; a broad sequence of the activities are presented in the diagram below.

**Stage 1 - Prospecting:** This usually involves a small number of people (prospectors or exploration companies) coming into an area and looking for specific signs of the presence of certain minerals they are searching for. Normally, if they find something of interest they will stake a legal claim whereby they express a specific interest in an area with a view to seeking a permit to explore for mineral deposits.

**Stage 2 - Exploration:** Mining exploration companies are typically smaller than the mining companies themselves and explore the potential mineral deposits identified by the prospectors. Exploration may involve various activities including airborne surveys and drilling. The purpose of exploration is to determine the size and value of a mineral deposit. This is a high-risk operation as only a few exploration efforts ever identify sufficient mineral deposits to warrant full mining operations. This will be the stage when you first experience a significant mining presence inside your territory. If the exploration company provides evidence of enough mineral potential to develop a mine, then a major mining company may become interested at this stage. For example, Globe Metals and Mining have been exploring Niobium at Kanyika from 2007 to 2014.



*Source: ICMM, Good Practice Guide: Indigenous People and Mining, 2013*

**Stage 3 - Feasibility studies and construction:** This is when major mining companies may come into your territory. They usually already successfully operate mines in other places. The company will first study the long-term economic viability of building and operating a mine in the region. If the outcome of that study is that mining would bring positive economic benefits to the company and can be achieved while meeting other responsibilities, then operating permits are sought and construction of the mine begins.

**Stage 4 - Mine operation:** This is the active phase of the mining sequence that usually lasts for the lifetime of the resource that is being extracted. It is at this stage that the minerals are mined (or extracted) using either surface (open pit), or underground (tunnel) methods. For example, The Mchenga, Kaziwiziwi, Malcoal and Eland Coal Mine Companies have been in operation for some years .

**Stage 5 – Closure and reclamation:** Once the relevant resource has been extracted or in the event that extracting the resource becomes no longer economically viable, the mining project, will be phased out with a closure and reclamation plan. Mining companies develop their closure and reclamation plan early during the planning, development and construction stage so that it is ready for implementation long before the closure stage approaches and can be updated as the operation changes over time. This operation will involve the ongoing presence of the mining company to ensure post-closure impacts are properly managed. For example the Chingalume Portland Cement Mining was closed and the land reclaimed.

*NOTE: Throughout the process it is important that all companies involved engage with the local community in such a way that a respectful long-term relationship is established.*

#### *D. Mining in Malawi:*

##### *Mining Potential in Malawi*

Malawi has a variety of known mineral resources that include uranium, heavy mineral sands, strontianite, rare earth minerals, phosphate, bauxite, gypsum, vermiculite, precious and semi-precious stones, limestone, dimension stone, silica sand, sulphides and coal. There is also potential for discovery of other metallic minerals and high value minerals including gold, platinum group minerals, and diamonds. Furthermore, artisanal and small scale mining activities have grown considerably and are source of livelihood for many families in rural areas.

Annex A shows the known mineral deposits and quantities based on a regional geochemical drainage reconnaissance. It should be noted that in 2014 government has engaged a consultant to a countrywide airborne geophysical survey. It is expected that the survey will generate invaluable data that will provide baseline data on mining potential for Malawi.

A 2012 Catholic Commission for Justice and Peace report found out that by July 2012 there were 166 companies operating in the mining sector, of which 59 were mining and 107 prospecting. Of these, 26 companies had been given prospecting licences for uranium. In 2014, Government granted various licenses to prospecting mining companies and individuals. A lot of licences were issued in both small and large scale

operators domain. For instance, non-exclusive prospecting and mining claim were dominant to the small scale operators involved in the mining of Germstones and ornamental stones while non-exclusive prospecting licences were largely issued to large scale operators interested in mining uranium heavy mineral sands, base metals and platinum group, and glass sands, among others. A total of 170 licences were given to small scale operators while 78 were given to large-medium operators (2014 Annual Economic Report).

### Revenue from Mining in Malawi

The Malawi Growth and Development Strategy II notes that development of the mining industry can significantly boost economic growth of the country through employment creation and generation of foreign exchange. The contribution of mining to GDP rose from 3 percent to 10 percent due to the opening of the Kayelekera Uranium Mine in 2009. The sector currently employs over 21,000 people. The overall value of all mineral exports improved from MK43 million in 2006 to over MK17.7 billion in 2010.

*“.....Annual budget speeches by the Finance Minister do not specify revenues from mining and the Government does not systematically publish figures of its mining revenue. Neither are mining companies required to provide details of their tax payments in Malawi... ..”*

*NCA/CCJP Malawi Mining Revenue Study*

In 2013/2014 fiscal year, export of minerals by different mine operators was dominated by coal, ornamental/dimension stones, gemstones, and uranium concentrates (yellow cake). Revenue generated by the Government through the Department of Mines between July, 2013 and February 2014 amounted to MK1,132,247,374.30 in terms of

royalties, licence processing and ground fees. The table below shows mineral productions and their monetary values.

Mineral Type	2012		2013	
	Quantity (Tonnes)	Value K'million	Quantity (Tonnes)	Value K'million
Coal	70,552.07	870.194	67,024	826.68
Cement	64100	45.25	60,895	42.99
Agricultural Lime	22,388.82	218.61	21,269	207.68
Uranium Concentrates	1,180.00	33,190.15	1,347	49,090
Phosphate	12,403.39	18.25	11,783	17.34

Rock aggregate	1,150,324.5	1,840.50	1,092,808.3	1748.48
Gemstones	122.4	21.470	116.3	20.4

**Source: Annual Economic Report 2014.**

### *The Policy and Legal Environment*

## MGDS II FOCUS ON MINING

The Malawi Government recognises that the development of the mining industry will significantly improve the country's foreign exchange earnings and contribute to economic growth and development. This being the case, the government has committed itself to developing the mining sector through a number of policy and legal frameworks. However it has been noted that the policies, laws and

#### **Goal**

*The goal is to increase production and value addition of mineral resources.*

#### **Medium-Term Expected Outcomes**

*The medium-term expected outcomes include the following:*

- *Updated geological information system*
- *Increased exploration and mining*
- *Increased participation by small and medium miners*
- *Improved legal and institutional framework.*

#### **Key Strategies**

*The following are the key strategies for realizing the sector's objectives:*

- *Producing detailed geological map of Malawi*
- *Strengthening institutional capacity of the sector*
- *Developing an integrated data management system*
- *Strengthening seismic monitoring*
- *Promoting both local and foreign investment*
- *Enforcing environmental, occupational health and safety in the mining sector*
- *Enforcing legislations on sustainable use and management of mineral resources.*

institutions that presently govern the mineral sector in Malawi need significant reform if the sector is to grow sustainably and contribute to economic development and poverty reduction (World Bank, 2009).

In March 2013, the government of Malawi adopted the Mines and Mineral Policy to guide and direct mineral resource development by stressing private sector initiatives and involvement and the need to attract modern technology and investment capital. The overall goal of the policy is to *“to enhance the contribution of mineral resources to the economy of the country so as to move from being agro-based to mineral based economy”*. The specific policy objectives are;

- To promote the development of the mining sector;
- To contribute to socio-economic development of the country including poverty reduction and sustainable development;
- To contribute to the country's foreign exchange base;
- To optimise mining activities within Malawi so as to enhance “value added” elements of the sector and promote linkages with other sectors of the economy;
- To expand employment opportunities in Malawi

- To foster the needed economic diversification

- To promote artisanal and small scale mining and To promote women in mining.

### ***Mineral Legislation***

Malawi has one of the oldest mineral legal framework in the SADC Region. The Mines and Minerals Act 1981 is now one of the oldest mining codes in sub-Saharan Africa. Currently the Malawi Government is reviewing the 1981 law.

#### **Summary of Existing Minerals Legislation in Malawi**

The legislative scheme for minerals in Malawi is based on a conventional common law model widely used in Commonwealth African countries in the 1970s and 1980s. The *Mines and Minerals Act 1981* (the Mines Act) has the following principal features:

- It governs the exploration for and exploitation of all minerals other than petroleum, water and soil.
- It vests minerals in the President on behalf of the people of Malawi.
- Exploration for and exploitation of minerals must take place under a license provided for in the Act, except where industrial and building materials are recovered:
  - ✓ by the holder of customary land in accordance with custom;
  - ✓ by private landowners and public officials for construction purposes; or
  - ✓ where mineral operations are carried out by an authorized public body (e.g. Geological Survey).
- The Minister grants and may cancel reconnaissance, exclusive prospecting and mining licenses.
- Licenses have surface boundaries and extend vertically (i.e. there is no lateral subdivision of the subsoil), are time-bound and relate only to specified minerals.
- The Act allows Regulations to be issued by the Minister in terms of the Act which would apply generally or only in particular cases. Eleven such regulations have been issued. Regulations do not need to be enacted nor presented for Parliamentary review under Malawi Law.
- The Act allows a mineral agreement to be made by the Minister (on behalf of the Republic) with a company regarding the terms under which any operations under a license will be undertaken. The agreement must be consistent with the Act (it may not override the Act) but its scope is otherwise left open. A mineral agreement does not need to be enacted or presented for Parliamentary review under Malawi Law. There is no model mineral agreement. Only one mineral agreement has been entered into, that between Paladin and the Government of February 22, 2007 for the mining of uranium at Kayelekera.
- The Minister makes the statutory appointment of the Commissioner of Mines who administers the Act and issues and cancels non-exclusive prospecting licenses and claims.
- The Minister can also authorize a District Commissioner to issue mineral permits (non-exclusive rights for surface mining).
- The Act governs royalty, license rents and fees but otherwise has no provisions that relate to the mining fiscal regime (e.g. taxes, duties, withholding).
- The Act provides that an exploration license may contain a condition that the Republic may opt to acquire an interest in any mining venture resulting from exploration.
- The President can decide that land be compulsorily acquired for mineral development purposes under the Land Acquisition Act. The President's consent is required for mineral operations on land set aside for a public purpose.
- The consent of a lawful occupier is not required except in relation to land under cultivation and buildings, subject to override of the Minister. Compensation for damage and disturbance is due as agreed or otherwise determined by the Commissioner.



The mining legal framework in Malawi is loose. The World Bank (2009) observed that;

- ❑ The law gives more powers to the Minister to among others (i) attach conditions to licenses as he sees fit, (ii) waive or vary many of the provision of the Act, if considered appropriate, (iii) implement many important aspects of the Act by issuing regulations that are not subject to parliamentary approval and (iv) have the final say on matters in dispute without further appeal.
  
- ❑ The discretions are vested in the Minister alone, do not require him/her to act on or seek advice and do not set out the grounds on which decisions should be made. This is contrary to modern mining legislation which limits the scope for discretionary powers and, where some discretion is required, makes the exercise of such discretion subject to clear criteria and, often, subject to advice from a statutory body - typically a mining advisory council - qualified for the purpose.
  
- ❑ The key terms under which a company would operate are open to bilateral negotiation with the Government. Such latitude for negotiation exists because of provisions in both the mining and fiscal legislation that give wide discretion to the authorities in setting precise terms and conditions. Section 10 of the Mines and Minerals Act authorizes the Minister, on behalf of the Government, to enter into a mining agreement. In the case of the Kayelekera agreement with Paladin, almost all significant matters that needed to be regulated, including elements of the fiscal regime, were addressed in the agreement. Its terms had to be negotiated one by one. There was no model mineral agreement to serve as a starting point and guide for the negotiations.

### **Procedure for Dealing with the Application and Granting of Mineral Licenses**

In Malawi the application and granting of mineral licenses is managed by the Commissioner of Mines and involves the following manual steps:

- License application submitted to the Mineral Rights Office
- Application fee paid
- Application date stamped
- File opened
- File, including application, reviewed by Head of Mineral Rights Office against a checklist of information requirements
- Manual checking of coordinates of application area
- File copied to Commissioner and to Minerals Licensing Committee (MLC)
- Commissioner reviews file in preparation for meeting of the MLC
- File reviewed at meeting of the MLC (monthly at best)
- MLC may ask Commissioner to seek information and explanations from the applicant before making any determination
- MLC advises the Minister whether or not to grant the application
- The Minister grants licence or rejects application

## *The Mining Practice in Malawi*

In Malawi, a mining establishment follows the following process;

- ❑ *Prospecting license:* This is an authorization in writing given to a company or individual in order to start searching for minerals in a given piece of land. Every miner who wants to explore minerals need to obtain prospecting license from government. This license is either exclusive or not
- ❑ *Mining License:* This is an authorization in writing given to a mining company to start mining. No one is allowed to start mining without first obtaining a mining license from government
- ❑ *Environmental Impact Assessment:* This is an exercise to study the impact that such mining activity will have on the environment and people. Every mining activity must start after an environmental assessment has been done and report accepted by government.
- ❑ *Resettlement and compensation:* Mining activities happens in lands which are occupied or owned by people. Any just mining venture considers the plight and rights of people who are relocated because of mining. In Malawi compensations are handled by the ministry of lands using the land policy. The ministry of lands is therefore responsible for assessing and evaluating the property while the company gives the money. The relocating process should take into consideration of the following:
  - i.* There should be mutual engagement, discussions and agreement between government, Mine Company and the community. The communities be fully aware of the process and the need for them to move.
  - ii.* Compensation should take in consideration of all property owned on the land and land itself.
  - iii.* This should also see to it that the new place should offer even a better livelihood to the communities than the previous place.
  - iv.* It should also consider emotive and cultural assets like graveyards etc.

- ❑ *Community engagement and social license:* Mining companies need to engage in order to obtain social license or acceptance in the community. This is to recognize that they are human beings hence have hopes and fears that need to be considered when one wants to start development activities of any kind in their areas. It is also a required tenet in democracy that people be allowed to participate in decision making process of activities in their communities.

***Mines and Mineral Policy Statement on Local Participation:***

- (A) Government will encourage joint local and foreign ventures in the mining sector that aim at empowering local entrepreneurs; and*
- (B) Government will formulate a policy on local participation.*

### ***CHALLENGING ISSUES IN THE MINING SECTOR IN MALAWI***

- ❑ ***Inadequate capacity of public mining institutions*** – The public mining institutions, for instance Department of Mines and Geological Survey are underfunded for years and faces difficulties in exercising their mandates as mineral sector activity gathers pace. Lack of resources is compounded by a lack of experience in regulating the mining sector. For example, the Department of Mines is chronically understaffed - a Ministry study found that only 50 percent of total posts were filled and just 34 percent of professional posts. Moreover, few of those in professional posts were suitably qualified and others have joined the private sector.
- ❑ ***Poor mining fiscal regime***- The mining fiscal regime is not robust and coherent. For instance mineral royalty remains an item which is left open to negotiation on a case by case basis, resulting in several different royalty rates co-existing. This system is increasingly at odds with international trends for royalties to be applied on a standardized basis and places an undue burden on those that administer royalty payments; the taxation windfall provided to mining companies is kept under wraps and is compounded by lack of ***robust tax collection measures and limited capacity of the tax collection agencies*** in assessing mining company tax returns and in conducting the requisite audits which can lead to substantial tax leakage, thereby reducing the value of mineral resources to the country,

- ❑ **Poor participation of the rural poor in decision making-** Most of the decisions on mining take place at high levels between government and companies with little or no input from the people who lives will be affected. Even those consulted at local levels create strong barriers for poor people not to participate due to among others greed.
- ❑ **Lack of transparency and accountability of mining resources** - Figures on the country's total revenues from mining are not regularly available. Sometimes government just provides information on estimates. For instance, in 2010, Government said that the overall mineral revenue figure was 'slightly over MK 2 billion'.
- ❑ **Labour issues-** The mining sector promises jobs and people have high expectations of employment from the mining companies. Expectations are that people from the areas will be employed in the mining company. But the jobs available for the local people are usually menial, low paid and relatively dangerous. The labour practices are unfair often times-for instance; unequitable pay structure and benefits.
- ❑ **Corporate social responsibility- Mining companies are expected beyond** legal obligations, contracts, and licence agreements to undertake voluntary actions to either improve the living conditions (economic, social, environmental) of local communities or to reduce the negative impacts of mining projects. In Malawi, most of the mining companies promise comprehensive corporate social responsibility programmes but deliver very little if not nothing at all.

## SECTION III: SOCIAL AUDIT AND DEMOCRATIC GOVERNANCE

### A. Objectives:

The broader objective of this module is to enhance users' understanding of social audit as key to citizens' demand for transparency and accountability from duty bearers.

### B. Key Terms and Definitions

- ✓ **Transparency** - Transparency means openness and the sharing of information, free flow of information and unrestricted public access to it.
- ✓ **Accountability**- Means to be answerable. The duty bearers are answerable to rights holders.
- ✓ **Social Audit**- A social audit is an accountability mechanism where citizens organize and mobilize to evaluate or audit government's performance and policy decision. Some of the tools for social audit are; Citizens Charter and Community Score Card
- ✓ **Citizens' Charter**: *a written, voluntary declaration by service providers that highlights the standards of service delivery that they must subscribe to, availability of choice for consumers, avenues for grievance redressal and other related information*
- ✓ **Community Score card**: *It is a community based participatory monitoring tool used for various functions e.g. planning, monitoring, performance evaluation of services, social auditing*

### C. Transparency, Accountability and Social Audit.

Governance refers to institutions by which authority is exercised and also the processes of decision-making and the processes by which decisions are implemented (or not implemented). In the context of Malawi, this should be linked with democratic governance that focuses primarily on promoting the power and influence of poor people in society through a democratic political process, often characterized by participation, equality in dignity and rights, transparency and accountability.

Governance requires that those who exercise power must be accountable. This goes beyond the process of reporting to parliament and encapsulates the requirement that the people be empowered to intervene in cases of misuse or abuse of power. Effective accountability is effective if people are not aware of how those who exercise public power are carrying it out in practice. This means that those who hold the power or governments must be transparent in their activities. Citizens must know what is happening and they must not be obstructed by laws, policies or practices that promote unnecessary confidentiality and secrecy.

For citizens to demand accountability they need to have the voice and capacity; hence the initiatives aimed at enhancing the ability of citizens and stakeholders to engage with public officials and policymakers in a more informed, direct and constructive manner. There is a growing shift to democratic governance issues related to public policy making, empowerment and citizen participation, all of which form the basis for social audit.

A social audit is an accountability mechanism where citizens organize and mobilize to evaluate or audit government's performance and policy decisions. It rests on the premise that when government officials are watched and monitored, they feel greater pressure to respond to their constituents' demands and have fewer incentives to abuse their power.

Social audit is a form of citizen participation that focuses on government performance and accountability. The central objective of a social audit is to monitor, track, analyze, and evaluate government performance, thus making public officials accountable for their actions and decisions. A social audit exercise is a mechanism of social oversight: that is, the control that citizens can exert on their government officials to ensure that they act transparently, responsibly and effectively.

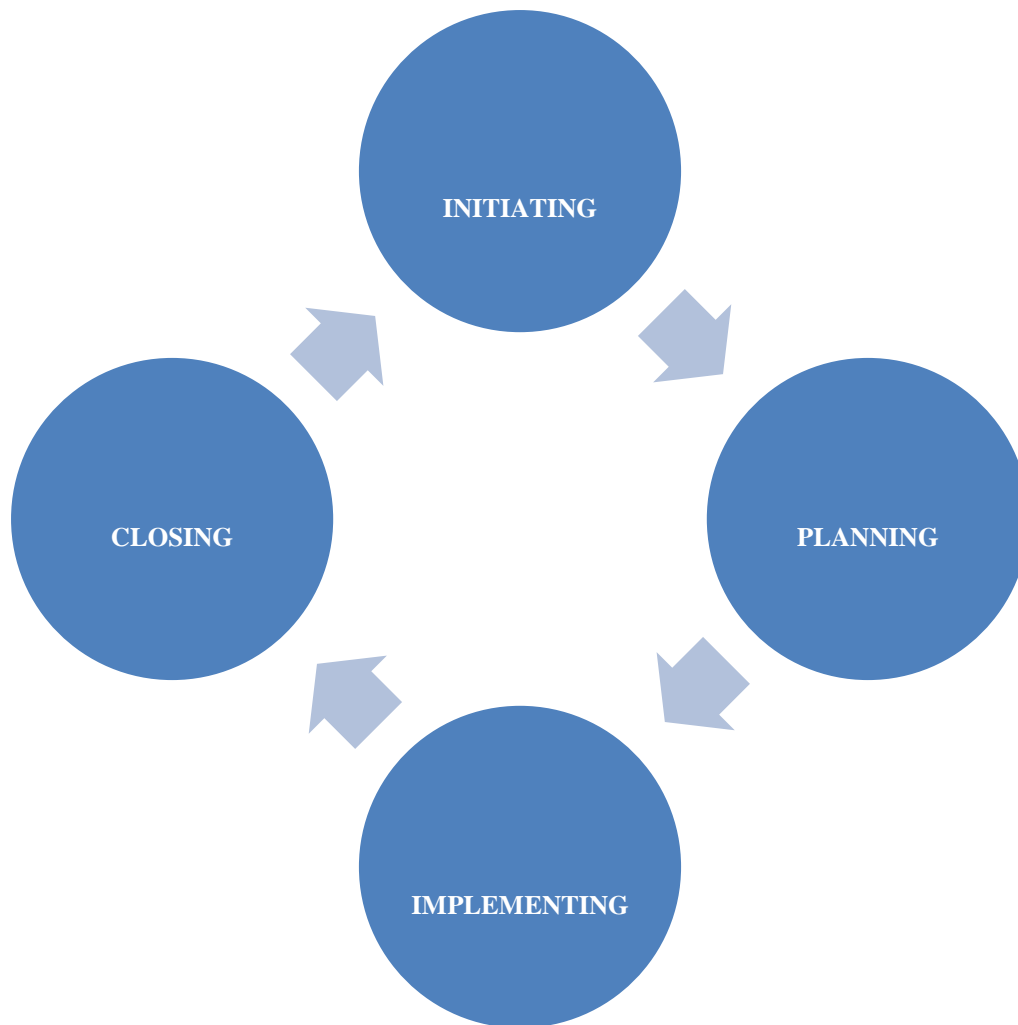
### *Step-by-step Approach to Social Audits*

#### *Importance of Social Audits in a Democracy*

- ✓ **Enhances governance:** *Accountability and transparency of public officials is the cornerstone of democratic governance. A social audit can enhance accountability by allowing ordinary citizens to access information, voice their needs, evaluate performance, and demand greater accountability and transparency.*
- ✓ **Increases Public Policy effectiveness:** *Social Audits improves public service delivery and more informed policy design and evaluation. Social audit assesses the quality of key essential services to its citizens, resources management and how citizens' demands are being articulated in the public policy and budget cycle processes.*
- ✓ **Increases citizen participation:** *Social audit is a source of policy dialogue and conflict resolution. It enhances the ability of citizens to move beyond mere protest and/or apathy, toward a process that helps to engage with bureaucrats and decision-makers in a more informed, organized, constructive and systematic manner, thus increasing the chances of effecting positive change.*

Malena, Carmen, Reiner Forster and Janmejy Singh 2004, "Social Accountability: An Introduction to the Concept and Emerging Practices," *Social Development Papers*, No. 76, Washington, DC: The World Bank, December





Every step of the social audit process should contribute to informing or engaging citizens and mobilizing support. The ability of citizens to engage governments is crucial to the success of social audit initiatives.

### D.1. INITIATING

On initiating the social audit process, it is important to consider the following;

- ❑ **Define a clear objective-** Citizens should have a clear idea of what they are monitoring, its relevance, and who within the government is responsible for the service, action, program or decision they are monitoring.
- ❑ **Define What to Audit-** What will be the subject of the social audit exercise, and/or determine the entry point. The subject and/or entry point may be of a specific or general nature and may be identified at a community, district and

national level. For instance **Policies/Laws/Programs/Plans**, such as investment and/or development plans, annual operative plans, anti-poverty programs, access to information, procurement processes and compliance with international conventions.

- ❑ **Establish person/organization responsible for the Social Audit:** Once the entry point has been determined, then the stakeholders should be identified. That is, **who** are going to be the main players involved in the process, including the beneficiaries, government offices and officials, technical advisor and leading social audit group/commission/committee? It is here where the formation and promotion of collaborative relationships between civil society and government, and among CSOs is crucial.
- ❑ **Secure Funding:** the funds to carry out the planning and audit process should be obtained through a donor agency, international organizations or the State, as long as there is no conflict of interest.

## ***D.2. PLANNING***

Key to planning is answering **how** would the exercise be conducted and implemented. Key issues to consider when planning are;

- ❑ **Selecting Strategy/Methodology/Approach/Tools:** Build consensus on a methodology and approach, including means to collect data, and pre-feasibility assessments.
- ❑ **Identifying stakeholders, recognizing viable entry points, and drafting of an action plan:** Think of how the monitoring of will take place; how will the different activities be coordinated; who will be responsible for what; what kind of information needs to be collected; what government agency needs to be approached; and the timeframe for completing the activity.
- ❑ **Understanding government decision making process:** This is important to make realistic monitoring. Understand the power dynamics.
- ❑ **Collaborative Approaches:** Once stakeholders have been identified, and before designing a strategy, it is imperative to adopt collaborative approaches and practices.

- ❑ **Engaging government counterparts:** Is another key activity to seek their participation and inputs regarding the plan/strategy. Some of the social audit processes may be complicated and require access to information and sources of information within the government.



### ***D.3. IMPLEMENTING***

In implementing the social audit, the key issues to consider are;

- ❑ **Collection and Analysis of Information:** Producing relevant information and building credible evidence that will serve to hold public officials accountable, is a critical aspect of social audit. Make use of tools which will collect and analyze “supply-side” data/information (from government and service providers) and “demand-side” data/information (from users of government services, communities and citizens). Make sure that the information is up to date and where possible engage specialists or those with technical know-how.

- ❑ **Disseminating Findings and Information:** This should be done in the most constructive way. Consider having a communication plan or strategy. The communication plan or strategy needs to consider who the appropriate audience is, what is the most appropriate medium of communication, how will the messages be delivered, and who will take responsibility for responding to government and/or citizens concerns. Make sure that the dissemination is not confrontational but collaborative.
- ❑ **Considering institutionalization and sustainability:** Ensure addressing issues of sustainability in order to create long-term results. Thus plans should be made to ensure sustainability of the social audit process, beyond the duration of the specific exercise being planned.

#### ***D.4. CLOSING***

Social audit processes promotes more accountable and transparent democratic governance. At a minimum social audit exercises creates an opportunity for citizens to highlight demands and needs, as well as to promote dialogue, agreements, shared visions to improve public policies and promote reforms. It is important to make mechanisms which will ensure that the results of the social audit exercise have been translated into sustainable change. Make follow ups.

## E. THE COMMUNITY SCORE CARD-A SOCIAL AUDIT TOOL

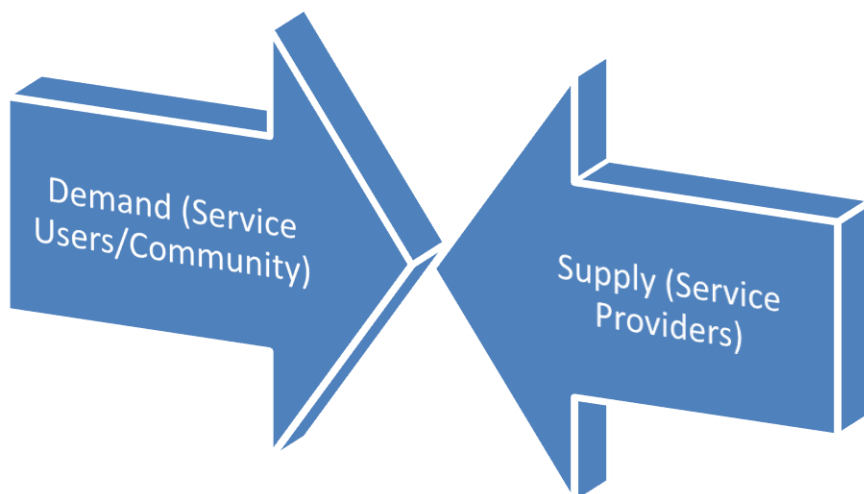
### KEY NOTES ON SCORE CARD

- ✓ *It is a participatory community monitoring and accountability framework*
- ✓ *Enable citizens to score the range of services with which they are provided*
- ✓ *Enable citizens to engage with service providers to discuss level of satisfaction and quality*
- ✓ *It is one of the instruments used to demand social and public accountability from service providers.*
- ✓ *Mostly termed the Community Score Card because community is the entity of analysis*
- ✓
- *Aims at producing the documented perceptions and feedback from a community regarding a particular service in order to improve its functioning. Specifically the CSC aim to achieve the following:*
  - ✓ *Demand social and public accountability and responsiveness from service providers;*
  - ✓ *Empower the community;*
  - ✓ *Get immediate feedback through an interface meeting between service providers and the community;*
  - ✓ *Seek user perceptions on quality, efficiency and transparency.*

*i. The Score Card Process*

The "Scorecard" is a two-way and ongoing participatory tool for assessment, planning, monitoring and evaluation of services. The Scorecard brings together the demand side ("service user") and the supply side ("service provider") of a particular service or programme to jointly analyse issues underlying service delivery problems and find a common and shared way of addressing those issues.

For the service user (e.g. the community): The Scorecard helps service users to give systematic and constructive feedback to service providers about their performance and for service providers (e.g. government agencies/institutions); the Scorecard helps government institutions to learn directly from communities about what aspects of their services and programmes are working well and what is not. The information it generates will enable decision-makers to make informed decisions and policy choices and to implement service improvements that respond to citizens' rights, needs and preferences.



*ii. The Demand (Service User/Community Score Card Process*

**Step 1: Community Mobilisation and Organisation.**

- Establish the basis for a Scorecard programme in an area. This should include
  - ✓ Identifying the sectoral scope and intended geographic coverage of the exercise;
  - ✓ Identifying the facility / service input entitlements for the chosen sector;

- Prepare the community in score card process and this should include:
  - ✓ Involving other community partners;
  - ✓ Contacting and securing cooperation of the relevant service providers;
  - ✓ Identifying relevant inputs to be tracked;
  - ✓ Identifying the main user groups in the communities serviced by the focal facility or service.
  - ✓ Develop a workplan,

- Developing the Community Performance Score card

Since it involves diverse social groups with different interests, different levels of understanding of rights and responsibilities, different perceptions and attitudes to the service providers, the phase should be handled with due care, diligence and with respect for human rights.

- ✓ Conduct a social mapping exercise in the community or area to identify key services or service providers
- ✓ Developing an input tracking matrix- Inputs are the resources that are allocated to a service delivery point in order to ensure the efficient delivery of services in health, water supply, education and other sectors.
- ✓ Generating issues - Issues can be generated by asking questions like, "How are things going with service or programme here? What service or programme works well? What does not work well, etc?"
- ✓ Prioritizing issues - When all the issues have been generated, there might be quite a number of them, and not all relevant to your service or project. Ask the group to agree on relevant ones that are the most important and urgent to deal with first.

## **Step 2: Develop a set of *measurable indicators* that will be tracked.**

These will depend on which issues have been prioritized or project or service is being analyzed.

Examples of indicators include:

- ✓ Accountability in the performance of duties by LA staff.
- ✓ Access to information by men and women on resource allocation and use

- ✓ Level of benefits enjoyed by the community and specific social groups (men, women, boys, girls, disabled, aged)
- ✓ Number of people accessing specified service facilities
- ✓ Service provider-community relationship
- ✓ Service providers behavior and conduct

## Step 2: Scoring by the Citizens

- ❑ Citizens to give relative Scores for each indicator.
  - ✓ The scoring process: Either through a consensus in the focus group, or through individual voting followed by group discussion.
  - ✓ Different social groups to do scoring (men, women, boys, girls, disabled, orphans etc)
  - ✓ A scale of 1-10 or 1-100 is usually used for scoring, *with the higher score being 'better'*.
- ❑ Citizens explain the Reasons behind both low and high scores in order to draw their perceptions better.
  - ✓ This helps explain scores that are off the normal and provides valuable information and useful stories regarding service delivery
- ❑ Striding Forward
  - ✓ Citizens come up with its own set of Suggestions as to how things can be improved
  - ✓ These forms a basis for a *social contract* at an interface meeting

### iii. *The Service Provider Score Card*

This is a scorecard that is generated by staff representing the service providers. It is aimed at assessing the delivery of services through the eyes of the service provider.

## How to Generate a Self-Evaluation Scorecard?

**Step 1:** Choose which services or facilities or units or departments will undertake the self-valuation to get the perspective of the providers.

- ✓ This choice depends to a large extent on the receptiveness of the staff at the facility, and so there may be a need for some advocacy to them as well about the purpose and use of the CSC process.



**Step 2:** The staff should brainstorm to come up with their own set of performance indicators.

- ✓ Classify these indicators in a manner that is easily comparable with the indicators developed and chosen by the community.

**Step 3: Scoring by the facility/service provider**

- Ask the staff to fill in their relative scores for each of the indicators they developed.
  - ✓ The staff to reflect on why the given scores,
  - ✓ Also to come up with their own set of suggestions for improving the state of service delivery.
  - ✓ To personally consider what would be the most important grievances from the community's perspective,

- Compare and see the extent to which the deficiencies are common knowledge

#### *iv. The Interface Meeting*

The interface meeting brings service users, service providers and other interested/relevant parties together. It is important that key decision-makers (chiefs, group village headmen, district officials, ministry officials, local politicians etc.) are present to ensure instant feedback on the issues and responsibility to take issues and the plan of action and way forward.

### **MANAGING**

*The interface meeting might become confrontational if not handled carefully and correctly. It is important that a skilled facilitator with negotiation skills and a strong personality is in charge of this meeting. Make sure that service users, as well as service providers are well prepared for this meeting and understand its purpose. Avoid personal confrontations.*

### *Interface Meeting Preparations*

- ✓ Ensure adequate attendance and participation from communities concerned with the scored service and the SP including key decision makers for the service
- ✓ Prepare for the interface meeting by sensitizing both sides about the purpose of the meeting
- ✓ If there are very delicate and debatable issues from service user scorecard , ensure that service users and service providers should undergo training on behaviour and attitude before the interface meeting to avoid conflict
- ✓ Environment should be conducive for community to negotiate agreements on improving the service with SP

### *The Interface Meeting Process*

- ✓ Call community representative to present their scorecard and the input tracking matrix followed by their prioritized list of suggestions for improvement and how to maintain the high scores
- ✓ Thereafter service providers representative presents the results from their scorecard, suggestions for improvement or sustaining performance
- ✓ Service providers makes recommendation based on the suggestions for improvement made by service users
- ✓ Allow for an open and participatory discussion and questions for clarity.
- ✓ Ensure that personal attacks are avoided by from time to time, explaining the objective of the process.
- ✓ Facilitate open and positive dialogue between SP and SU and help them come up with realistic changes and action
- ✓ For each of the suggestions:
  - Define action steps that will be taken in order to address the issue
  - Define realistic deadlines for implementing the action steps
  - Define who will take the leading role, who else will be involved and what they will do in implementing the actions, what external support they will need
- ✓ Keep the duration of implementing the action plan to a maximum of 6-12 months.

*Example of a Planning Matrix*

Priority theme (list each issue)	Action (activities needed to address the issue)	Who will lead it (Name & Institution)	With Whom (name & institution)	By when	Resources



## SECTION IV: GRASSROOT ADVOCACY: MOBILISING COMMUNITIES FOR ACTION.

### A. Objectives:

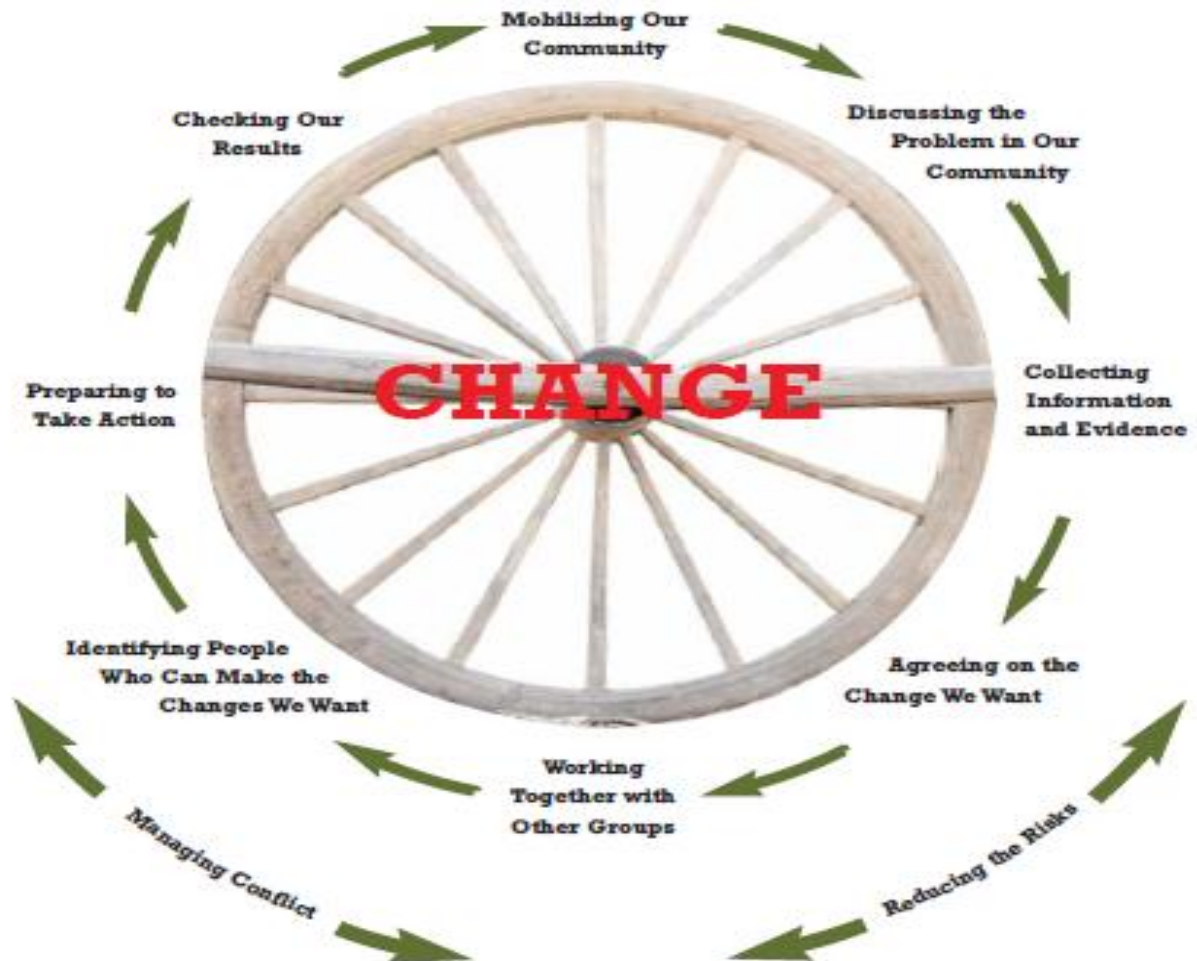
The broader objective of this module is to enhance users' understanding of grassroots advocacy processes and actions used by advocates

### B. Key Terms and Definitions

- ✓ **Grassroots advocacy:** communities' action of demanding a solution to a common problem by lobbying and influencing decision makers for change
- ✓ **Advocacy:** An ongoing process aimed at bringing about change in attitudes, policies laws etc by influencing people, systems, structures, organisations in order to effect change on a particular issue.
- ✓ **Lobbying:** persuading or influencing people to see an issue in your way or from a different angle from which they previously perceived it and take action
- ✓ **Campaign:** A set of actions or activities aimed at aimed at influencing the policy environment and public opinion
- ✓ **Policy:** A plan, course of action, or set of regulations adopted by government, businesses or other institutions to influence and determine decisions or procedures
- ✓ **Public policy** – a statement of the government guiding principles and goals in addressing a public issue.
- ✓ **Power:** the degree of control over material, human, intellectual and financial resources exercised by different sections of society
- ✓ **Stakeholder:** A stakeholder is someone who has a stake or interest – direct or indirect - in the service being delivered e.g. users, employees, suppliers.

### C. Grassroots Advocacy.

The advocacy cycle requires a sustained and considered approach. It may involve repeating steps during our advocacy actions.



#### *Step I: Mobilizing Your Community*

Successful advocacy requires community participation at all stages. Even though advocacy starts with one or two people, it requires a large number of community members to be successful. Communities can be mobilised through;

##### **a) Arrange community meetings**

As a community member, keep all members informed, involved and inspired.

- ✓ Go door to door, share information, discuss what is happening
- ✓ Hold small group discussions where people can speak freely
- ✓ Hold large community meetings to gain stronger community support
- ✓ Share information collected in small discussion groups at large community meetings

- ✓ Make a community decision about how often meetings are held. This depends on our situation

## **b) Facilitate community decision making**

People must participate and be given choices when making decisions. If community members feel left out of making decisions they will not stay involved.

- ✓ Give women as much time as men to speak, tell our stories and play a leadership role
- ✓ People can raise hands to show their support or opposition for a decision
- ✓ Update community members who didn't go to the meeting soon after the meeting is held

## **c) Write all decisions**

- ✓ Request someone to volunteer to take notes
- ✓ Write down key actions and decisions
- ✓ Store notes in a safe place where they won't be destroyed by the rain or stolen. The information might be needed later to develop ideas or support decisions

### Advocacy Leaders

Advocacy leaders are responsible for coordinating advocacy work, listening to people, communicating regularly with the community, keeping the community united, and building strong relationships with people outside the advocacy movement.

Effective advocacy leaders and active community members form the basis of successful advocacy work. An advocacy leader can emerge over time and does not have to hold any formal leadership position in the community.

Leadership qualities important for successful advocacy work are:

- |                                   |                              |
|-----------------------------------|------------------------------|
| ❖ Never Corrupt, always honest    | ❖ Compassionate              |
| ❖ Not afraid                      | ❖ Trustworthy                |
| ❖ Neutral                         | ❖ Popular in the community   |
| ❖ Polite and calm at times        | ❖ Not supportive of violence |
| ❖ Clearly understands the problem | ❖ Not be a dictator          |

**There are two different ways advocacy leaders develop:**

- Informal leaders "emerge" early on when the problem is first being discussed, or
- Communities publicly vote for advocacy leaders

## ***Step II: Discussing the Problem in Our Community***

Identifying the real problem is critical in any an advocacy initiative. A clear problem statement makes the advocacy work easier. When discussing a problem in the community consider the following;

- ✓ Discuss the major problems affecting our community as result of the mining initiatives (e.g. loss of land, poor roads, no health post, etc.)
- ✓ Discuss which problems we can realistically solve if we work together
- ✓ Discuss the causes and effects of the problem
- ✓ Agree and stay focused on one problem

## ***Step III: Collecting information and evidence***

Accurate information and evidence about the problem can persuade more community members to join our advocacy efforts and gives us more power to talk with decision makers. Decision makers cannot ignore strong evidence.

### **How can we collect information and evidence?**

- ✓ Listen to peoples' stories during community meetings and take notes
- ✓ Meet people who witnessed the incident and take notes
- ✓ Make friends with someone who has the documents we need
- ✓ Collect signed or stamped documents such a land titles, company documents, or government documents
- ✓ Collect and share written or taped speeches by senior authorities such as Traditional leaders and senior government officials



**Remember:**

*Always store original documents in a safe place and only provide copies to relevant people*



### ***Step IV: Agreeing on the Change We Want***

Now we have looked at the problem and collected information about it, we can begin to plan. We need a clear plan for good advocacy work.

The change we want is important and serves many purposes. It is our guiding light, helps us focus when we experience a setback and keeps our community members interested.

- ✓ *Imagine a future that is different for our family. Imagine we have resolved the problem.*
- ✓ *Discuss within our community: What needs to change to resolve the problem?*

### ***Step V: Working Together with Other Groups***

Successful advocacy involves working with as many interested groups and people as possible. Our chances of achieving success are better if we receive support from:

- ✓ Community members
- ✓ NGOs
- ✓ Networks

#### **a) Build More Community Power**

The power of advocacy is found in the number of people supporting our cause.

#### **How to build more community power:**

- ✓ Raise awareness about the problem and its impact, especially with community members who we think will support our cause if we work hard to involve them
- ✓ Find other villages with a similar problem. Visit the community to learn from their experiences, share ideas and combine efforts
- ✓ See if relatives from other areas can help
- ✓ Ask trade unions, faith based organisations, animators, community based journalists opinion leaders, school teachers to help

#### **b) Link with NGOs**

Grassroots advocacy is made stronger when we connect and work with NGOs interested in our cause. NGOs can:

- ✓ Advise on grassroots advocacy actions
- ✓ Deliver technical services
- ✓ Sometimes provide financial assistance
- ✓ Spread information about our problem, nationally and internationally

### **How to connect with NGOs:**

- ✓ Find out which NGOs are working in our area
- ✓ Meet with NGO staff to find out how they can help
- ✓ If one NGO is too busy to help, visit another

### **c) Join Networks**

In Malawi there are many networks. A network is a group of people or organizations with similar interests who share information, ideas and take action together. Some networks are sectoral (e.g. food security, land,), while others are based on social issues (e.g. health).

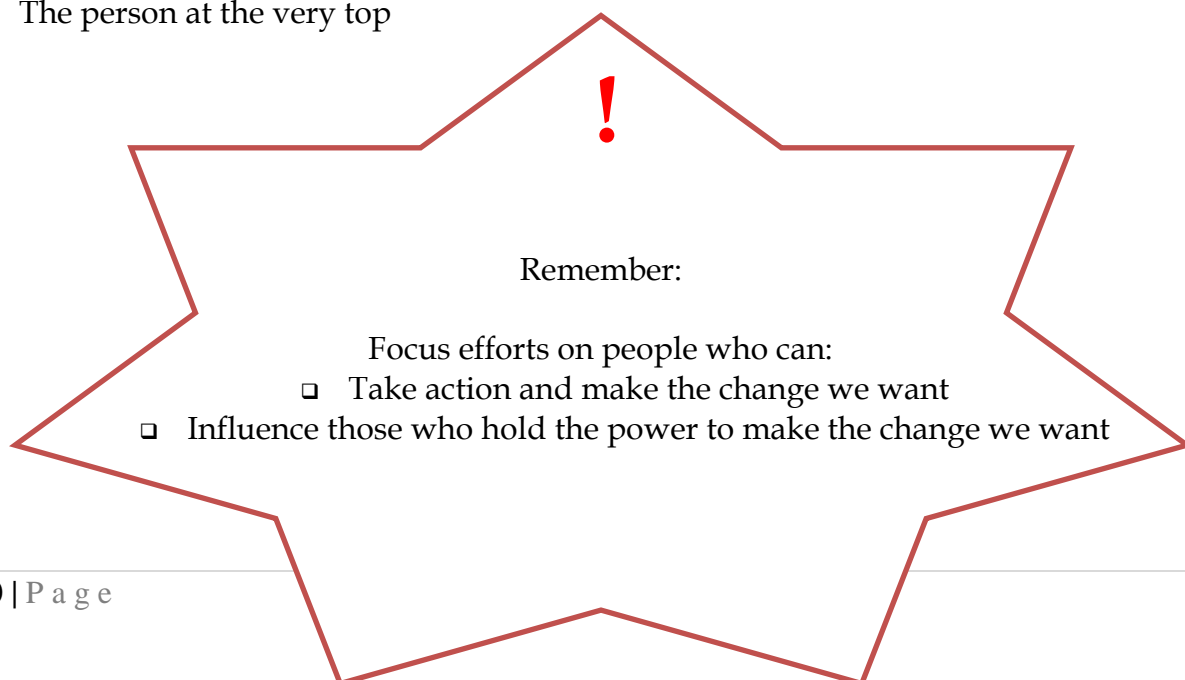
### **How to join networks:**

- ✓ Find out about networks operating in our district or province. Ask NGOs, the Village Chief, Councillors, or members of the Village Development Committee etc.
- ✓ Meet with network staff to find out what they do and whether they can assist
- ✓ Take part in network meetings. Share concerns

### ***Step VI: Identifying People Who Can Make the Changes We Want***

Now that we have agreed on the problem, collected information and evidence, agreed on the change needed, and decided who we can partner with - we need to identify who has the power to make the change we want. These people are usually decision makers or people who can influence decision makers. There are decision makers at many different levels, and we need to decide which level to approach. We need to discuss which decision maker we start with:

- ✓ People at the local level and advocate from the bottom level up, one level at a time, through existing administrative structures, or
- ✓ People above the person causing the problem, or
- ✓ The person at the very top



## *Step VII: Preparing for Action*

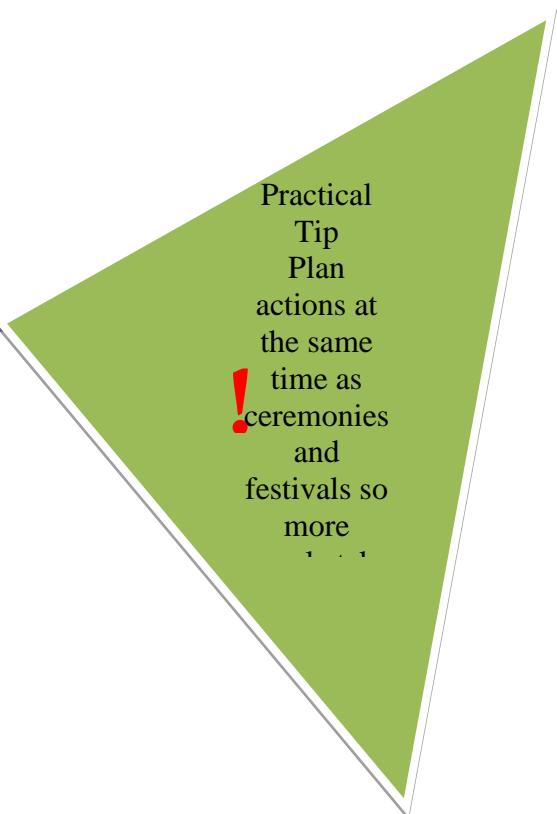
Good advocacy work uses many non-violent actions to mobilize, educate, and persuade people. Good advocacy also involves a lot of hard work over a long period of time. It is important to think carefully and discuss each action within the community as a group before committing time and effort.

- ✓ What are the advantages and disadvantages of each action?
- ✓ What will the effects of each action be?
- ✓ Make a community decision about what actions we will chose
- ✓ Write down decisions about actions
- ✓ What are the steps required for each action?
- ✓ Who is responsible for each step?
- ✓ When do we want to accomplish each step?



Practical Tip

Don't just choose one action. Combine actions to influence different people



Practical Tip  
Plan actions at the same time as ceremonies and festivals so more

## *Step VIII: Taking Action*

### **a) Develop clear messages**

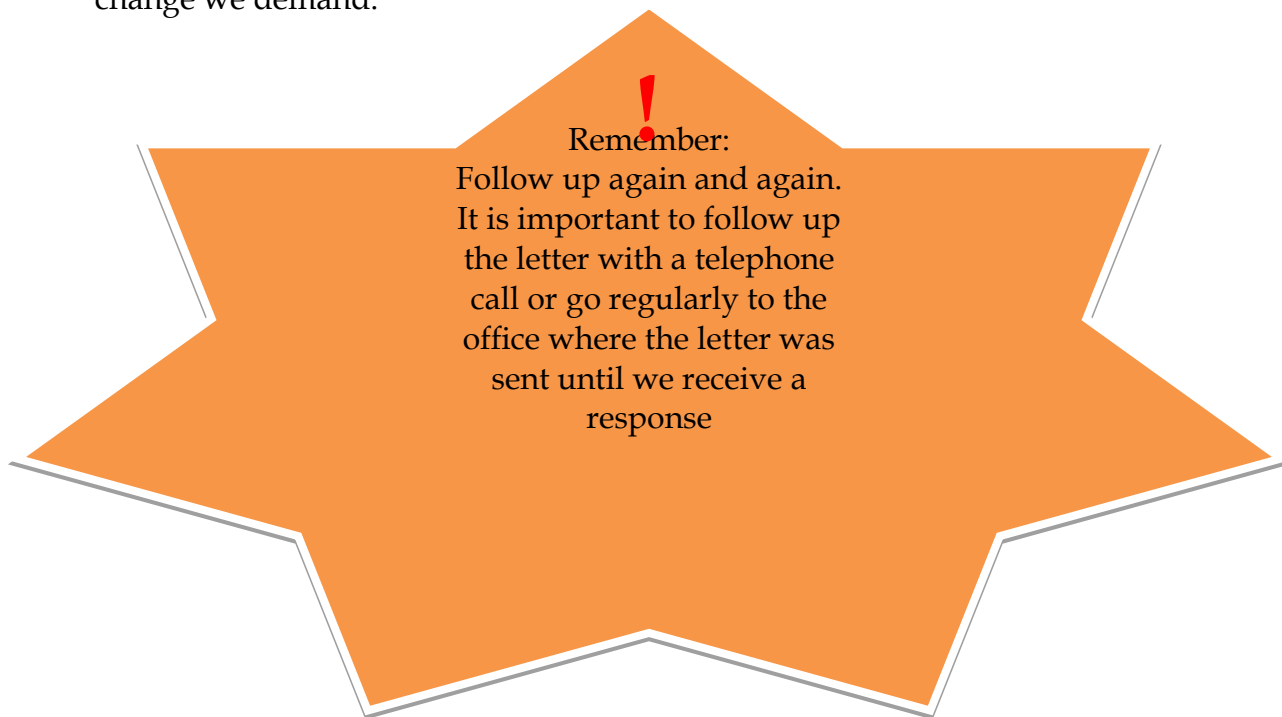
Advocacy messages grab the attention of decision makers and larger audiences. Effective advocacy messages are simple, clear and short and include the actions we want others to take.

#### *Using the message*

- ✓ Focus the message on the change we want
- ✓ Use the message when speaking with members of the community, decision makers and the media
- ✓ Repeat the message. People are more likely to hear a message that is repeated
- ✓ Find different ways to use the message - on banners, pictures, writing on trees

### **b) Write letters**

Earlier, we discussed and agreed on key decision makers. Letters are commonly used to request assistance or meet with people (decision makers) who can help bring about the change we demand.



### *c) Collect petitions*

A petition is a written request for change addressed to a decision maker who has power to make the change.

#### **Developing a petition:**

A petition is attached to a letter and states:

- ✓ The problem that leads to our community advocating
- ✓ The exact change we want
- ✓ Village and community name
- ✓ Peoples' names who support the change demanded by our community
- ✓ Thumb prints or signatures of the people who support our cause

#### **Gaining support:**

- ✓ Visit community festivals and ceremonies, explain the problem to community members and local authorities and ask for their support
- ✓ Have as many people as possible thumbprint the petition above or below their name
- ✓ Make sure the thumbprints are genuine and there is only one thumbprint per person on the petition
- ✓ Make sure there is a title on every page being thumb-printed

#### **Where to send petitions:**

- ✓ Send original petitions and a letter to decision makers
- ✓ Send copies of petitions to NGOs, networks and the media
- ✓ Don't wait for people to contact you. Follow up

### *c) Meet with people who can change the situation*

A face to face meeting with decision makers is important as it creates a personal connection.

#### **Steps to use for effective meetings:**

i) Meet with people who can change the situation

#### **ii) Before the Meeting**

- ✓ Discuss which community members will attend the meeting. Prepare for a range of responses.
- ✓ Discuss and agree on a second option within the community before meeting decision makers
- ✓ If there is more than one person from our community at the meeting, agree on the role each person plays and on the main discussion points
- ✓ Practice questions and answers before the meeting

- ✓ If government is collaborating with a private company, highlight the problems with the company rather than the links between the government and company

### **iii) During the Meeting**

- ✓ State the problem and show there is a lot of community support
- ✓ Hand over copies of evidence such as letters, documents, photos, land titles
- ✓ If there is a difficult question, it is okay to say "we need to check with our community" rather than give an answer that is not true

### **iv) Hold People Accountable**

Agree on a date for decision makers to respond. Explain to the decision maker that if we have not heard from him/her by the agreed date we will move to the next level

- ✓ Write down the date documents are submitted and the name of the person receiving the documents
- ✓ Take notes during meetings and report back to community members

### **v) After the Meeting**

- ✓ Explain to the community what was discussed and agreed to
- ✓ Don't wait beyond the agreed date. Follow up with more actions
- ✓ Keep planning other actions to pressure decision makers until they take action
- ✓ Have a community lunch or dinner! Every meeting is an opportunity to get our message across and build community power

### ***d) Invite key people to see the affected area***

Having key people visit our village to witness the problem can convince more community members to join our grassroots advocacy actions or decision makers to take action.

Key people include members of the National Assembly, government officials, representatives from the United Nations, local and international NGOs, donors, journalists, reporters, and photographers

### ***e) Make the most from visits***

Practice telling stories with community members before the visit

- ✓ Come together and wait for visitors so community members can tell our stories or
- ✓ Take visitors to meet community members if they are working in the field
- ✓ Give copies of documents to key people

*f) Make friends with the media*

Media includes the radio, newspapers, television, and village announcements over a loud speaker. Using media spreads messages to a big audience around the country and can make people support our cause.



How to have the media handle your case

- ❖ Don't wait for the media to notice our actions. Be active. Contact them
- ❖ If one media outlet is not interested or unfriendly, try another until we are successful
- ❖ Spend time making friends with journalists and reporters
- ❖ Explain our story: the problem, the change we want, the message and pass on copies of evidence
- ❖ Try to get the media to report the case before meetings with senior decision makers. This might help achieve a better result at the meeting
- ❖ Phone radio stations during live call-in or talk-back programs

### g) Active non-violence

Active non-violence is a creative, planned, positive action that does not use violence as a means of resolving conflict. It is a form of resistance through direct actions. Examples include:

- ✓ reoccupying land that was once ours
- ✓ removing border posts from a newly built fence (but not damaging the fence posts)
- ✓ blocking tractors brought to illegally plow land

#### ACTIVE NON- VIOLENCE PRINCIPLES

- Remain calm
  - ✓ Don't speak violently or angrily
  - ✓ Stay calm even if insulted
- Keep the situation under control
  - ✓ Assign people to keep a watch on what is going on
- Do not use weapons
  - ✓ Don't carry knives, farm tools, guns, axes, sticks, chemicals etc.
  - ✓ Send people home if they are carrying a weapon
- Be sober
  - ✓ Do not do advocacy work if you have been drinking or taking drugs
  - ✓ Send drunken people home
- Take care of property
  - ✓ Don't damage or take other people's property

Source: Pact Cambodia, 2006, *Grassroot Advocacy Handbook*



## *h) DEMONSTRATE*

Effective demonstrations show the public the problem affecting our community and what we want changed. It is non-violent and peaceful.



### **How to plan and manage demonstrations**

- ✓ Agree on a community member who will talk and practice what we will say
- ✓ Inform networks ahead of time
- ✓ Inform the media ahead of time
- ✓ Welcome journalists
- ✓ Have as many community members join as possible
- ✓ Have a few people in charge of managing the demonstration
- ✓ Don't allow any strangers to join as they may take advantage of the situation. Ask them to leave immediately

### **Principles for mobilizing people for demonstrations**

- ✓ Include those who are affected by the problem
- ✓ Clarify what you are trying to achieve
- ✓ Choose your methods carefully
- ✓ Have a clear message
- ✓ Share roles and responsibilities equitably
- ✓ Encourage easy actions
- ✓ AVOID VIOLENCE

#### ***PROCEDURE FOR ORGANISING DEMONSTRATION IN MALAWI***

- ✓ *Inform the district commissioner giving reasons for your demonstration at least 48 hours before the day.*
- ✓ *Outline the route of your demonstration*
- ✓ *Copy the officer-in-charge of police in your area.*

***REMEMBER: YOU ARE SUPPOSED TO INFORM THE AUTHORITIES AND NOT SEEK PERMISSION***

### **i) Take legal action**

Law suits are usually the last option if all other actions do not lead to a solution. Information on law suits needs to involve people with legal expertise. There are lawyers who provide free services for strong advocacy cases.

In Malawi, some lawyers provide pro-bono services. Engage other civil society organisations on which lawyers can be engaged

### **j) Participate in local government planning processes**

Local plans present a great opportunity for grassroots advocates to voice concerns. If we can integrate advocacy problems into local development plans, the people who implement the plan can help us solve the problem. This is usually a long term process.

Some local level planning opportunities are:

- ✓ District Development plan
- ✓ Area Development committee plan
- ✓ Village Development Committee plans
- ✓ Other consultative processes held by Members of Parliament and Councillors.

### **How to get involved in the planning process**

- ✓ Ask the district councils and NGOs and check notices for the monthly and annual forum meeting times
- ✓ Make time to meet with Members of Parliament and Councillors
- ✓ Be prepared and have as many community members as possible actively participate in village and commune development planning processes
- ✓ Reinforce to the Village Chief, Members of Parliament and elected officials that our demands are in the interests of our community
- ✓ Follow up again and again to check that people who develop the plan prioritize our problem
- ✓ Give feedback to community members on what is discussed during meetings

## MANAGING CONFLICT

When we are working together as a community for a long time on difficult issues, there will often be tensions and differences. It is important that we discuss any disagreements openly so that we can keep working together and achieve the change we want.

**There are ways to resolve our differences in a constructive manner:**

- ✓ Provide an environment for people to voice our feelings, raise questions, and clarify points we do not understand or agree with
- ✓ Focus on solutions to problems rather than blaming people
  - ✓ Find areas of agreement and opportunities for collaboration
- ✓ Aim for solutions where everyone feels as though they have won

### Reducing Risks

All work, including advocacy, has risks. Advocacy work takes time and may affect our ability to earn money and put pressure on our family members if we are absent for long periods of time.

Sometimes powerful people will not like what we are doing and we can be accused of belonging to an opposition party, followed or even threatened

**How can we reduce risks?**

Discuss the main risks of every action with community and family members

Always let someone know where we are going and when we are expected to return

Make sure everyone knows where to go for help in case something happens

There is strength in numbers. Mobilize as many people as we can. Join networks

## Monitoring and Evaluation of Advocacy Work

Advocacy is complex and measuring its success should be looked at from different dimensions. These dimensions range from policy change; strengthening civil society; enlarging space and mobilizing people.

- ❑ *Advocacy as strengthening civil society and building social capital is seen as the ability of citizens to organise themselves collectively to alter the existing relations of power. They do this by providing themselves with a lasting institutional capacity to identify, articulate and act on their concerns, interests and aspirations, including the ability to achieve specific and well-defined policy outcomes.*
- ❑ *Advocacy as influencing key policy outcomes and achieving a reform agenda is the process in which a group or groups apply a set of skills and techniques for the purpose of influencing public decision-making.*
- ❑ *Advocacy as a citizen empowerment and citizenship building is the ability of the marginalized or disadvantaged to challenge the status quo by gaining a sense of their own power, including the capacity to define and prioritise their problems, and then acting to address and resolve them.*

*Source: Chapman and Wameyo (2001) Monitoring and Evaluating Advocacy:  
A Scoping Study*

The table below presents a framework of possible outcomes and impact of advocacy and campaigning work.

Dimension of work	Indicators of progress	Indicators of change and longer term impact
<b>1. Policy change</b> e.g. Legislative change Policy change Change in law	<ul style="list-style-type: none"> <li>❑ Increased dialogue on an issue</li> <li>❑ Raised profile of issue</li> <li>❑ Changed opinion (whose?)</li> <li>❑ Changed rhetoric (in public/private)</li> <li>❑ Change in written publications</li> </ul>	<ul style="list-style-type: none"> <li>❑ Changed policy.</li> <li>❑ Change in legislation</li> <li>❑ Policy/legislation change implemented</li> <li>❑ <i>(and in the very long term)</i> positive change in people's lives as a result of the policy/legislation change</li> </ul>
<b>2. Strengthening Civil Society by working with...</b> NGOs Movements/networks Community Based Organisation Popular Organisations Partner organisations	<ul style="list-style-type: none"> <li>❑ Change in individual members' skills, capacity, knowledge and effectiveness?</li> <li>❑ Change in individual civil groups' capacity, organisational skills, effectiveness?</li> <li>❑ Greater synergy of aims/activities in networks/movements</li> <li>❑ Change in collaboration, trust or unity of civil society groups</li> </ul>	<ul style="list-style-type: none"> <li>❑ Increased effectiveness of civil society work</li> <li>❑ Civil groups active in influencing decision-makers in ways that will benefit poor people.</li> </ul>
<b>3. Enlarging democratic space or the space in which civil society groups can effectively operate in society</b>	<ul style="list-style-type: none"> <li>❑ Greater freedom of expression</li> <li>❑ Greater acceptance/recognition of civil groups</li> <li>❑ Existence of fora for civil groups to input into a wider range of decisions</li> <li>❑ Increased legitimacy of civil society groups</li> </ul>	<ul style="list-style-type: none"> <li>❑ Increased participation of civil society groups in influencing decisions</li> <li>❑ Change in accountability and transparency of public institutions</li> </ul>
<b>4. Supporting people centred policy making</b>	<ul style="list-style-type: none"> <li>❑ Greater awareness of individual rights and</li> </ul>	<ul style="list-style-type: none"> <li>❑ Improved access to basic rights such as</li> </ul>

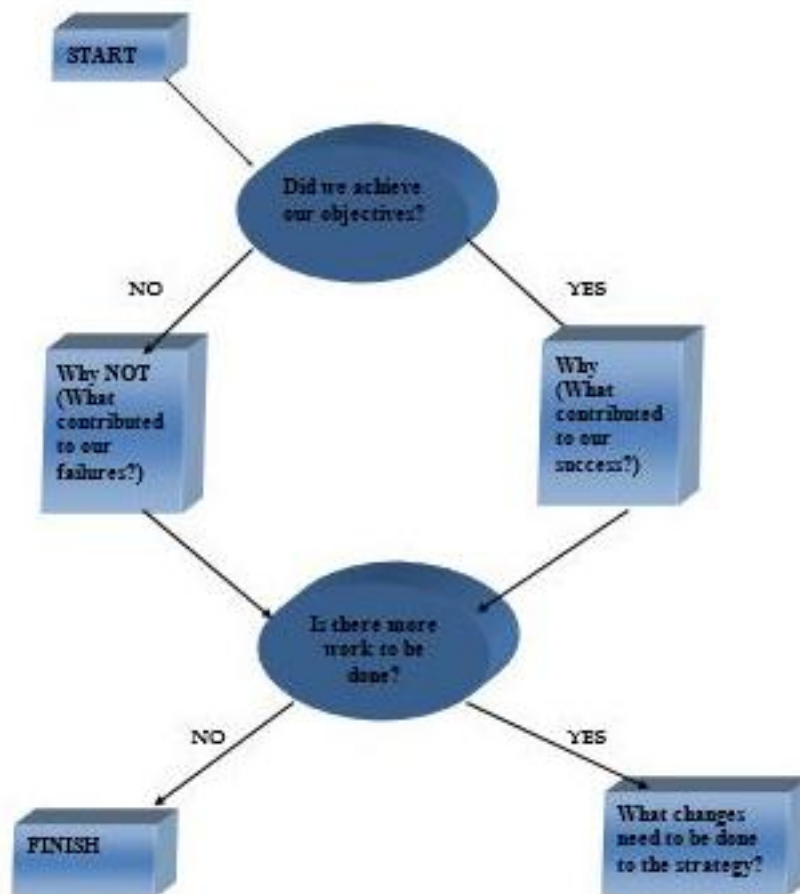
	<p>the power systems that withhold rights.</p> <ul style="list-style-type: none"> <li>□ Change in local people's skills, capacity and knowledge to mobilise and advocate on their own behalves.</li> </ul>	<p>health, housing, water, and food.</p>
--	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------

**POST MORTEM OF EVENTS**

Once the action has been implemented it is important to have a review and reflection meeting. Some of the key questions to consider when reviewing or reflecting on a civil disobedience action are;

- *Achievement of objectives:* To what degree did we you achieve the objectives?
- *Key Influences:* What contributed most to the success or failure f your initiatives?
- *Changes:* What needs to be changed or done differently next time?

## POST MORTEM FRAMEWORK





## **BIBLIOGRAPHY**

CARE International, 2001, **Advocacy Tools and Guidelines: Promoting Policy Change**, Atlanta, USA

CARE Malawi, **The Score Card Toolkit**

Centre for Good Governance, 2003, **A Guide to Developing and Implementing a Citizens' Charter**

Chapman J and Wameyo A, 2001, **Monitoring and Evaluating Advocacy: A Scoping Study**

Democracy Consolidation Programme, 2004, **Building an Informed Nation: A Handbook for Civic Education and Human Rights**

Help Age International, 2009, **Training Manual on Community Score Card and Community Report Card**,

International Council on Mines and Metals, **Good Practice Guide. Indigenous Peoples and Mining**

Malawi Government, **2014 Annual Economic Outlook Report**

Malawi Government, 2013, **Mines and Mineral Policy**

Malawi Government, **Malawi Growth and Development Strategy II 2011-2016**

Malawi Government, **Malawi Public Service Charter Programme 2011-2015**

Malena, C; Forster, R and Singh, J, 2004, *"Social Accountability: An Introduction to the Concept and Emerging Practices," Social Development Papers, No. 76*, Washington, DC: The World Bank,

Norwegian Church Aid/Catholic Commission for Justice and Peace, **Malawi's Mining Opportunity: Increasing Revenues, Improving Legislation**

Oxfam, **Shire Highlands Sustainable Livelihoods Programme Plan 2000- 2005**

Pact et al, 2006, **Grassroots Advocacy Handbook**

Tearfund, 2002, **Advocacy Toolkit: Practical Action in Advocacy.**

Tilitonse, 2013, **Political Analysis of Mining in Malawi**

World Bank, 2009, **Malawi Mineral Sector Review: Source of Economic Growth and Development**

**ANNEXE 1: MINERAL DEPOSITS IN MALAWI**

<b>DEPOSIT</b>	<b>LOCATION</b>	<b>DELIANATION RESERVES (MILLION TONES)</b>
Bauxite	Mulanje	28.8
Uranium	Kayelekera	12.5
Monazite/Strontianite	Kangankhunde	11
Corundum	Chiradzulu-Ntcheu	?
Graphite	Katengeza-Dowa	8.0
Limestone	Malowa Hill-Bwanje Chenkumbi-Balaka	15
Titanium bearing	Chikoa-Livwezi-Kasungu	10
Heavy Mineral Sands	Nkhotakota-Salima- Chipoka	700
	Mangochi	680
	Halala (Lake Chirwa)	15
Vermiculite	Feremu-Mwanza	2.5
Coal	Mwabvi-Nsanje	4.7
	Ngana-Karonga	15
	Mchenga	5
Phosphate	Tundulu-Phalombe	2
Pyrite	Chisepo-Dowa	34
	Malingunde-Lilongwe	10
Glass sands	Mchinji Dambos	1.6
Dimension stone	Chitipa, Mzimba	?
	Mangochi, Mchinji, Chitipa	
Gemstones	Mzimba, Nsanje, Chitipa, Chikhwawa, Rumphi, Ntchey	?

**Source: 2014 Annual Economic Outlook**

