

# A Critique of the Current Regional Approach to Human Security within the Context of Informality and a Pervasive Artisanal and Small Scale Mining (ASM) Sector

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The Southern African Development Community (SADC)'s human security infrastructure embraces the notions of freedom from want and fear as represented in the United Nations Development Programme's Human Development Report (1994)<sup>1</sup>. However looking into SADC's Regional Indicative Strategic Development Plan (RISDP)<sup>2</sup> on socio-economic dimensions and the Strategic Indicative Plan for the Organ (SIPO)<sup>3</sup> on peace and security, the infrastructure tends to focus heavily on the development and support of formal markets, essentially neglecting another core aspect of African life, the informal sector. In so doing, an opportunity to enhance human security by tapping into the informal economy is missed. This paper calls for a paradigm shift in regional and national policies towards ASM.

<sup>1</sup> United Nations Development Programme. *Human Development Report*. (New York: Oxford University Press, 1994), 1-3

<sup>2</sup> SADC. Government Enclave. *Regional Indicative Strategic Development Plan*. (Botswana: SADC House, 2003)

<sup>3</sup> SADC. Government Enclave. *Strategic Indicative Plan for the Organ*. (Botswana: SADC House, 2004)

## The Significance of Informal Economy and ASM to Human Security in Africa

There is little argument against the frequent citation exposing an African reality in which the informal sector contributes to about 55% of sub-Saharan Africa's GDP and 80% towards the labour force, most of whom are women and youth.<sup>4</sup> Although many African countries have experienced a growth revival, formal sector jobs have not necessarily been generated, resulting in most people finding space in the thriving people's economy in Africa. Outside the formal markets, the primary source of employment remains farming with the World Bank's estimate of 65% of the population employed. However, these employment trends are decreasing as technology and capital substitute labour on farms. Furthermore, the formal sector has thus far been unable to absorb the labour movement off the farms nor has it had capacity to absorb the number of youths newly entering the workforce every year, which has therefore attracted many to non-farming alternatives especially Artisanal and Small-Scale Mining initiatives (ASM).<sup>5</sup>

The informal economy provides a safety net and in some cases an alternative means of wealth accumulation. **Women's participation in artisanal mining in the Africa region is the highest across all regions of the world (estimated at anywhere between 40% and 100% of the workforce) and the livelihoods of between 100 and 200-million people depend on those that are directly employed (calculated at between 20 and 30 million) globally in ASM.**<sup>6</sup> In the same vein, many Africans rely on the informal sector as a survival option, a situation in which most informal workers are without secure income, employment benefits and social protection. The informal sector operates both in the rural and urban areas. The assumption before policy-makers is that the rural economy is primarily agrarian when in fact, it can hold a number of roles amongst them, reducing urbanisation and exploiting minerals.<sup>7</sup> There is thus a link between the informal economy and ASM to human security, and in light of the multiple settings in which interactions take place there is need for a coordinated regional and national policy on ASM.

### Need for Policy and Legal Reform

Despite studies and recommendations, including *the Harmonisation of Mining Policies, Standards, Legislative and Regulatory Frameworks in Southern Africa* recognising the need to assist small-scale business formalisation and their intake into the formal markets, there is little appreciation of the intrinsic value of the informal economy and the diversity within mining sector.<sup>8</sup> Current policy propositions point to 'formality bias' in African economic development policy discourse.<sup>9</sup> For the most part, informal economy and in particular ASM is either criminalised in the extreme or at best tolerated as not necessarily illegal but unhealthy for the economy.

In some SADC countries, the scattered small and isolated deposits of minerals have been most appropriately economically exploited by small-scale miners sometimes in working relations with Large Scale Mines (LSM). With modest demand on capital expenditure and a short lead-time, ASM also provides employment

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<sup>4</sup> Mthuli Ncube. *Recognising Africa's informal sector*. (African Development Bank Group, 2013)

<sup>5</sup> Arvil V. Adams, Sara Johansson de Silva, and Setareh Razmara. *Improving Skills Development in the Informal Sector: Strategies for Sub-Saharan Africa* (Washington:World Bank, 2014), 56-57

<sup>6</sup> Womin. *Transformation of artisanal mining: empowering women, sustaining humanity, saving the planet?* (IANRA Initiative, 2013), 2

<sup>7</sup> Adriana Eftimie, Katherine Heller, John Strongman, Jennifer Hinton, Kuntala Lahiri-Dutt, Nellie Mutemeri with Chansouk Insouvanh, Michael Godet Sambo, and Susan Wagner. *Gender Dimensions of Artisanal and Small-Scale Mining: A Rapid Assessment Toolkit*. (Worldbank, 2012), 1

<sup>8</sup> *Harmonisation of Mining Policies, Standards. Legislative and Regulatory Frameworks*. (Lusaka, United Nations Economic Commission for Africa, 2004)

<sup>9</sup> Dayo Olopade. *Breaking Rules and Making Change in Modern Africa*. (New York, Houghton Mifflin Harcourt Publishing Company, 2014)

opportunities for the local population that often face exploitation by companies who buy their produce cheaply.<sup>10</sup> However, the same fiscal, legal and development policy regimes designed for large-scale industrial mining are often used to govern ASM despite the differing scales and motives. An example of this is Zimbabwe Mines and Mineral's Act that scarcely addresses the unique situation of ASM networks while the South African legal system completely criminalizes ASM.

Artisanal mining without clear definition and legal standing in most SADC countries escapes regulation and so often is not taxed, thus exposing serious loopholes in the relationships between ASM and LSM as well as ASM and government. The lack of legal clarity creates vulnerability for the ASM player and conditions for the exploitation of women and children as well as unfair labour practices whilst also opening up questions towards unguided and often environmentally hazardous consequences of ASM.

## Conclusion

Though there is a growing understanding of the economic and livelihood significance of the informal sector and ASM within the region, the dominant policy and legal system create a barriers for the poor and marginalised to "legitimately" make a living within these sectors. The formality bias prevents ASM networks from entering into safe contracts, being able to access credit, having an identity that can be recognised on a broad-scale throughout the world and having the possibility to organise to enter foreign markets. While there are exceptions, for the most part, the informal sector within which ASM networks often operates is not characterised by lawless behaviour. In spite of the lack of a formalised and codified legal system, the informal sector has rules and norms that constitute an 'extra-legal structure'.<sup>11</sup> The 'extra-legal system' moves the argument away from material deprivation to institutional deprivation in that law due to various reasons among them, the way it is designed, articulated and implemented, is not able to recognise the norms and rules of the informal sector. This approach enables us to look at the rule of law in an inclusive way and creating opportunities for the poor to access natural resources in a beneficial and sustainable way. Therefore, regional and national policies do not need to reinvent the wheel, but through careful study and grassroots consultation encooperate existing albeit uncodified rules and norms governing informality and the ASM sector.

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<sup>10</sup> *Southern Africa Resource Barometer*. (Southern African Resource Watch, 2014), 18

<sup>11</sup> Siegel, S., and Veiga, MM. "Artisanal and Small-Scale Mining as an Extralegal Economy: De-Soto and the Redefinition of "Formalisation"". *Resource Policy* 34, 2009: 51-56.

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