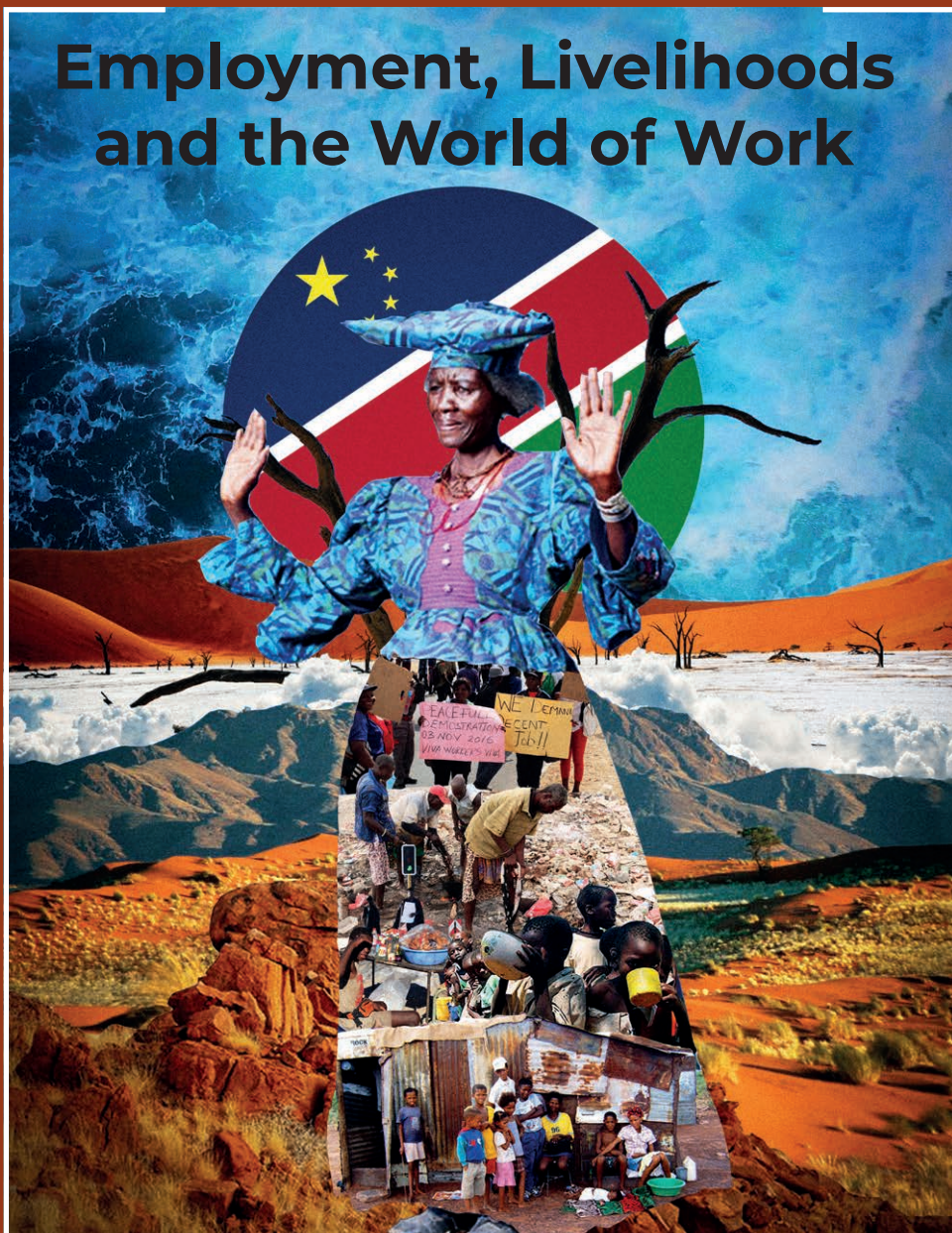


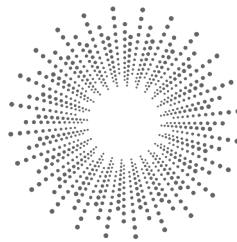
Employment, Livelihoods and the World of Work



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The Right to Say No to Mining when it Destroys Livelihoods, the Environment and Cultural Heritage Sites

Lucy Edwards-Jauch and Herbert Jauch

Introduction

Mining is seen as the backbone of the Namibian economy and has shaped its structure since German colonial rule. Not much has changed since then. Namibia remains an exporter of raw materials, and over 88% of mining operations in the country are owned and controlled by foreign companies (Nambinga, 2021).

In recent years mining has increasingly encroached upon the small patches of land reserved for indigenous black Namibians after

their ancestral lands were dispossessed during the 1904–1908 genocide. The South African colonial administration took over the territory under a League of Nations mandate in 1920 and intensified this dispossession to resettle their own impoverished white farmers in the territory.

While trying to eke out a living on marginal land, disenfranchised communities are once again subjected to dispossession and displacement. They feel a sense of outrage and betrayal that this is happening in a



Community members are outraged by the destruction caused by mining companies

Photo: Herbert Jauch

democratic and independent Namibia. With unbridled lawlessness, mining companies dispossess indigenous communities of their land, water sources and public infrastructure. They violate Namibian laws and the rights of indigenous communities with impunity. Communities suffer income and livelihood losses, environmental destruction, and the loss of cultural heritage sites. They are often left with little recourse because the institutions mandated to protect their rights and interests fail to do so, and often side with the perpetrators.

The Otjohorongo communal area in Dâures Constituency in Erongo Region stands out as a microcosm of social, economic, administrative and environmental injustices perpetrated in the name of “development”. Community members and activists are forced to use their own meagre resources to fight for their legal entitlements. Their plight amplifies the weaknesses of our democracy, for the rule of law seems not to apply to the moneyed and powerful. The interests of influential individuals and groups seem to trump the collective interests of entire communities.



The mining site at Otjohorongo remains unrehabilitated. Photo: Herbert Jauch

Background

Members of the Otjohorongo community invited us to visit their area to witness what mining is doing to their livelihoods and their environment. There is a sense of outrage amongst community members, for as people who had historically suffered colonial genocide, land dispossession and the loss of livestock, history is repeating itself, and they are once again being dispossessed of common resources that support their livelihoods. After a colonial genocide that exterminated 80% of the Ovaherero people, survivors are being comprehensively dispossessed of their ancestral land. When they attempted to reclaim these ancestral lands, they were relocated to marginal land by the South African authorities who administered Namibia under a League of Nations mandate after Germany lost her colonies. These marginal areas became reserves for small-scale farmers. Otjohorongo, an area comprising 330 000 hectares, was declared such a reserve in 1925 (Werner, 1993). Members of the community primarily make their living from livestock farming. Land access and rights, including access to natural resources, are governed by customary practices. Traditional authorities (chiefs, headmen and traditional councillors) still play an important role in the allocation and cancellation of customary land rights (Werner, 2021).

Mining in the area

Granite Mining started about 15 years ago with different companies operating in the area during different periods. These included Best Cheer Investment Namibia (PTY), who stopped mining in 2020. They removed their operational equipment overnight and left the area without any rehabilitation after they became aware that the community was preparing a case against them for environmental damage to heritage sites. Ongejama Mining CC stopped mining in 2021 after the community blocked the renewal of the Environmental Clearance Certificate (ECC), also due to damage caused to heritage sites. While the company removed all operating equipment from the site, it is still guarded by a caretaker, while the company tries to convince the Traditional Authority (TA) to support its application for renewal of the ECC. Two other companies, Dimension Stone Mining and Ekungungu, operated in the area where most cultural heritage sites are located. They continued operations into 2023 despite a report by the National Heritage Council stating that the Environmental Impact Assessment did not consider the heritage component as required by the Environmental Management Act (7 of 2007) and its Regulations (promulgated in 2012), as well as the National Heritage Act (27 of 2004) and its Regulations (2005). Once they were reported for operating with an expired ECC, operations ceased, but

they left behind destroyed mountains and grazing areas that have still not been rehabilitated.

The community is concerned about how these companies will be held liable for the environmental destruction and livelihood losses they have caused. There is a nebulous web of owners and operators that is steeped in secrecy. In some instances, formal license holders are Namibian citizens, but operations are run by foreign nationals, mainly Chinese. The community is of the opinion that the Namibians (from outside the Otjohorong area) are fronting for these foreign companies. This requires further investigation and more transparency. There is also the suspicion that the same company may be using different local proxies to obtain licenses. In some instances, mining started without community consultations or Social and Environmental Impact Assessments, as required by law.

The authority to make decisions regarding mining licenses is dispersed across different agencies and ministries. Community members have to go through tedious and costly procedures to access information and lodge complaints, as they are fobbed-off by one agency after the next. For example, TAs may authorise entry into the area (often without proper community consultations). The

Ministry of Environment, Forestry and Tourism (MEFT) gives environmental clearance and the Ministry of Mines and Energy issues mining licenses. There is a complete lack of transparency and accountability, and the community is left asking many questions that are often simply ignored by the authorities.

Information, consultation and consent

In 2018 and 2019, community meetings were convened by environmental consultants. Only a few community members were invited, and there was no full disclosure of the social and environmental impacts of mining. Because the law is not clear on what constitutes community consultations or how they ought to be conducted, the process is open to abuse. There was no response to community questions about the validity of mining licenses. Instead, the TA referred the community to the Ministry of Mines and Energy. The TA sees itself as the custodian of the land and interprets this as ownership and control over the land. Internal conflicts within the TA are exploited by mining companies, who employ divide-and-rule tactics and back one faction against another to gain their support and do their bidding. The experiences of the community suggest that the TA does not support their attempts to hold government officials and mining companies accountable.

In response to community complaints about mining in the area, Deputy Environmental Commissioner Caroline !Garus-Oas visited the mining site in October 2022. She witnessed the environmental destruction and compiled a report. Although the community repeatedly requested a copy of the report, they have not been granted access to it. This is in conflict with the Access to Information Act (8 of 2022) that requires officials to make information available proactively, expeditiously, and free of charge.

In March 2020, an environmental consultant employed by one of the mining companies claimed that the mining company was only involved in exploration activities and not in actual extraction because they did not have a mining license. Community members however saw large granite blocks trucked out of the area to Walvis Bay

for export to China. Questions about who granted permission to extract and transport granite without licenses and permits remain unanswered. The community also questions the independence of environmental consultants who conduct environment impact assessments, as they are paid by the mining companies. This raises doubts about the objectivity, reliability and accuracy of their assessments.

The issue of how community consent is obtained requires further investigation. There are concerns about the fraudulent use of attendance lists to contrive consent. These lists are at times undated, and people who attend information meetings have concerns that their signatures, which ought to simply denote attendance, are used to construe consent, when this is in fact not the case.



The Otjohorong community feels abandoned in their quest for justice. Photo: Herbert Jauch

Destruction of Livelihoods

The mining operations are taking place in the midst of the community's winter grazing land. The community relies on livestock farming, and grazing is of paramount importance. The local track to the grazing area has been appropriated for the exclusive use of a mining company and is blocked by big granite boulders. This effectively blocks access to grazing areas. A caretaker, appointed by the company refuses the community access to their own land. In addition, fine dust generated by cutting and grinding processes cover the area like blanket of snow on windy days. The fine dust deposits cause respiratory

problems as it settles on vegetation that is ingested by livestock. Some cattle also get lost in the mining area as the traditional passages are blocked. This has resulted in the death of some cattle for which no compensation was received.

Community members want to preserve the environment and heritage sites for future generations and to develop sustainable agriculture and tourism projects. As a result of mining operations, some of these sites have been destroyed, and some are inaccessible.



The fine dust created by cutting and grinding poses health risks. Photo: Herbert Jauch

Water

The mining company drilled its own borehole next to the community borehole. This was done despite the Minerals (Prospecting and Mining) Act (33 of 1992) explicitly stating that this can only be done with the permission of the Environmental Commissioner. It is not clear if such permission was sought or granted. The company has depleted scarce water resources in the area because its mining operations required a constant water supply to cool the blades used to cut the rocks. The community had to pay for water from the company borehole, and when the company ceased mining operations, it closed the boreholes within the mining area with cement.

Natural waterways, for example a stream, was simply blocked with earth to provide a road for the transportation of granite blocks. During the rainy season this stream used to fill a community dam downstream. The company refused to build a bridge over the stream to allow for the natural water flow, so the dam is no longer fed.

Environmental destruction

Namibia's Environmental Management Act (7 of 2007) establishes the office of the Environmental Commissioner, with environmental officers to control activities that may have significant effects on the environment. In the case of Otjohorong, mining was allowed to continue despite the environmental



The mining companies blocked community access to the water hole. Photo: Herbert Jauch

destruction, with no thought given to rehabilitation.

As a result of the open cast mining used for extraction, there are now over 10 huge unprotected mining pits that were cut into the pristine mountains. They pose a danger to humans and animals as there are falls of several metres into these unfenced pits. Tracks from chemicals used for mining are visible down the mountain leading to water holes and the stream below. The company has left large boulders, considered waste and unsuitable for export, strewn all over the area. The community used the mountains for walking and hiking, but the boulders block access to these recreational sites, as well as to cultural heritage sites.

The community has to travel about 75km to the town of Omaruru to visit the hospital and to purchase supplies. The mining company has used this road for its heavy trucks, causing damage which has not been rehabilitated.

Community members are not informed when blasting will take place and thus experience noise pollution during blasting, which also distresses livestock.

A large oil pond is partially concealed by granite boulders that were dumped in and around it. The community fears that the oil will find its way into water supplies.

Rehabilitation of the environment

The Environmental Management Act (7 of 2007) explicitly states that a person who causes damage to the environment must pay the costs associated with the rehabilitation of damage to the environment and to human health. It is not clear why this law was not enforced in Otjohorongo. The mining sites remain unrehabilitated while the community calls for rehabilitation have been ignored. It is not even certain if the damage is reversible, and if the open mining pits that were cut into the mountain can ever be rehabilitated.

Destruction of a cultural heritage sites

The entire mountain is home to centuries-old rock paintings and engravings. It is also a repository for archaeological artefacts. Some of the engravings have already been damaged or destroyed. The company has even been so brazen as to attach a notice board to a rock with ancient engravings. This occurred despite stakeholder meetings with officials from the National Heritage Council of Namibia, the Ministry of Mines and Energy, and the MEFT in February 2020 during which a joint monitoring archaeological assessment was recommended. A final report was produced in October 2020 and a second stakeholders' meeting was convened in November 2020 which resolved that



The large pit constructed for rehabilitation was left unused by the mining company.

Photo: Herbert Jauch

that all the Environmental Clearance Certificates and Mining Licenses in the area be withdrawn.

Local Benefits?

The promised job benefits and increased incomes to the community have never materialised. There were no legally binding agreements in terms of which the community could hold companies to their promises. Only about eight members of the community were employed in the mine, mainly in low paying jobs, for example as cleaners. All other company employees were brought in from outside the community, and no skills were transferred to community members.

The companies did not source any inputs or services from the community to stimulate local economic development and income generation. The promised social investments in education and infrastructure did not materialise. Only when the community questioned the lack of legal compliance did one of the companies assist with fixing the roof of a school hostel. The community is of the opinion that this was not in proportion to the wealth the company extracted from resources in the community.

Governance, oversight and enforcement failures

Mining in Otjohorongo has been riddled with governance failures at various levels. There was a lack of oversight and law enforcement by agencies tasked to do so. In terms of the Traditional Authorities Act (25 of 2000), TAs are tasked with promoting the welfare of their respective communities. They should also ensure that the natural resources of the community are used on a sustainable basis and that cultural sites are preserved. This patently did not happen, and thus far, the TA has not been held accountable for this dereliction of duty.

In terms of the Environmental Management Act, the Minister of

Environment, Forestry and Tourism should ensure compliance with the Act, and the Environmental Commissioner is responsible for issuing ECCs and inspections to monitor compliance with the Act. Community members question how ECCs could have been issued to some of the companies, and how such massive environmental destruction could have occurred without any monitoring and enforcement of the Act.

The Minerals (Prospecting and Mining) Act directs the Mining Commissioner to take into account the need to conserve and protect the natural resources in, on or under the land to which the application relates, and any adjoining or neighbouring land. The Commissioner can also



Mining caused large-scale destruction in Otjohorongo. Photo: Herbert Jauch

cancel registration certificates in cases of noncompliance. It is therefore not clear if and how the office of the Mining Commissioner exercised this mandate in Otjohorongo and how it allowed noncompliance and environmental destruction to continue over such a long period.

Community Demands

The community demands their right to prior and informed consent to mining operations on their communal land. It demands the rehabilitation of the damaged area by the mining companies. This rehabilitation must benefit the community in the form of jobs and the provision of bricks, and crushed stones and the construction of tarred roads. The community further wants:

- Access to information: They want to see the environmental assessment reports, environmental management plans, ECCs, mining and prospecting licenses and transport permits. Thus far, the MEFT has refused to provide some of these reports because some officials claimed that they are not public documents.
- Direct community representation in all discussions relating to mining plans and social responsibility projects (rehabilitation, etc.):

Communities must be alerted to all aspects and repercussions of mining operations; consultations should not be limited to the TA. Community views and demands, as expressed by elected and accountable representatives, must be required for the approval of any licenses being issued.

- Financial transparency: The community should have access to financial information, specifically the financial and banking accounts of the TA and its members, to ensure that inducements have not been exchanged for mining consent.
- Ownership of left over granite slabs: There should be clarity about who owns the hundreds of granite slabs that were mined and left behind after the expiry of the ECC. The community should also have access to the waste and machinery left behind by the companies, which is currently strewn across the landscape.
- Justice and accountability: Those who through either gross incompetence, dereliction of duties or collusion allowed violations of the law and crimes against the environment to take place should not enjoy impunity, but should be brought to book.

- An end to mining: Mining activities in Otjohorongo should end, and that those negatively affected by past mining should be resettled.
- Amendments to the law: The law should be amended and explicitly define communities' rights to consultation, participation, decision-making, and benefit-sharing.
- Full disclosure: The impact of mining should be fully disclosed, and the right to say "no" to mining if it harms communities' collective interests and the environment should be enshrined in law.
- Benefits: Where mining is permitted, the community wants legally binding agreements on the benefits to which they are entitled in terms of jobs, skills development, training, income streams and infrastructure development.

Werner, W. (1993, March 1). A Brief History of Land Dispossession in Namibia. *Journal of Southern African Studies*, 19(1). Taylor & Francis.

Werner, W. (2021, January). *Land Governance on Communal Land in Namibia*. Legal Assistance Centre: Land, Environment and Development Project. https://www.lac.org.na/projects/lead/Pdf/Land_Governance_on_Communal_Land.pdf

References

Nambinga, V. (2021). *The impact of mining sector to the Namibia economy: Assessing socio-economic and environmental effects*. Republic of Namibia. <https://www.npc.gov.na/wp-content/uploads/2022/02/The-Impact-of-Mining-sector-to-the-Namibia-economy-FINAL.pdf>