

Improved working conditions and corporate social responsibility interventions in the world of business have crucial role for a business's success yet they are the factor variables mostly under considered by most potential employing institutions and investors worldwide. For instance, several studies have shown that improved working conditions for employees that include promotion of living wage, are potential to make businesses compensate their increased costs by benefits related to quality, productivity and reputation. However such issues are rarely discussed and reported hence are not known or less understood and/or appreciated. "Working Conditions and Corporate Social Responsibility in the Mining: The Case of Kaziwiziwi and Mchenga Coal Mining Companies in Rumphi District in Malawi", is a book that discusses the prevailing working conditions and CSR interventions with reference to two selected coal mining companies in Malawi. The book targets employing institutions and potential investors mostly in the mining sector; employment social partners; NGOs/CSOs operating within areas of Mining advocacy and governance; and academic researchers/students of Industrial Relations studies.



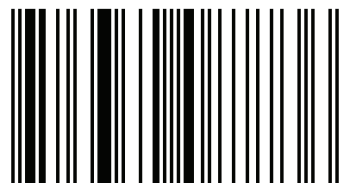
Kalani Mbeye Malema



Kalani Mbeye Malema holds an MBA Degree from University of Malawi, obtained in 2013. Malema works as labour inspector & researcher in the Ministry of Labour-Malawi, since 2006. He has published online book entitled: "A Summary of Labour Legislation in Malawi", which contains brief user friendly key provisions of the Malawi labour legislative acts.

# Working Conditions and Corporate Social Responsibility in the Mining

The Case of Kaziwiziwi and Mchenga Coal Mining Companies in Rumphi District in Malawi



978-3-330-08773-6

 **LAMBERT**  
Academic Publishing

**Kalani Mbeye Malema**

**Working Conditions and Corporate Social Responsibility in the  
Mining**



**Kalani Mbeye Malema**

**Working Conditions and Corporate  
Social Responsibility in the Mining**

**The Case of Kaziwiziwi and Mchenga Coal Mining  
Companies in Rumphi District in Malawi**

**LAP LAMBERT Academic Publishing**

**Imprint**

Any brand names and product names mentioned in this book are subject to trademark, brand or patent protection and are trademarks or registered trademarks of their respective holders. The use of brand names, product names, common names, trade names, product descriptions etc. even without a particular marking in this work is in no way to be construed to mean that such names may be regarded as unrestricted in respect of trademark and brand protection legislation and could thus be used by anyone.

Cover image: [www.ingimage.com](http://www.ingimage.com)

Publisher:

LAP LAMBERT Academic Publishing

is a trademark of

International Book Market Service Ltd., member of OmniScriptum Publishing Group

17 Meldrum Street, Beau Bassin 71504, Mauritius

Printed at: see last page

**ISBN: 978-3-330-08773-6**

Copyright © Kalani Mbeye Malema

Copyright © 2019 International Book Market Service Ltd., member of  
OmniScriptum Publishing Group

## Table of Contents

Preface.....	ii
Acknowledgments.....	iv
About the Author .....	v
Abbreviations .....	vi
<b>Chapter 1</b> An Introduction to the Working Conditions and Corporate Social Responsibility: <i>Definitions, Scope and Methodology</i> .....	1
1.1 Working Conditions – Definitions and Scope .....	1
1.2 Corporate Social Responsibility– Scope and Definitions .....	3
1.3 The Book Methodology and Organisation .....	7
<b>Chapter 2</b> The Mining Sector and Coal Mining in Malawi: <i>Minerals Mining, Coal Mining and Regulatory Framework</i> .....	11
2.1 Minerals Mining in Malawi .....	11
2.2 Coal Mining in Malawi .....	12
2.3 The Mining Regulatory Frameworks .....	14
2.3.1 The 2013 Mines and Minerals Policy of Malawi.....	14
2.3.2 Mining Legislative Framework in Malawi .....	14
<b>Chapter 3</b> Kaziwiziwi and Mchenga Coal Mining Companies in Malawi.....	16
3.1 Kaziwiziwi Coal Mining Company Limited.....	16
3.2 Mchenga Coal Mining Company Limited .....	16
3.3 Mining Activities and Workforce at Mchenga and Kaziwiziwi Mines.....	17
<b>Chapter 4</b> Prevailing Working Conditions and Corporate Social Responsibility Interventions at Kaziwiziwi and Mchenga Coal Mining Companies: <i>A Discussion of the Study Findings and/or Results</i> .....	19
4.1 The Prevailing Working (Employment) Conditions .....	19
4.1.1 Summary of Prevailing Workers’ Problems at Mchenga and Kaziwiziwi Coal Mines .....	19
4.1.2 Salaries and/or Wages condition .....	20
4.1.3 Working Hours and Environment Conditions .....	23
4.1.4 Work Condition of Temporary and Casual Workers .....	24
4.1.5 Work Condition of Non-payment, Low or Delayed Workers Compensation .....	26
4.1.6 Workers’ Organizations and their Freedom of Association.....	30
4.2 Corporate Social Responsibility Interventions by Mchenga and Kaziwiziwi Coal Mining Companies .....	37
4.3 Chapter Concluding Remarks .....	40
<b>Chapter 5</b> Conclusions and Recommendations .....	43
<b>End Notes</b> .....	46
<b>Bibliography</b> .....	48

## Preface

Books on working conditions and Corporate Social Responsibility in the mining sector in Malawi are long overdue especially this time around when the country social partners – the trade union organizations – in conjunction with Civil Society Organisations are fighting for the improved governance within the mining industry through pressing for revision of the, or enactment of new, mining sector laws. The working conditions as a structural component of industrial relations have been neglected in Malawi in terms of academic coverage by way of research and analysis. This is despite the fact that working conditions have been acknowledged as one of the crucial industrial relations structures to be closely examined in order for businesses to achieve their sound workplace labour relations that are conducive for improved workplace productivities.

The provisions of the working conditions which are also constituted as part of every company's business terms and conditions of service along with corporate social responsibility need to be well understood and accessible to the company employees like is the case with respect to the company management team members. Above all, they ought to be applied consistently and fairly at the workplace. In Malawi, the company's corporate social responsibilities have always been mixed up, according to knowledge of some stakeholders, with the company's working terms of employment with its employees. While some provisions of the working conditions could constitute as workers' rights based on provisions of the country existing labour laws, corporate social responsibilities, currently in Malawi like in other developing countries including some developed ones, are still not mandatory and hence must be known, understood and applied as such by all the relevant company's workplace stakeholders which include employers, employees as well as the workplace surrounding community leaders and their development members up until when Malawi will have reversed the law with respect to corporate social responsibility. This book is an attempt to fill such knowledge gap by studying two major coal mining companies – Kaziwiziwi and Mchenga – in Rumphi district located in the Northern Region of Malawi. Chapter 1 is an introduction to the working conditions and corporate social responsibility. Chapter 2 presents details on the mining sector and in particular coal mining in Malawi. The chapter also gives brief outline on the Malawi mining regulatory framework. Chapter 3 presents the case studies in the order of Kaziwiziwi coal mining company, first, and Mchenga coal mining company, second. Chapter 4 provides detailed discussions on the actual prevailing working conditions and corporate social responsibility interventions at the two selected coal mining companies. Finally, chapter 5 concludes the book and makes some policy recommendations based on the concluding statements.

It must be observed that one major challenge inherent in the study of working conditions and/or corporate social responsibilities in general, and within the mining sector in particular, is that both the workplace employees and community development members or stakeholders are not usually conversant with the company's operational terms and conditions of service or most of them are not interested to know and access them thinking that, that is not their duty to do so but their workplace employers' duty. This can affect the objectivity of the study. In addition, advocacy sensitization meetings by CSOs which are instrumental may not be well balanced and conclusive in some cases. The CSOs' approach may only capitalize on coverage with respect to their interested advantages regarding employees' attempts to exercise and claim their labour rights from their employers. This book is thus unique and important in demonstrating the position and status of working conditions and

CSR as much of the information and data used have been gathered from primary sources through in-depth focus group discussions and face-to-face interviews with key employment social partners and stakeholders who participated in the advocacy and awareness meetings within the communities of the mining workplaces being drawn from and around the two studied companies.

Interviews with key workplace parties and other resource persons – the key informants – helped the author to gather information on the important study variables and contextual perspectives of the mining surrounding community development stakeholders with respect to issues of corporate social responsibilities. The study also documented aspects such as corporate social interventions undertaken by the two studied mining companies to their surrounding communities; mineral mining activities undertaken in various parts of districts in Malawi which include both the artisanal small scale mining as well as the medium to large scale mining activities.

The book data and information were gathered over a period of three years of fieldwork from 2014 in the district involving the two coal mining companies. It must however be noted here that the book is not a historical one nor is it a full and comprehensive research coverage of all the conclusive working condition variables within the country mining industry, rather it is just aimed at offering explanations with respect to some few selected but key working conditions such as salaries and wages, working hours and environment, nature and types of work contracts, workers compensation issues as well as workers' organizations and their freedom of association. These few covered working conditions are part of the crucial provisions as minimum standards of employment according to the Malawian labour laws currently in force.

The book is of great interest to potential investors within the country mining sector; to the employment social partners, the employees, employers and government practitioners responsible with the enforcement of the country labour laws; to representatives of Non-governmental Organisations and/or Civil Society Organisations operating within the field of Mining advocacy and good governance; as well as to all academic researchers and students of industrial/employment relations study field.



Kalani Mbeye Malema,  
Book Author.

## Acknowledgments

This book is an edited and/or revised version of my journal research article titled: “The Working Conditions in the Mining Sector: The Case of Mchenga and Kaziwiziwi coal Mines in Malawi” published in March 2017 in the Open Science journal. I am therefore grateful to all those people who had participated in my study that led to the journal publication and subsequently to the publishing of this book. I would, in special ways, like to express my sincere gratitude to my academic referees, Professor Lewis Dzimbiri and Associate Professor Rhoda Bakuwa who are my recommenders to whatever I am doing with respect to my research work activities. Also to thank them for their words of encouragements for me to continue researching with attempt to explore possible scientific solutions to various problems within the field of my expertise—the Industrial/Labour relations. I thank them for their positive comments and feedback regarding my first preliminary draft of my research paper whose edition has resulted into publishing this book.

Secondly, I would like to thank and acknowledge my district team workmates who include Frank Mkandawire, the Director of Planning and Development; Ethel Chikhoti, the District environmental officer; Gift Nyirenda, the District Forest Officer and other various contributors, who rendered their assistance in various capacities to me in the course of planning and collecting data for this paper. Special thanks should also go to all the development stakeholders in the names of CCJP, Church and Society Programme of the CCAP Livingstonia Synod whose advocacy activities in the mining sector were the stimulants to my study design, development, and implementation. Special thanks should also go to more other study respondents including owners of the two studied companies for answering my questionnaires timely and finally to Mr Wafwile Musukwa, the Deputy Labour Commissioner for the trouble he went through in providing additional key information as well as helping me get relevant reference materials with respect to pieces of legislation regulating the mining sector.

Next, part of my book chapters were proof read once or twice by Katoto Mtambo, author of English language books and former college lecturer. Special thanks should go to him as well for his proofreading work.

Finally, I wish to acknowledge my family, that is, my beloved wife, Modesta; my first born daughter, Brenda; and second born son, Duncan who demonstrated patience with a husband and a father respectively who was often busy reading and writing sometimes throughout the night. In addition, Modesta, my wife, has supported me throughout all my busy times, with her encouragement and trust. Thanks to Jockely General Mbeye, my uncle, a retired UNDP Advisory Specialist for SADC region who felt impressed with my book writing progress and encourages me to continue working hard throughout my lifetime. May God bless you all!

## About the Author

Kalani Mbeye Malema has been the Labour officer/inspector and researcher in the Ministry of Labour-Malawi Government since 2006. He has facilitated the establishment and training of various Workplace representative committees in various big workplace establishments of Northern Region of Malawi; has facilitated and guided the formulation of workplace employment terms and conditions by employers of various employing institutions in the region which are document guidelines implemented by workplace players to help ensure fair enforcement of employment labour laws among others; and has also settled so many individual labour complaint cases and industrial disputes (strikes/lockouts) between employers and employees through the mediation and conciliation processes. Mr Malema holds Masters in Business Administration and Bachelor's Degrees, both, from the University of Malawi which he obtained in 2006 and 2013 respectively. He also holds the Malawi government civil service labour law certificate obtained in June 2006 from Mpemba, the Government staff development institute. In addition, Malema has been a warded, in 2017, a certificate of publication by the International Journal of Science and Research based in India.

Malema's current interests are in the management of workplace labour disputes and labour productivities under which he wants to research, for his proposed PhD research, the nature and characteristics of workplace labour disputes and their impacts on economic development in Malawi. His recent journal publications appear in the International journal of public administration and management Research, in International journal of science and research as well as in the Open Science journal, among others. Finally, Mr Malema has also published online a book titled: *A Summary of Labour Legislation in Malawi*, which contains a brief and user friendly summary containing key and relevant provisions of all the Malawi labour legislative Acts, the laws.

This book, *Working Conditions and Corporate Social Responsibility in the Mining Sector in Malawi*, is based on Malema's research journal article on "the Working Conditions in the Mining Sector: The Case of Mchenga and Kaziwiziwi coal Mines in Malawi" published in March 2017 in the Open Science journal. The book documents and discusses some realities faced and experienced by the Malawian workers, working in the mineral mining companies.

## Abbreviations

<b>ADC</b>	Areal Development Committee
<b>AICC</b>	African Institute of Corporate Citizenship
<b>ASSM</b>	Artisanal Small Scale Mining
<b>BCCEAWUM</b>	Building, Construction & Civil Engineering Allied Workers Union of Malawi
<b>CCJP</b>	Catholic Commission for Justice and Peace
<b>CCAP</b>	Church of Central Africa Presbyterian
<b>CICSR</b>	Committee on International Corporate Social Responsibility
<b>CSO</b>	Civil Society Organisation
<b>CSP</b>	Church and Society Programme
<b>CSR</b>	Corporate Social Responsibility
<b>Cap.</b>	Chapter
<b>DFID</b>	Department for International Development
<b>EA</b>	Employment Act
<b>EIA</b>	Environmental Impact Assessment
<b>EMA</b>	Environmental Management Act
<b>GDP</b>	Growth Domestic Product
<b>HRO</b>	Human Resource Officer
<b>INDE-BANK</b>	Investment Development Bank
<b>ILO</b>	International Labour Organisation
<b>JCC</b>	Joint Consultative Committee
<b>LRA</b>	Labour Relations Act
<b>MCGC</b>	Malawi Corporate Governance Code
<b>MCML</b>	Mchenga Coal Mines Limited
<b>MDC</b>	Malawi Development Corporation
<b>MIDCOR</b>	Mining Investment and Development Corporation
<b>MMA</b>	Mines Minerals Act
<b>OECD</b>	Organisation for Economic Corporation and Development
<b>OSH</b>	Occupational Safety and Health
<b>OSHWA</b>	Occupational Safety, Health and Welfare Act
<b>PA</b>	Pension Act
<b>UN</b>	United Nations
<b>VDC</b>	Village Development Committee
<b>WBCSD</b>	World Business Council for Sustainable Development
<b>WC</b>	Workers Compensation
<b>WCA</b>	Workers Compensation Act

# **An Introduction to the Working Conditions and Corporate Social Responsibility**

## ***Definitions, Scope and Methodology***

---

### **1.1 Working Conditions – Definitions and Scope**

It was proper and expected to introduce this section with a definition of the term working conditions. However due to the term's complexity, the author felt to introduce the section by a clear explanatory observation regarding the importance of having to talk about working conditions and/or improved working conditions amongst workplace employees in order to draw book readers into some perspectives of expectations and appreciations.

There is probably one most crucial thing that most of the potential employing investors worldwide do not fully know or undermine to know its positive implications for their businesses' competitiveness and successes. This one most crucial thing, is the improved working conditions for employees that include promotion of living wage among others which in return would make the businesses compensate their costs, as a result of higher costs that might have come from paying a living wage for example, by benefits related to quality, productivity and reputation through several ways such as the following, according to various International Labour Organisation (ILO) studies (ILO, 2016) and the Committee on International Corporate Social Responsibility<sup>1</sup> (CICSR):

1. through their businesses being able to attract and retain skilled employees, with an associated reduction in the cost of education and training as happy employees are usually more productive;
2. by way of avoiding the associated expenses of strikes and labour conflicts;
3. by being able to cut costs elsewhere in the supply chain as one business at the centre is being served by backward suppliers as well as serving its forward suppliers, its employees are the ones handling all the involved trade transactions taking place that can be less costly once done timely and/or efficiently and effectively;

4. by way of having stable and lasting relationships with suppliers since suppliers who pay, or want to pay, a living wage are often well-organised businesses;
5. by way of qualifying for sustainability certification and consequently be able to charge a higher consumer price for their products; and,
6. by way of enjoying good reputation and run less risk of negative publicity in the media about poor working conditions.

In this book, working conditions in respect of employees in the mining sector have been discussed and therefore it is within the author's expectation and appeal that readers of the book especially those who are business employers should pay attention to this explanatory observation and its associated benefits for businesses and to keep on referring to it throughout as they read the rest contents of the book mainly under the section of prevailing working conditions being discussed in details under chapter 4.

Turning into the task of defining the term working conditions, it is rather common knowledge for every industrial relations experts and labour practitioners/professionals practicing in Malawi to simply describe the term working conditions as one's signed or agreed terms of employment contract or as the company's terms of employment signed or agreed between the company as employer and its workers, as employees. Nevertheless, this is not enough about defining the term working conditions.

Actually the term working conditions is broad and complex to the extent that having one explicit definition across a wider range of mixed societies and localities would be non-starter. For instance, in classical terms, working conditions were associated to mean the employment agreements that could be agreed upon between two parties to an employment relationship. This is probably a definition inherited by industrial relations specialists and labour practitioners/professionals. Yet, in legal terms, the term working conditions is usually understood to mean all those expressed provisions usually in black and white as binding clauses to help regulate the relationship between employees and employers which could be adapted by specific workplace establishments. This latter description of the term is mostly directed and/or defined as such in the legislative Acts – the laws, as employment regulating tools. However, the modern thinking way of defining the term requires it to be defined as an all inclusive term. This modern thinking has surfaced following some current practical experienced contextual usage of the term by various stakeholders across various locations of the world. Through inclusivity, the term is now preferred to be described as “working conditions and environment” as a modern strategy way of thinking.

As a result, ILO being an international institution responsible for international labour and employment policy issues discussed and attempted to define the term to provide as guidance for policy inclusion by member states. In this regard, ILO in its book titled:

“Introduction to Working Conditions and Environment”, having recognized that the general working conditions are vague and may mean different things depending on the countries or persons in question, concluded that the term working conditions may be defined as the factors determining the situation in which the worker lives, and are commonly seen to include hours of work, work organization, job content and welfare services as well as wages and salaries (ILO, 1989). Furthermore, ILO noted that general working conditions are indeed in many ways interlinked with the safety and health, that is, the general environment issues at a workplace and thus describes the term to embrace the modern way of thinking as the “working conditions and environment”.

However, for the purpose of this book, working conditions shall be defined as all those workplace factor variables, of which some of them are mandatory as provided for in the Malawi labour laws<sup>2</sup> (the labour legislation) while others are just conditional provisions but with legal force as far as they are signed and bound between two parties – the employees and employers, which would collectively improve the living standards of the employed workforce. In addition, the term would also extend to encompass all those employment terms that may be negotiated through collective bargaining processes between workplace employees and employers.

Although the book scope on working conditions coverage becomes clear as involving all the conclusive working condition variables within the country mining industry, it must however be pointed out that its application in this book will still be limited and aimed at offering explanations with respect to some few selected but key working conditions only such as salaries and wages, working hours and environment, nature and types of work contracts, workers compensation issues as well as workers’ organizations and their freedom of association. These few covered working conditions are part of the crucial provisions that form a minimum standards of employment according to the Malawi labour laws<sup>2</sup> currently in force.

## **1.2 Corporate Social Responsibility– Scope and Definitions**

This book section on corporate social responsibility (CSR) starts with what Mzembe (2012: 3) reported about CSR concept in context of Malawi. Mzembe stated that:

CSR in Malawi is progressively becoming a significant and complex area of investigation not only for business ethics scholars, but also to development scholars and practitioners. It is considered a crucial issue not only because of the complexity of the social, economic and political environment in which companies operate, but also because of the many social and environment impacts which business activities have on Malawian society. Whereas it is generally accepted that firms have moral responsibilities to respond to societal issues, crucially, evidence suggests that there has been lack of consensus on the nature of the responsibilities which a company should assume in a given society.

In agreement with Mzembe's statement, it must be further noted that the stated progressive debate on CSR issues, and with particular reference to the mining sector, would continue in Malawi. This is mainly because of two notable reasons. First, it is because of the growing realization by the Malawi government and indeed by Malawians themselves that the industry of mining would be one other potential area for economic growth of the country following the rather dwindling agriculture sector that used to be the only main backbone for Malawi's economic growth for the past 50 plus years since independence in 1964. Second, it is because of the civilization by most Malawians that it is high time Malawian workers in the mining sector were never exploited but that they should have a chance to experience improved living standards through improved working conditions in their mining workplaces as well as through improvements of their mining surrounding communities at large (see the Malawi mining and trade review reports)<sup>3</sup>.

However, while the two realizations indicated above may be applauded and seen by human rights organizations as well as the international labour organization to be in the right direction, some details about CSR and its application need to be probed further for the benefits of all interested parties in the process. This is because CSR and its application if not known, understood and well studied will remain a controversial issue amongst most employment social partners including representatives of Civil Society Organisations (CSOs) operating within the field of mining advocacy and good governance in Malawi and elsewhere in the World. This book is partly aimed at addressing this gap within its specified scope.

Having introduced the position of CSR issue with reference to Malawi, the next key question is on the scope of coverage. This has been addressed by answers to some specific answered questions such as the following: Are CSR interventions done at Kaziwiziwi and Mchenga coal mining companies or should they be undertaken? What CSR interventions are being undertaken? Are they being undertaken according to CSR policies and guidelines? If Yes or No, is there any satisfaction derived, amongst the workplaces' surrounding communities/environments including employees, as a result of the implementation of such interventions? What are people saying should be done and/or ought to be done and how? And what policy advice and/or recommendations are put forward in the concluding chapter of this book? These are key specific questions that have been discussed to define the book scope on the issue of corporate social responsibility interventions within the two selected mining company cases.

Next the term corporate social responsibility needs to be defined. Like the working conditions, it is not easy to come up with a unified and accepted definition of the term

corporate social responsibility. However, various CSR theorists and governments including some co-operative bodies, as reported by Mzembe (2012), have attempted to define the term to suit their intended respective application modalities of CSR. In this book, some definitions of CSR as cited by Mzembe (2012) have been referred to give a perspective of what CSR would really be defined and understood for the purpose of understanding CSR interventions as reported in this book. The cited definitions are in two categories of theorists and of governments/bodies.

Mzembe (2012) cited Frederick (1960) who defined CSR as referring to “a public posture towards society’s economic and human resources and a willingness to see that those resources are utilised for broad social ends and not simply for the narrowly circumscribed interests of private persons and firms”; Davis (1973) who defined CSR as referring to “the firm’s consideration of, and response to, issues beyond the narrow economic, technical and legal requirements of the firm”; and Carroll (1979) who defines CSR as the social responsibility of business that encompasses the ‘economic, legal, ethical, and discretionary categories of the business performance’ at a given point in time”.

Whereas from the category of Governments and/or bodies, Mzembe (2012) cited CSR working definition, by the European Commission that refers CSR as a “concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis”; by the United Kingdom that refers CSR as “the voluntary actions that businesses can take over and above compliance with minimum legal requirements [in order for them] to address both its own competitive interests and the interests of wider society”; and finally the cited working definition by the WBCSD<sup>4</sup> (2000) that defines CSR as ‘the continuing commitment by business to behave ethically and contribute to economic development while improving the quality of life of the workforce and their families as well as of the local community and society at large.’

A quick comparison of some definitions reveals some intentional similarities. For instance, Fredrick’s definition talks of utilising CSR interventions for broad social ends and not for private or rather individual benefits. Carroll’s definition talks of CSR interventions that encompass discretionary categories of performance while those of the European Commission and UK government attribute CSR as voluntary actions and the WBCSD definition talks of CSR interventions as actions geared to improve lives of business’ workforce and immediate workplace surrounding communities. It is rather clear from these noticeable similarities that CSR interventions should constitute all those undertakings, done by a company in voluntary manners, with potential economic benefits to the majority company’s workplace surrounding community members

including company employees rather than just privately to some singled individuals in the surrounding communities.

Thus the term corporate social responsibility, because of its being understood differently based on different people's and stakeholders' perspectives, has rendered CSR to be interchangeably used with other concepts such as corporate social investment (AICC, 2004); corporate social performance (Wartick and Cochrane, 1985; Carroll, 1979); corporate sustainability (Visser, 2007); corporate citizenship (Matten and Crane, 2005); sustainable development or business ethics or corporate social responsiveness (Wood, 1991). All these are according to citation by Mzembe (2012: 28).

In summary therefore, corporate social responsibility should refer to all the interventions to be undertaken by the company in order to help address the company's operational impact on society and the environment. It becomes necessary for the company to undertake such interventions, although by way of voluntary (not as a legal requirement) because failure to do so may result into the company suffering direct losses as a result of their actions through the cost of rectifying environmental damage, fines and taxes as well as through their adverse publicity costs if their business is believed to have caused or cause damage to the company's operating environment.

However, while corporate social responsibility interventions are necessary, they are just soft law interventions to promote corporate responsibility. Soft law interventions are non regulatory interventions (UN, 2010). This means that they are not legal requirements as depicted in most of the definitions cited above. Examples of soft law policies include corporate governance codes, codes of conduct, the promotion and implementation of the universal international principles and guidelines for corporate responsibility such as the UN Global Compact and the Organisation for Economic Co-operation and Development (OECD)<sup>5</sup> guidelines for multinational enterprises. These soft law policies offer an attractive complement to legislation.

Legal frameworks for corporate social responsibility vary widely depending on a country's social economic and cultural framework. It should, however, be noted that although corporate social responsibility is generally considered a voluntary tool, a number of governments have implemented mandatory measures in recent years that oblige companies to report on their corporate social responsibility associated business activities (UN, 2010).

In Malawi, the Malawi Code II for Corporate Governance of 2010 is a soft law tool that guides the implementation of corporate social responsibility interventions. Clause 16.3 of the Malawi corporate governance code (MCGC) on ethics stipulates that organizations should "allow African 'Umunthu' values to thrive within the ethical

framework of the organization” and clause 17.1, on good citizenship, stipulates that “an organization as well as being an economic entity is also a citizen of Malawi and as such has a moral and social standing within Malawian society, with all the responsibilities attached to that status. As such, when making decisions, an organization should consider the impact of its decisions on its stakeholders (both internal and external), the environment and society as a whole”.

Whereas, the implied legal framework for corporate social responsibility is provided for, in the Malawi Environmental Management Act of 1996 and in the Mines and Minerals Act (MMA) of 1981 (Cap. 61:01). For instance, section 94 (1) of the MMA provides that: “in deciding whether or not to grant a mineral right, the Minister shall take into account the need to conserve the natural resources in or on the land over which the mineral right is sought, or in or on neighbouring land”. Furthermore, section 95 (1) of the same mines and minerals Act provides that “there may be included in a mineral right<sup>6</sup> conditions with respect to (a) the prevention, limitation or treatment of pollution; (b) the minimization of the effects of mining on adjoining or neighbouring areas and their inhabitants”. The use of the word “may” in section 95 (1) of the Act entails that legally, it is not a must for the mineral right conditions to include provisions requiring companies to undertake corporate social responsibility interventions in Malawi. Thus a company in Malawi is still at liberty to or not to undertake some corporate social responsibilities within the workplace environment. This law on its own, and in the event where workplace employees and the community around do not know about such optional provisions and its meaning or implication which is often the case in Malawi, is one major source of conflict between the workplace owners (the employers) and the employees together with the workplace surrounding community members as a whole. This is one of the gap/shortfall earmarked to be addressed by the country newly mining laws, now in final draft form, to be soon presented to parliament for enactment—the Malawi Mines and Minerals bill of 2016.

### **1.3 The Book Methodology and Organisation**

Several developments had occurred prior the writing of this book. Research study that resulted into the published journal article, in the open science journal, for which this book is based on, is one major end product to such developments. The following is a brief account of the said developments.

Towards the end of the year 2012, Tilitonse, a grant-making facility for Malawian based Civil Society Organizations (CSOs) in conjunction with the United Kingdom department for International Development (DFID) together with the Royal Norwegian Embassy and Irish Aid launched a thematic call for project proposals to undertake activities in the mining sector in Malawi. As a result, in April 2013, the Malawi’s

Catholic Commission for Justice and Peace (CCJP) of the Karonga Catholic Diocese and the Church and Society Programme (CSP) of the CCAP Livingstonia Synod secured funds to implement projects in the mining communities.

Thus from April 2013 to 2014, CSP implemented a project known as “Advocacy Campaign for an Inclusive and Accountable Extractive Industry” valued at approximately US\$ 27,500. This project targeted Mchenga Coal Mines (MCM) Company. According to the programme Deputy director, Jacob Nkhambule, the inspiration to run such a project was based on their 2007 assessment which had revealed a lack of tangible corporate social responsibility interventions coupled with poor compensation and low benefits for the communities (including employees) from the mining sector activities. Whereas CCJP implemented a US\$35,000 valued project known as “Mining Industry Advocacy Capacity Building” project that targeted Kaziwiziwi coal mining. According to CCJP father Denis Chitete, their project aims were to ensure that poor people at Kaziwiziwi know their rights, demand them and defend them in cases of violations in addition to ensuring the need to protect the natural resources so that they benefit Malawians most.

Following the implementation of the two mining advocacy projects, employees of both Mchenga and Kaziwiziwi coal mines together with their respective mine workplaces’ community members were capacitated in terms of knowledge of their rights and started demanding for such from the mining workplace employers. In the course of doing so, several workplace conflicts erupted at the two mining workplaces some of which became too complex. These conflicts ranged from labour disputes through non labour disputes to land disputes. All these were to be addressed by the State through its mandated government department officials - the duty bearers, the work that became ongoing from mid 2013 towards the end of 2014. The author of this book, who was among the government officials handling various conflicts between the mine employees and their employers was thus prompted to examine the working conditions in the mining sector with a focus to Mchenga and Kaziwiziwi coal mines in Rumphi district. The research study answered questions such as “What are the actual working conditions mainly in terms of labour under which the mining sector employees operate and How best can the CSOs be coordinating with government duty bearers in their advocacy activities being implemented within the mining sector communities?”

The research study was conducted and the report was written towards the end of 2014. It was revised in 2015 and prepared for submission in 2016 to open science journal for publication consideration. From the article report, it turned out that the issue of CSR that was not the central phenomenon for investigation emerged as controversial issue thereby justifying further investigation and documentation on CSR. Furthermore, some

readers of the published journal article found it of much significant and relevant and hence recommended it for further publication as a printed book. To this end, and together with author's further experiences during several engagements in 2016 with workplace employees and employers of the two selected coal mining companies as well as the sector's stakeholders, generated additional data that necessitated reworking of the report article, the work that culminated into writing of this book titled: "Working Conditions and Corporate Social Responsibility in the Mining Sector in Malawi: Case of Kaziwiziwi and Mchenga Coal Mining Companies in Rumphi District".

The book discusses the prevailing working conditions and corporate social responsibility interventions with reference to the two selected coal mining companies in Malawi. As indicated above, the book is based on empirical findings reported in the author's research journal article on "The Working Conditions in the Mining Sector: The Case of Mchenga and Kaziwiziwi coal Mines in Malawi" published in March 2017 in the Open Science journal. The book reports that the prevailing working conditions in the mining sector are generally poor and that the workers' organizations and their activities in the mining sector are effective tools for improved working conditions and thus recommended for perusal. Whereas for corporate social responsibility interventions, the book reports that the two mining companies undertake several CSR interventions but which unfortunately are not to the satisfaction of both the companies' employees as well as to members of the mining surrounding communities. The book is of great interest to potential investors within the country mining sector; to the employment social partners, the employees, employers and government practitioners responsible with the enforcement of the country labour laws; to representatives of Non-governmental Organisations and/or Civil Society Organisations operating within the field of Mining advocacy and good governance; as well as to all academic researchers and students of industrial/employment relations study field.

In terms of book organization, the book contains five chapters. Chapter 1 is an introduction to the working conditions and corporate social responsibility. It provides definitions of the two terms: the working conditions and corporate social responsibility. It also defines scope of how each of these two terms shall be applicable in this book as well as outlining how book chapters have been organized. Chapter 2 presents details on the mining sector and in particular coal mining in Malawi. The chapter also gives brief outline on the Malawi mining regulatory framework. Chapter 3 presents the case studies in the order of Kaziwiziwi coal mining company, first, and Mchenga coal mining company, second. Chapter 4 provides detailed discussions on the actual prevailing working conditions and corporate social responsibility interventions at the two selected coal mining companies. Finally, chapter 5 concludes the book and makes

some policy recommendations based on the concluding statements. It must also be mentioned that, apart from tables being included, the book contains boxes within the chapters that sometimes contain narrated examples while other times, they contain excerpted reports of accidents and/or of some notable organized quotations made by key influential players within the two studied organizations during different times and years.

# The Mining Sector and Coal Mining in Malawi

## *Minerals Mining, Coal Mining and Regulatory Framework*

---

### 2.1 Minerals Mining in Malawi

The Minerals mining in Malawi involves several mining activities that range from the artisanal small scale mining (ASSM) activities through the medium to large scale mining (MLSM) activities<sup>7</sup>. These Malawi's mining activities include the production of cement, coal, crushed stones, dolomite, kaolin, lime, lime stones and sulfuric acid and bentonite and uranium, gemstones (as a methyst, garnet, ruby, sapphire and tourmaline), and ornamental stones (as agate and rose quartz) for domestic consumption and exporting respectively (Mining journal, 2011). Whereas, the Malawi Mines and Mineral policy of 2007 shows Malawi's variety of solid mineral resources such as bauxite, uranium, niobium, tantalum, monazite, strontianite, corundum, graphite, limestone, titanium, heavy sands, vermiculite, coal, phosphate, pyrite, glass sands, dimension stones, and gemstones. However, those produced or to be produced at a relatively medium to large scale and mostly owned or controlled by the private sector companies include uranium (largest mining activity) at Kayerekera in Karonga, coal (second largest mining activity) within the Livingstonia hills at Mchenga, Kaziwiziwi and other locations in Rumphu and Karonga (Eland / Nkhachila coal mining at Mwabulambo) districts, gemstones (precious and semi-precious stones such as ruby and sulphur which are largely produced in Mzimba followed by Chikhwawa and Ntcheu districts, Calcitic and hydrated lime in Balaka (also with Kangankunde rare-earth elements) and at Lirangwe in Blantyre, rock aggregates (quarry stones) in a total of 12 registered quarry production sites in the country, Niobium (under exploration stage) at Kanyika in Mzimba and cement limestone (also under exploration stage) in Mangochi and around Bwanje area in Ntcheu-Dedza districts.

Mining has become an important issue in Malawi because of its potential to significantly contribute to Malawi's Gross Domestic Product (GDP). For instance, it is currently estimated that the contribution of the mining sector to the country's GDP has grown from as low as 1 % by the year 2001 to about 3 % by 2004 and to 10.8 % by 2010 as a result of commissioning of the Kayerekera uranium mining in 2009 (Tilitonse

report, 2013; MG-Mines & Minerals Policy, 2013; MGDS II, 2012). Furthermore, it is projected that a well-managed mining sector could contribute between 20 and 30 % of Malawi's GDP in the next 5 years. Since Malawi has identified or prioritized mining as one of the potential key sectors for the country's economic growth (MERP, 2012) and that the country has shown its commitment to continue considering the issuing of various mining related licenses to potential investors, there is need to explore on how best the mining sector can be managed in order to realize the sector's projected contributions of 30 % towards the country's GDP. Among other things therefore to be explored, is the working conditions of the country's mining sector employees since Malawi mining operations are still labour intensive and that it is only the health and well motivated workforce (labourers) that can lead into high workplace productivities out of free industrial disputes that are detrimental to workplace production activities and hence positive contribution towards the anticipated well-management of the mining sector operations in Malawi.

In addition, issues of corporate social responsibility need to be equally explored as demands for the same by the company mining communities is increasingly becoming the order of the day with evidence suggesting lack of consensus on the nature of the responsibilities which a company should assume in a given society (Mzembe, 2012). All this is despite the general acceptance that companies have moral responsibilities to respond to societal issues.

In relation to the generated employment opportunities which are one variable factor in any working conditions study, the Malawi Government 2012 Annual Economic report indicates that a total of 21,022 workers were employed in the mining sector by 2011 representing an increase of 82 % from 11,565 in 2009. Of the total 2011 sector employees, 907 were in coal, 859 in uranium mining activities, 12,030 in the quarry aggregate production, 1,260 in gemstones minerals specimens, 195 in minerals exploration activities and the rest in other mineral production activities.

## **2.2 Coal Mining in Malawi**

Malawi has over 22 million tons of proven coal reserves in a number of coal fields across the country<sup>8</sup>. The largest coal field is the Livingstonia coal field with probable reserves of over 2-5 million tones and proven reserves of 4 million tons of coal with ash content of 17 %, a sulphur of 0.5 % and a calorific value of 6,800 kcal /kg. Livingstonia coal field is a 90 km<sup>2</sup> stretch in Rumphi district in the Northern Region of Malawi.

Mchenga (CPL), Kaziwiziwi and Eland/Nkhachila coal mines are the three major coal mining companies producing coal in Malawi. CPL-Mchenga and Kaziwiziwi coal mines are within the Livingstonia coal field whereas Eland/Nkhachila is a coal mining

company at Mwabulambo in Karonga district. All these coal companies produce coal for industrial use in cement, tobacco, sugar, tea, brewery, textile, and food processing and ethanol companies. Other coal mining companies of which some are operational but on small scale and some are abandoned or suspended include Mean Jalawe, Phoka, Chiweta, David duwi at Livingstonia and Chombe/Thekero coal mines, all in Rumphi district. Table 1 shows details of seven coal mining companies registered and operating in Rumphi district with updated employment figures as at 30<sup>th</sup> November, 2016.

**Table 1:** Seven registered/established Coal mining companies in Rumphi district

S/ N	Name of Coal Mining Company	Registered/Licensed	Number of Employees	Size	Status
1	Mchenga Coal Mines Ltd	Mining License	452	Large	Operational
2	Kaziwiziwi Coal Mines Ltd	Mining License	350	Large	Operational
3	Mean Jalawe Coal Mines Ltd	Mining License	127	Large	Operational
4	Rukuru Coal Mines Ltd	Exploration License	69	Medium	Operational
5	Majighatuwa (David Duwe Nyirenda) Coal Mines Ltd	Mining License	0	Medium	Non-operational(temporary closed)
6	Thekero Coal Mines Ltd	Mining License	0	Medium	Non-operational(temporary closed)
7	Chiweta Coal Mines Ltd.	Mining License	0	Medium	Non-operational(temporary closed)

*Source:* Author's tabulations using data extracted from Government office reports maintained at Rumphi district labour office, 2016.

In terms of production, the total produced coal from all the operational coal mining companies in the country, which on average is about 10,000 metric tons of coal per month, still falls short of the market demand in Malawi (Annual Economic Report, 2012). The coal mining companies primarily supply their coal products to the country's local market. However, for the international market, 20 % of the produced coal is exported to Tanzania cement factories by Eland coal mining company. This exported coal by Eland company is washed coal grit (the processed coal and free from impurities) which fetches high market value than the non washed coal (Annual Economic Report, 2012).

## **2.3 The Mining Regulatory Frameworks**

Three mining regulatory frameworks that were necessary to be outlined in this book are in three categories of institutional, policy and legislative frameworks. However, only the policy and legislative frameworks have been outlined, to show legal basis for the mining activities in Malawi as well as to understand the necessity of discussing the working conditions and corporate social responsibility in the mining sector.

### **2.3.1 The 2013 Mines and Minerals Policy of Malawi**

Malawi has Mines and Minerals Policy whose main objectives are: to contribute to socio-economic development of the country including poverty reduction and sustainable development; to optimize mining activities within Malawi so as to enhance “value added” elements of the sector and promote linkages with other sectors of the economy; to promote women in the mining and to expand employment opportunities in Malawi among others<sup>9</sup>. With regard to environmental management, the policy contains guidelines that would enable government to ensure environmentally sustainable mining practices which will be consistent with international standards so that challenges where some mining companies do not comply with international standards in occupational health and safety and those where mining activities cause environmental degradation be addressed. In addition, the policy prescribes guidelines that would ensure that mining related social issues are adequately addressed. Some identified social issues connected with the mining activities in Malawi include: inadequate empowerment of local people; lack of articulated social responsibilities for mining companies; disruption of families and social structures due to HIV/AIDS and other diseases; child labour; as well as compensation and resettlement of land owners and communities affected by the mining just to mention but a few. The mining policy is complemented by the National Environmental Management policy of 1996. To encourage the provision of health and social facilities through corporate social responsibility, the policy directs mining companies to construct clinics and other social facilities as well as to allow access to the clinic and other constructed social facilities by local communities.

### **2.3.2 Mining Legislative Framework in Malawi**

Four legislative Acts regulate the minerals sector in Malawi. These are the Explosives Act of 1968; the Mines and Minerals Act of 1981; the Petroleum (Exploration and Production) Act of 1983 and its regulations of 1984 with revised regulations of 2009; and the Atomic Energy Act of 2011. These four mining legislation are complemented by the Environmental Management Act of 1996.

The Mines and Minerals Act (MMA) defines the rules under which players in the minerals sector conduct business. It also outlines the rights, duties and obligations of government and of the exploration and mining investors as well as the applicable restrictions. For instance, section 37 (3) (h) of the MM Act requires an application for the granting of the mining license to be accompanied by a statement giving particulars of the programme of proposed mining operations including a statement of proposals for the prevention of pollution, the treatment of wastes, the mining and for the minimization of the effects of mining on surface water and groundwater and on adjoining or neighbouring lands among other proposal statements. This Act provision is in addition to the Act provisions, with respect to the protection of the environment, contained under sections 94 & 95 of the Act that have been outlined above.

In addition to the mining legislative Acts, the working conditions in the Mining sector workplaces, like in any other employment workplace establishments, are specifically regulated by the country's labour legislative Acts which include the following: Labour Relations Act (LRA) No. 16 of 1996; Occupation Safety, Health and Welfare Act (OSHWA) No. 21 of 1997; Employment Act (EA) No. 6 of 2000; Workers Compensation Act (WCA) No. 7 of 2000, and the Pension Act (PA) No. 11 of 2011.

In brief, the Labour Relations Act of 1996, is a law to promote sound labour relations through the protection and promotion of freedom of association, the encouragement of effective collective bargaining and the promotion of orderly and expeditious dispute settlement, conducive to social justice and economic development; the Occupation Safety, Health and Welfare Act of 1997 is law that provides for the roles and responsibilities to be fulfilled by employers and employees as well as by all other relevant stakeholders involved in the safeguard of OSH workplace issues; the Employment Act of 2000, is a law to establish, reinforce and regulate minimum standards of employment with the purpose of ensuring equity necessary for enhancing industrial peace, accelerated economic growth and social justice; the Workers Compensation Act of 2000, is a law to provide for compensation for injuries suffered or diseases contracted by workers in the course of their employment or for death resulting from such injuries or diseases, to provide for the establishment and administration of a Workers' Compensation Fund; and the Pension Act of 2011, is a law that provides for mandatory pension in Malawi whereby every employer in Malawi will be obliged to make provision for pension for his/her employees.

## **Kaziwiziwi and Mchenga Coal Mining Companies in Malawi**

---

### **3.1 Kaziwiziwi Coal Mining Company Limited**

Kaziwiziwi coal mines limited started its operations in 1985 under the proprietorship of Mineral Investment and Development Corporation (MIDCOR) – a government owned company. Kaziwiziwi mine was Malawi's first commercial coal mine to be opened before the opening of Mchenga coal mine in 1987. The mine is located within the livingstonia coal field<sup>10</sup> in Rumphi district in the Northern region of Malawi. Specifically the mine is located in Kambuzikaliwa village in Traditional Authority Kachulu covering an approximate area of 10.2 km<sup>2</sup>. The mining company conducted its operations for the first 5 years before it got closed in 1990 for 12 years. Finally, the company was opened in 2002 under the new proprietorship of a private owned business investor of Australian origin, Mr Axel E. Oberem, who owns the company to date.

Kaziwiziwi coal mining company started with four underground labour-intensive longwall faces (the mine bases) from where coal was loaded directly into trucks for transportation to customers. At that time, they were no facilities to clean or size the coal until 1987, when screening and sizing facilities were installed and used. Kaziwiziwi coal mines are currently producing on average 65.45 metric tons of coal per month. With this current production, there is a 162 % increase in coal production compared to an average monthly production of 25 metric tons during the first 5 years of its operations. At full capacity, the mining company can produce an average of 2,100 metric tons of coal per month from within its sized location. The coal at Kaziwiziwi has good calorific value and an ash content averaging less than 15 % (Kevin, 1986). For the company employment statistics, see section 3.3 below.

### **3.2 Mchenga Coal Mining Company Limited**

Mchenga coal mines limited (MCM) is currently the second largest mining company in Malawi after the Kayerekera uranium mining company in Karonga. MCML started its operations in 1987 again under the proprietorship of MIDCOR. The mine is located in the south east corner of the 90 km<sup>2</sup> livingstonia coal field in Rumphi district in the

Northern region of Malawi. Specifically, the mine is located in Chiguliro village in Traditional Authority Njikula covering an approximate area of 17.5 km<sup>2</sup>. For 12 years, until 1999, the mining company was still a government owned company of which MIDCOR controlled the company for 8 years from 1987 to 1995 before transferring its control to Malawi Development Corporation (MDC) and Malawi Investment Development Bank (INDE-BANK) who controlled the company for 4 years from 1995 before it was privatized in 1999 to Coal Products Limited (CPL) company whose investors are owning the company to date.

MCML is currently producing on average 2,500 metric tons of coal per month. With this current production, there is a 55 % decline in coal production compared to an average monthly production of 5, 500 metric tons during the first 12 years of its operations. At full capacity, the mining company can produce an average of 7,500 metric tons of coal per month from within its sized location. CPL- Mchenga coal mines alone has probable reserves of about 1.5 million tons of coal with ash content of 17 %, a sulphur content of 0.5 % and a calorific value of 6.8 kcal / kg (Maneya, 2012). The following section outlines mining activities of the two companies together with their employment statistics.

### **3.3 Mining Activities and Workforce at Mchenga and Kaziwiziwi Mines**

Different mining activities are being undertaken at MCM and Kaziwiziwi coal mines workplaces and these are: supporting the mines; coal extraction/drilling; coal shunting and transportation from the mines to crushers; coal crushing and processing; coal sorting/screening, sizing and loading to customers as well as maintenance of equipments (engineering maintenance work) and services i.e. road constructions within the mining premises – road networks. All these workplace technical mining activities are, in addition to the administrative and managerial activities, undertaken at the mining workplaces of Mchenga and Kaziwiziwi coal mines.

The activities are being undertaken by various company employees in different work sections which constitute a total workforce of 252 employees based at Mchenga coal mining company workplace. This represents 56 % of the total company employment figure which was estimated at 452 by the year end of 2016 (see table 1 above). Whereas 241 employees was the total workforce at Kaziwiziwi coal mining company workplace representing 69 % of the total company employment figure estimated at 350 as in November 2016, according to the companies' interviewed human resource officers. Note that the 56 % and 69 % employment proportions at Mchenga and Kaziwiziwi mines respectively constitute all those employees located at the actual

mining workplaces most of whom are the underground workers. The rest are the companies employees located at the companies' offices based in Mzuzu and Lilongwe cities where their head offices are located. This means that the two coal mining companies, still use labour-intensive to carry out their operations as contrasted to use of machines i.e. mechanization. Note that almost all Malawi's mining companies are using labour-intensive technology thus the mining working conditions remain an issue of concern within the sector.

Both open cast and underground mining are the two mining methods used at the two mining companies. There are various names of mines or sections described as mining bases such as Base 2 (West Mine); Base 5 (East mine); Base 7 (Lutete mine); Base 10 (Chombe) and Vipungu as at MCML and Mine section 1 (MS1) and Mine section 18 (MS18) at Kaziwiziwi coal mines. The deepest mine at MCM goes to as far as 50 meters deep while at Kaziwiziwi, it goes as far as 45 metres deep from the top ground surface. The Shaft and Adit machines are used to deliver workers into and out of the underground mines.

# **Prevailing Working Conditions and Corporate Social Responsibility Interventions at Kaziwiziwi and Mchenga Coal Mining Companies**

## *A Discussion of the Study Findings and/or Results*

---

### **4.1 The Prevailing Working (Employment) Conditions**

#### **4.1.1 Summary of Prevailing Workers' Problems at Mchenga and Kaziwiziwi Coal Mines**

Focus group discussions with employees' representatives of the two mining companies, contents of the 2013 workers' petitions to Rumphi District Commissioner and Labour office, findings of the 2013 survey conducted by a consortium of CCAP Livingstonia Synod-Church and Society programme (CSP) and CCJP of the Karonga Catholic Diocese, and labour disputes settlement reports maintained at Rumphi labour office, together reveal a common set of working problems faced by workers at the two coal mining companies of Mchenga and Kaziwiziwi in Rumphi district. The problems include the following among others:

1. low and/or underpayments of salaries/wages or unfair or unequal distribution or treatment of salaries/wages in respect of employees on probationary period;
2. inadequate or irregular compensation moneys (i.e. irregular or insufficient compensation for loss of land and livelihood, low workers compensation payments to injured or dead employees, reduced/deductable of compensation moneys and long outstanding/delayed compensation money to be payable);
3. unfair dismissals/terminations or unprocedural retrenchments/redundancy of workers from work;
4. long working hours (i.e. some workers 'forced' to work for more than 8 hours per day without overtime wages) and harsh working environment yet no risk or little underground work allowances (for instance, 5 % of one's monthly basic salary is paid by Mchenga Coal Mines Ltd as underground work allowance);
5. unclear employment contracts or forms (local workers put on temporary basis until he or she sustains injury is when the worker is put on permanent basis and

many workers employed on casual work basis throughout e.g. 108 were casual workers at MCM Ltd out of a 361 total workforce in September 2008);

6. corrupt recruitment/employment process i.e. allegations for employers to demand sex favours from women for employment (sexual harassment) and/or demand for money or reared animals (pigs, chickens, goats etc) from men;
7. deduction of workers' salaries or wages while on sick leave, put on unpaid leave for those hospital admitted employees or end/terminate their employment contract;
8. absence or inadequate OSH protective wears and safety measures i.e. provision of worn-out protective wears to workers;
9. unproportional/too much workload (Mugwazo in Chichewa language, a native language in Malawi) for some mine underground workers i.e. mine trammers<sup>11</sup> required to carry 90 wheelbarrows of coal for a distance of 2 to 3 km during an 8 hr shift work schedule per day, failure of which, the worker is marked absent despite having carried some number of coal wheelbarrows but less than the required 90;
10. absence of workers' organizations (i.e. the trade unions) at Kaziwiziwi coal mines Ltd due to threats by management members (employers) and/or as a result of fears amongst employees themselves to join trade unions with monthly subscriptions implication from their wages;
11. absence of mandatory pension schemes for employees and unacceptable control of workers' pension contributions by MCM Ltd Directors;
12. pollution and environmental degradation problems i.e. poor water and sanitation, air/water pollution and less workers' toilets at Kaziwiziwi coal mines and lastly,
13. inadequate Corporate Social Responsibility (CSR) activities (i.e. no teachers' houses, poor classroom blocks, no maize mill facility, poor welfare for workers e.g. no funeral assistance for death of workers' relatives even a child, lack of medical facility such as health clinics. These are the employees'/communities' expectations in terms of CSR interventions from the companies.

Now what are the analyzed results reported about each or some of the above reported workers' problems at the two mining companies? The next paragraphs discuss some answers to this question.

#### **4.1.2 Salaries and/or Wages Condition**

Salaries and/or wages condition is one of the major working conditions that concern every workplace establishment in the employment sphere. They have direct impact on the living standards of the working population. For instance, salaries or wages drive consumption preferences and investments decisions that every salaried individual can

make. Favourable consumption preferences and meaningful investments are requirements for the improved living standards of workers (Samuelson, 1998) which in turn can bring about the country's economic growth. The implication with all this, is that low wages offered to employees which are far much below the living wage or the poverty line may be retrogressive to the expected improved living standards amongst the working and salaried population and thus to the country's economic growth.

From the results analysis with respect to the documented levels of wages/salaries indicated in table 2, it can be seen that the condition of salaries or wages in the two mining workplaces are generally poor as they are seen to be far much on the lower side when compared to what could be the poverty line at the time of collecting this data (see the table notes).

**Table 2**

Employees' Monthly Salary or Wage ranges at Mchenga and Kaziwiziwi Coal Mines as in April, 2014 in Malawi Kwacha

Employee Category	Mchenga Coal Mines Ltd			Kaziwiziwi Coal Mines Ltd		
	Starting Wage	Maximum Wage	Frequency	Starting Wage	Maximum Wage	Frequency
Sorters, Checkers	17,500.00	17500.00	10	12,415.00	12,415.00	31
Mechanics	44,948.40	44,948.40	2	25,000.00	45,500.00	3
Plant operators	33,750.00	33,750.00	2	19,500.00	19,500.00	3
Compressor attendant	21,302.50	21,302.50	13	12,415.00	12,415.00	2
Mechanical foremen	80,000.00	80,000.00	1	17,160.00	17,160.00	2
Safety & Environmental officers	17,540.00	20,196.25	6	12,415.00	12,415.00	1
Shift bosses	25,003.75	25,003.75	9	18,590.00	18,590.00	4
Drillers	21,286.00	21,286.00	22	15,500.00	15,500.00	22
Timbermen	20,050.00	20,050.00	16	13,585.00	13,585.00	17
Trammers	20,199.00	20,199.00	24	14,000.00	14,000.00	70
Security guards	17,540.00	17,540.00	54	12,415.00	12,415.00	10
Drivers	25,500.00	31,250.00	4	25,740.00	28,000.00	3
Mine captain	36,875.00	36,875.00	4	28,600.00	68,640.00	3
Mine manager	-	-	-	195,000.00	195,000.00	1
Mine cashiers	48,000.00	48,000.00	1	65,000.00	65,000.00	1
<i>Government minimum wage rate</i>	<b>16,530.00</b>	open ended	-	<b>16,530.00</b>	open ended	-
<i>Modal range with more workers</i>			<b>54</b>			<b>70</b>

Source: Malema K. M. (2017), The Working Conditions In The Mining Sector: The Case Of Mchenga And Kaziwiziwi Coal Mines In Malawi. Open Science Journal 2(1), p. 13.

**Table notes:** *The average rate for US Dollar (USD) to Malawi Kwacha (MWK) as in April 2014 was 1 USD = 391.80 MWK (visit: [USD/MWK exchange rate history page](#)). At the time of conducting this research in 2014, Government minimum wage rate per 30 day month was Mk16, 530.00 (US\$42.19), that is, Mk551.00 (US\$1.41) per work day (Malawi Government, Notice No 57 of 2013, gazetted Minimum Employment Wage Order).*

Four aspects about salaries and/or wages condition can be explained from table 2. First, there is underpayment of wages which is more pronounced with respect to Kaziwiziwi coal mines. For instance, the monthly wages of Mk12, 415.00 (US\$31.69), Mk14, 000.00 (US\$35.73) and Mk15, 500.00 (US\$38.28), are below the required government monthly minimum wage rate of Mk16, 530.00 (US\$42.19) (Malawi Government, Notice No 57 of 2013, gazetted Minimum Employment Wage Order) by 25 %, 15 % and 6 % respectively. Furthermore, the absence of wage progression for each work category in terms of starting and maximum wage amounts as is mainly the case with Mchenga coal mines Ltd can also imply the underpayments of wages despite the fact that all the company's starting monthly wage amounts (Mk17, 500.00 (US\$44.67)) are above the government monthly minimum wage rate equivalent. This would be true in cases where the shown starting monthly earnings include overtime payments as a result of the mining employees who are frequently engaged in overtime work. Second, there is generally low wage payments experienced in these two mines. The table shows most of the starting monthly wages which are of course in compliance with government wage rate being distributed close to the mandatory minimum wage rate of Mk16,530.00 per month at the time of the study. This wage distribution scenario shows low wage payments that may not be in line with the unit labour productivity in the mining sector. Third, the complete absence of wage progression practiced by Mchenga coal mines employers as well as partial absence of wage progression by Kaziwiziwi coal mines employers entails that there is no room for increased wage bargaining against each work category. With this work scenario, what would happen in terms of salary levels with respect to two company drillers with different years of work experience while serving for the same mining employers? Does this mean that employers of these two mining companies pay their three year experienced drilling worker, salary that is equal to the salary paid to their one year experienced drilling worker? Last, the table indicates commonly low wages for almost all those employee categories with relatively greater frequencies. This means that most employees of the two mining companies are paid low wages whereas only few employees are paid better (higher) wages. It is this salary/wage analysis that justifies that there are generally poor salary/wage condition experienced at the two mining companies of Mchenga and Kaziwiziwi in Rumphi district.

### 4.1.3 Working Hours and Environment Conditions

Working hours and environment is another major working conditional category that is of concern for every mining workplace establishment. Working hours refers to the total number of hours worked by each employee per each work day whereas working environment refers to the immediate work site surrounding influences such as space, light, rest time, temperature, location/position, and people just to mention but a few. The working environment for the miners has direct impact on the daily performance of the miners.

For the mining workers at Mchenga and Kaziwiziwi coal mines, the work modalities use the shift work schedule of 8 hour work shift of one week rotational duration as shown in table 3:

**Table 3**

Shift Work Schedule and Rotational Duration

<b>Mining Company</b>	<b>Shift Work Schedule</b>	<b>Work Hours per day</b>	<b>Rotational Duration</b>
Mchenga Coal Mine	6 AM to 2 PM	8	1 week
	2 PM to 10 PM	8	1 week
	10 PM to 6 AM	8	1 Week
Kaziwiziwi Coal Mine	6 AM to 2 PM	8	1 week
	7 AM to 4 PM	9 with 1 hr lunch	1 week
	2 PM to 10 PM	8	1 Week
	10 PM to 6AM	8	1 Week

*Source:* Malema K. M. (2017), The Working Conditions In The Mining Sector: The Case Of Mchenga And Kaziwiziwi Coal Mines In Malawi. Open Science Journal 2(1), p. 14.

Table 3 indicates that the mine workers at the two mining companies work for 8 hours per day which is in compliance with labour laws that provide for the maximum 8 working hours per day by every worker. This means that working hours as a work condition at the two mining companies under study is deemed good. However, it could be bad whenever employees working for overtime hours are not paid overtime wages computed according to overtime types and rates prescribed by labour laws. For both Mchenga and Kaziwiziwi mines, all workers that were interviewed indicated that correct overtime wages are paid for the worked overtime hours.

On the other hand, the working environment was reported to be relatively harsh for workers at both Mchenga and Kaziwiziwi mines. A tour by the author of this paper into

one of the deepest mine section of Mchenga coal mines Ltd reported unfavourable working environment in the underground mines which include inadequate light, loneliness, and heat, among others. In addition, a government Occupational Safety, Health and Welfare expert interviewed described the underground work environment as generally health hazardous citing a situation where one has to work in a confined space bound to affect the worker's work efficiency – ergonomics. With such work environment, an 8 hour work schedule may not be favourable on the part of workers. This could be complicated by the fact that any resting time utilized while at work in the underground mine may still not be of much relevant in a bit lonely working environment. Are these working hours in a week including overtime worked hours (on day-offs overtime) flexible enough to give workers opportunities to undertake other equally important endeavours for extra money such as socialization activities etc? The working hours condition is not really the problem but rather the work environment. Therefore a proposal for separate high wage rate for the underground mine workers and reduced work hours per day for such workers would be better and necessary. This would be better because high wage rate will help these workers to have increased or rather sufficient monthly earnings / income for their upkeep and hence reduce their tendencies of struggling to work even on Sundays with the aim to increase their pay instead will opt to rest, whereas the reduced work hours will help workers to be in a rather unfavourable work environment for a lesser period of time to allow for relaxation thereafter.

#### **4.1.4 Work Condition of Temporary and Casual Workers**

Temporary worker is an employee serving on probationary period pending confirmation on permanent basis or otherwise. Casual work is a short-lived work. It is a piece work (ganyu), the work without a lasting employment relationship (Oxford Dictionary). The Malawi employment Act defines piece work as work in terms of which the remuneration of employee (the casual worker) is based mainly on the quantity of work done.

In 2008 by September, Mchenga coal Mines company alone had a total of 108 casual workers out of 361 total workforce (interview with company HRO). This means that 30 % of the company total workforce at that time was casual employees. Similarly Kaziwiziwi coal mining company also employs casual workers who are paid their wages every fortnight. Workers at the two coal mining companies argue that their employers' behaviour of adopting casual form of employment is one way of oppressing/victimizing employees. In their arguments, workers stated that:

There is a lot of employee victimization and discrimination here. Just imagine, many employees are employed to work as casual workers for many years until when they get injured

is when they are given Mine Numbers<sup>12</sup> by employers for fear of being penalized by labour laws (State authorities). Furthermore, there are some employees who have worked for more than one year without Mine Numbers – example Martin Mulenga, an MSCE holder has worked for one year and 3 months as a coal off-loader which we feel is a misuse of office.

This argument is contained in the worker's petition/strike notice letter copied to Rumphi district labour office in May 2012, in which workers at Mchenga coal Mines had vowed to go on strike or to have, the company Human Resource officer and her assistant removed from work immediately because of their unfair treatments over the workplace employees. Why employers find relief in employing casual workers rather than temporary or permanent employees? what is the position of casual work in respect of the country labour laws, and how protected is a casual worker? These are some of the crucial questions to be addressed with respect to their working condition of temporary and casual workers.

The employment of casual worker reduces employer's liability of paying compensation in case of injuries sustained by a worker while at work because casual workers are not defined as workers for the purpose of workers compensation (section 2 (a) of the WCA of 2000). However, a casual work is a legally acceptable form of employment contract in Malawi. It falls within a contract for a specific task such as piecework (ganyu) as implied from section 25 (2) (c) of the EA of 2000. Thus a casual worker, like any other employee, is entitled to wages/salaries as one right constituted within the employment relationship between an employer and employee. In addition, Pension Act of 2011 covers the continuously employed casual labourers/workers for the purpose of mandatory pension contributions. In this regard, it is clear that casual workers are also protected as workers by the country labour laws. Most importantly, sections 26 (1); 41 (3) (d) and 43 of the EA of 2000<sup>13</sup> once read and understood together imply that every casual worker through his/her worked aggregated portions of employment with the same employer is deemed to be a continuously employed worker for the time length equivalent to the sum of the aggregated portions. This, according to section 26 (1), means that a casual worker with an aggregate service length of more than 12 months for the same employer will have fit as a temporary employee to be confirmed a permanent employee or automatically to become a permanent employee by operation of law. Furthermore, it means that a casual worker who is working in bits/breaks of weeks or months for several weeks or months, will have his/her bits worked aggregated to make one length of service to be defined as his/her continuous employment period with the same employer.

#### **4.1.5 Work Condition of Non-payment, Low or Delayed Workers Compensation**

The work condition of low or delayed compensation or of non-payment of compensation at all happens at the two mining workplaces. For instance, data collected show that a number of compensation cases that were opened way back in 2004 or 2006 were settled in 2010 while some of them not paid until now. For instance, a total of 35 compensation cases reported by Mchenga coal mines company for processing in different years between 1999 and 2008 were settled (paid and closed) in July 2011 (Rumphu labour office, 2011 annual report). Similarly, the same report indicates relatively low ranges of compensation moneys paid for fatal cases (i.e. from minimum of Mk78, 720.00 (US\$502.94) to maximum of Mk357, 343.14 (US\$2,283.05)) during the period of 2006 to 2011. These are relatively smaller amounts when compared to the loss of someone's life. And at Kaziwiziwi coal mines limited the fatal case in 2013 that was settled with the maximum sum of compensation money attracted only Mk441, 000.00 (US\$1,770.30). This was in respect of late Golie Wachose. When discussing this work condition, the critical question to be asked therefore is: why low or delayed or non-payment of workers compensation?

The nature of the mining activities make workers prone to various forms of workplace injuries ranging from minor injuries due to crushes by small stones to serious injuries/accidents including fatal accidents. Most of such injuries can be avoided through use of protective wears such as hand gloves, eye goggles, head-crush helmets etc while at work. While the employers of Mchenga and Kaziwiziwi coal mines struggle to comply with labour laws in respect of providing mine workers with adequate protective wears, some workers negligently ignore wearing protective wears while at work saying that they (the protective wears) delay, disturb or make them feel hot or uncomfortable etc. An interview with one of the mine worker at Kaziwiziwi stated that: "Zovala za pa ntchito zimatentha" meaning that protective wears make workers feel hot. However some of the workers argued that they do not want to use the protective wears because they are provided with worn out wears whereas the employers stated that workers are not given some more pairs of protective wears like the overalls to each worker at a time because workers sell out such materials to remain with one at a time. The behaviours of workers ignoring use of protective wears and that of undermining some company underground mining safety regulations (as indicated in box 1 below) are some possible ways of promoting the occurrence of workers' injuries at the mining workplaces. At one time, the Regional labour officer from Mzuzu labour office in the quest to find a lasting solution to the problem of workers' negligence to use protective wears ruled that:

Protective wear is provided once a year. Some employees use it while some do not. Our visiting team felt that providing protective wears once a year is not adequate. We recommended to management to provide one pair every 6 months (to avoid their selling of the same if two pairs are issued at once). Having noted that a number of employees deliberately ignore using protective wear we advised management to enforce usage of the same by coming up with certain conditions, for example, if one does not put on protective wear, one should be sent back home and be marked absent for that day.

In terms of reporting workers accidents to relevant authorities as required by law, the two mining companies' employers have improved for the past 10 years in complying by reporting their workplace accidents to labour offices for compensation soon they occur at their places of work. This is true as evidenced by a number of workers compensation case files that were found to be in progress at Rumphu labour office as well as those shown in office registers to have been settled and closed. The case files are for workers from both Mchenga and Kaziwiziwi coal mining companies. The boxed text below is a fatal accident report by Mchenga coal mining company that led into loss of life for one of the underground mine workers.

#### **Box 1**

##### **Fatal/Accident Report involving the Underground Mine Worker**

###### ***Mchenga (CPL) Coal Mines Ltd - Accident Report – Base 7, December 2011***

*On 10<sup>th</sup> December, 2011 at about 9:00 AM, Alex Songa, aged 38 was involved in a fatal accident at base 7 section of Mchenga coal mine. The accident occurred when the deceased sneaked from fellow workers and went past the barricades into a prohibited mined out area. No one knew he had gone there and his motive for going there remains unclear. All other employees and supervisors were at current working areas. One employee heard a scream and alerted the supervisors who started to search in the direction of the scream. They discovered that Alex Songa had been hit by a rock-fall about 45 m inside the barricaded area. By that time, he already was hardly breathing. Shift bosses, Brian Mkandawire, Frackson Kanyimbo, Patrick Msowoya and others immediately evacuated him to the surface.*

*The Mine Manager, Mine Engineer, Senior Mine Overseer and Safety & Health Environmental officer were alerted and a vehicle was immediately dispatched to transport the injured person to Rumphu district hospital. Alex Songa was pronounced dead on arrival at the hospital. The deceased had been working for Mchenga coal mine as a Trammer for two years, under section of the mine Base 7 as a permanent employee with mine No. 1739.*

*The company team investigators found out that Alex Songa disobeyed the standing*

*safety regulations by going into a prohibited and barricaded area. The shift bosses and other employees were busy at the current working areas and no-one knew what the deceased intended to do in that area where he met his fate. Safety talks every time before starting work are conducted where all employees are reminded not to enter into old working areas.*

*The company in order to reduce or prevent further occurrence of such nature, planned through Mine Overseers, Senior Mine Overseers and Mine Engineers, to always maintain barricades around prohibited areas; to continue safety meetings by Safety Supervisors and to be taking disciplinary actions against those workers who do unsafe acts while underground the mines, or elsewhere. The company, however, regretted to have lost Mr Songa, through such unsafe act and felt that the accident could probably have been avoided if the deceased had followed standing safety regulations put in place at the mine.*

**Source:** Malema K. M. (2017), The Working Conditions In The Mining Sector: The Case Of Mchenga And Kaziwiziwi Coal Mines In Malawi. Open Science Journal 2(1), pp. 28-29.

A critical analysis of the fatal report in box 1, shows that the report was not conclusive in respect of the company's investigating team to establish what really made the deceased worker to go to the place of his fate. Was it really the worker's negligence of safety rules or was it not the "call of nature" that might have driven him to that place in cases where toilets, for example, are not available within the underground mines or not in usable state? The investigators should have really interrogated the other workers on where do they go to respond to call of nature while working in the underground mines in cases of absent or non usable defecation facilities (toilets)<sup>14</sup> in order to probe some more objective reasons that might have led the deceased into the place of his fate rather than just concluding that "Alex Songa disobeyed the standing safety regulations by going into a prohibited and barricaded area" as indicated in the fatal accident report. Only if the real cause was to be established by the investigating team is when the correct possible solution to deal with workers of such behaviours would have been found and not just "to maintain barricades around prohibited areas; to continue safety meetings by Safety Supervisors; and to be taking disciplinary actions against those workers who do unsafe acts while in the underground mines, or elsewhere". Does this not mean that disciplinary actions will only be applicable for those that survive but what about those who die, shall they also be disciplined? If a solution is seen to be insufficient like this one suggested by Mchenga employers, it means that the real problem cause being proposed to be solved may not be correctly or effectively addressed.

Workers compensation is a stage process that begins from when the employer reports the worker's accident to a government labour office using a prescribed form labeled WC 1 (as Workers Compensation form number 1) as required by section 24 of the Workers Compensation Act, 2000. The process ends at the time when the injured worker's compensation is paid as per the guidelines prescribed in the law. Stage three of the process requires the injured worker to be assessed at the hospital to establish his/her degree of incapacitation following haleness of the injury. Whereas, for the dead worker, stage three process, awards an automatic 100 % degree of incapacitation.

In the event that stage three process establishes a zero percent degree of incapacitation, there will be no compensation payable to the injured worker because zero percent assessment implies that the worker has not been incapacitated and that he/she will not suffer any incapacitation of any form due to his/her sustained injury unless doctors make mistakes in assessment of the worker. The zero percent factor once used into the workers' compensation formula, will result into zero kwacha as compensation amount. In this case, such a compensation case file is closed and the worker and the worker's employer informed accordingly. This constitutes a circumstance of no workers compensation payable for some reported cases at Mchenga or Kaziwiziwi coal mines. However, the non-payment of workers compensation can also happen at a workplace due to the employer's negligence to or deliberate plan not to report workers accidents to authorities for purpose of compensation, the behaviour that cannot be ruled out at the mining companies' workplaces.

Secondly, the problem of low compensation amounts is due to the formulas provided for under sections 7 (1) (a) and 8 (1) of the Workers Compensation Act, 2000. The formulae use worker's average monthly basic pay at the time of injury and the assessed degree of incapacitation as the two multiplying factors. This means that a worker whose average monthly basic pay is relatively higher is bound to be paid a relatively higher compensation amounts than the other one and vice versa. The same scenario/implication applies to a worker with a relatively higher degree of incapacitation. Thirdly, for the delayed payment of workers compensation, it is necessary to note that a number of factors are at play. These are: delayed reporting of worker's accident to mandated authorities; inadequate or absence of the State workers compensation pool fund; inadequate capacity (i.e. personnel) to handle workers compensation processes on part of government and workers compensation process with lengthy involvements (of course this is so for purposes of checks and control). The latter three are usually the cases with respect to Mchenga and Kaziwiziwi coal mining companies.

#### 4.1.6 Workers’ Organizations and their Freedom of Association

Reports and documentary records sourced at the two company workplaces and those available at Rumphi district labour office indicate that workers at both Mchenga and Kaziwiziwi coal mines rarely formed or participated in workers’ organizations such as in trade unions; in joint consultative committees (JCCs) among others between the years of 1985 to 1994 unlike during the periods after 1996 when the same documentary record sources show evidence of workers organizations’ activities with more of them at Mchenga coal mines than at Kaziwiziwi.

The analysis and enquiry to find out why such status was the case, revealed that from 1985, the year Kaziwiziwi coal mine opened and/or 1987 (the year Mchenga coal mines opened) to 1994, Malawi was governed by a set of laws which were full of oppressive provisions on the part of employees (Malema, 2014) to the extent that they (the laws) did not provide for the active formation and operation of trade unions as well as allow for freedom of association. However, following the multiparty democracy in 1994 and the subsequent enactment of democratic labour legislative laws in 1996 and thereafter, (that provided for the formation of trade unions as one major form of workers’ organizations and also granted workers freedom of association), the mining workers from the coal mining companies under study, started to engage in collective bargaining process with their employers through their formed unions and/or JCCs (as it became the case with workers of Mchenga coal mines Ltd – see table 4) as well as to demand their rights where necessary.

As a result, of the establishment of JCCs at Mchenga coal mining company in 1996 followed by the establishment of the Building, Construction & Civil Engineering Allied Workers Union of Malawi (BCCEAWUM) trade union in 2009, relationship between employers and employees at Mchenga coal Mines has been improving to the effect that a number of some past harsh described work conditions have improved for the betterment of workers. Some quotations and report extracts contained in box 2 are evident to demonstrate some improvements in conditions of work whereas table 4 shows how workers’ organizations have helped or are helping towards the improvements of conditions of service at the mining companies’ workplaces.

**Table 4**  
Industrial Actions and Workers’ Organizations’ Engagements with Managements

<b>Mchenga Coal Mining Company</b>				
<b>Year</b>	<b>Industrial action</b>	<b>Cause/reason</b>	<b>Settlement means</b>	<b>Outcome in relation to cause</b>
1987	Strike in	Demand for better	Unilaterally by	No improvement to work

to 1994	1993	work conditions	employer alone through threats	conditions and some dismissals were effected instead
1996	Strike in September	Complained of harsh work conditions	JCCs & management negotiations under labour office facilitation	Company accepted to improve work conditions
1997	Strike in January	Demand for salary increase	JCCs negotiations with the management	Company accepted to increase wages based on productivity
1997	Strike in August	Claim severance allowance following MDM & MDC/INDE-BANK partnership fallout	Management clarifications on SA position to all workers through JCCs succeeded	Workers understood that SA was not legally due as the partnership fallout did not bring any change to workplace
1998	Lock out	Vandalism by night shift workers due to blackouts	JCCs negotiations with the management	New generator was replaced
2005	Strike	Demand for pension contributions and terminal benefits	JCCs & management negotiations under labour office facilitation	Employer assured workers to start remitting their accumulated pension contributions to pension houses
2012	Strike	Demand for removal of HRO & AHRO	Union leaders negotiated with management under labour office facilitation	Improved communication and transparency in decision making by the management
2013	Strike notice in April	Demand for salary increase	Union leaders' negotiations with the management	The company increased workers' salaries and assures to do same every year in April
<b>Kaziwiziwi Coal Mining Company</b>				
<b>Year</b>	<b>Industrial action</b>	<b>Cause/reason</b>	<b>Settlement means</b>	<b>Outcome in relation to cause</b>
1985 to 1990	Nil – due to fears of being dismissed	Not Applicable (NA)	NA	NA
1990 to 2002	Mining operations temporary closed/suspended until its reopening in 2002. All workers were laid off and paid only 1 month notice pay without any other form of terminal benefits including severance allowance pay or exgratia payments in addition.			
2013	Petition by non employee community members &	Communities complained of inadequate CSRs and of improbable/inhuman work conditions.	Labour officials mediated the conflicts in company with other government officials i.e. Lands, Health and	Company accepted to improve work conditions - immediately increased monthly wages from Mk12,415 to Mk17,000 for the

	Strike notice	Workers demanded for increase of salaries/wages.	Environmental and Mining officers.	lowest earning category of workers, just to mention a few.
2016	Strike	Demand for increase in wages and salaries	Workplace parties settled strike on their own on 3 <sup>rd</sup> day through negotiations between CEMAO workplace union leaders and management	Strike ended with employer increasing wages across board by Mk10, 000.00 more thereby making the workplace lowest paid employee getting Mk29, 415.00 per month.

*Source:* Adapted, with minor updates, from Malema K. M. (2017), The Working Conditions In The Mining Sector: The Case Of Mchenga And Kaziwiziwi Coal Mines In Malawi. Open Science Journal 2(1), p. 20.

Table 4 shows that workers’ organizations such as Joint Consultative Committees (JCCs) and/or trade unions were established and have been working at Mchenga coal mines since 1996 to date. On the other hand, similar structures (trade unions, workplace committees, employees/employer bargaining procedures) delayed to be established at Kaziwiziwi coal mining company until the year 2015 when CEMAO registered its membership at the company. The BCCEAWUM trade union was established at Mchenga coal mines in 2009. The union replaced JCCs that had been established at the mine in 1996. Both the JCCs and the Union leaders have been conducting enterprise collective bargaining negotiations at various levels and/or times with the management of the company. As a result, there are generally improved working conditions at Mchenga coal mines as compared to Kaziwiziwi coal mining company. For instance, table 2 shows higher wages with the lowest paid employee category receiving monthly wages (Mk17, 500.00) above the government minimum wage rate for Mchenga mine workers than for Kaziwiziwi mining company where the lowest paid employees receive monthly wages (of Mk12, 415.00) below the government minimum wage rate which is underpayment of wages and hence non compliance with labour laws by the company employers. Secondly, occurrence of frequent industrial actions (strikes or lockouts) at Mchenga coal mines and not at Kaziwiziwi as shown in table 4, implies to some extent increased level of knowledge amongst workers on their working rights (labour laws), the situation that make workers exercise their right to strike and employers to lockout in cases where their workplace disputes remain unresolved. Kaziwiziwi workers might have not been staging industrial strikes either because of fear of being dismissed from employment hence their choice to suffer in silence or due to not being aware that striking is one of their rights to pursue in order to express their grievances to their employers. Workers’ strikes, besides their indication of poor workplace labour

relations, are also a sign of workers' and employers' engagements in enterprise level bargaining activities that are required by labour laws for future improvement of workplace labour relations.

The capacitated mining sector communities following the CSOs' advocacy project works, started to present strike notices and petitions to the mining company authorities demanding improved working conditions towards the end of 2013. For Kaziwiziwi, the demands were compiled and signed by non workplace employees (not even acting as union leaders) some of whom were chairpersons of the Area Development Committees (ADCs) and of Village Development Committees (VDCs) drawn from the mining surrounding communities. The demands were a mixed up of things. They were those demands on corporate social responsibilities as well as those demands on workers' labour rights. Such presented demands left the mining company employers in a dilemma. The employers did not know which set of demands were to be addressed as workplace issues. Similarly, the petitioners too did not know on whether or not they were legally mandated to involve themselves in demanding labour rights on behalf of their working brothers and sisters (relatives) from the mining employers. But what is the position of the country labour legislative laws on who are legally supported to collectively engage with the mining companies' employers between the mining workplace employees and the non employee community members regarding the fight for labour rights (improved working conditions) and/or for the company CSR interventions?

The current labour legislative framework in Malawi is far much adequate and clear in respect of the protection of workers' rights with regard to workers' organisation and freedom of association while at work. For instance, sections 4 and 5 of the Labour Relations Act of 1996 provide for freedom of association and rights of both trade unions as well as employers' organizations respectively. Specifically, section 4 gives every person (worker or employer) the right to freedom of association which includes freedom to establish and join organizations of one's own choosing. Whereas section 5 gives every worker or employer the right to take part in the formation, right to become a member of any federation of trade unions or employers' organizations and to participate in their organizations' lawful activities. In terms of employees' protection, section 6 (1) (b) of the same Act protects any employee not to be dismissed from work because of his or her trade union membership or participation in the formation of a trade union or in the union's lawful activities. Furthermore, on collective bargaining between employers and employees, sections 25 and 26 of the Labour Relations Act of 1996 provide for both enterprise and sectoral level bargaining. Enterprise level bargaining refers to single workplace bargaining between a group of employees for one workplace and their workplace employer while the Sectoral level bargaining refers to more than one

workplace bargaining between a group of employees' representatives from various workplaces of one industry, say tobacco or tea or mining sector and the employers' representatives from the same respective sector through the employers' formed sectoral associations. These collective level bargaining processes are further regulated by section 31 of the same Act that provides that all parties (employees and employers) to the negotiation of a collective agreement must be able to bargain in good faith and to make every reasonable effort to conclude a collective agreement. Finally, the pre-strike conciliation procedures and strike or lockout procedures are provided for under sections 44 and 46 of the same Labour Relations Act respectively. These are the procedures that are directive guidelines for both the employees and employers to know what to do in their processes of attempting to resolve their labour disputes or attempting to stage an industrial strike or lockout. With these few cited provisions, it shows that labour laws are adequate and clear with respect to workers' organizations and freedom of association. Furthermore, it is clear that the laws require workplace workers' themselves or their union organizations and not the non workplace employees to enter into collective bargaining with their employers fighting for their labour rights at a place of work.

While the enterprise level collective bargaining activities between the employer's management team members and the employees' union leaders brought about improved communication between the management team members (employers) and employees; minimized unnecessary work dismissals among other positive things at Mchenga coal mines workplace as demonstrated by some of the cited quotes and report extracts shown in box 2, the contrary is the case at Kaziwiziwi coal mines workplace which was without the required workers' and employers' bargaining structures until 2015. For instance, unfair dismissals still prevailed at Kaziwiziwi according to an interview with one of the workers who stated that "the Mine General Manager dismisses workers while at the work site without providing them with right to be heard".

The absence of collective bargaining activities between workers and their employers at Kaziwiziwi coal mining company despite the presence of adequate labour laws; the overall mixed up demands by the communities including workers for improved working conditions in the mining sector; and the analysis from table 4, together, suggest the prevalence of the following issues that require attention by the relevant authorities: inadequate enforcement capacity by government on the existing laws i.e. absence of frequent routine labour inspections including OSH/factory labour inspections as well as absence of the routine mining inspections; ineffective and/or insufficient trade union activities in the mining sector; enterprise (workplace) level collective bargaining activities seem to be effective towards the improvement of working conditions at a place of work; and lack of adequate knowledge on labour laws by workplace parties

especially employees regarding their working rights as employees; ignorance, amongst the mining sector community members including workers, on the position of corporate social responsibility in Malawi and on what CSR interventions are required to be undertaken by the mining companies for the benefit of the surrounding communities.

While it may be necessary for the non employee community members to demand for the CSR interventions and for improved working conditions on behalf of their employed brothers and sisters for the mining companies' employers to undertake, it is strongly advisable that it should only be the mining workplaces' employees or their affiliated trade unions that should be in a legal position to demand for their improved working conditions from their employers. The non employee community members who do not have any right to demand for improved working conditions on behalf of their employed relatives can only participate in demands for the mining companies' CSR interventions which should be reasonable and realistic demands considering that the country does not yet have the prescribed mandatory standards as CSR interventions by the mining companies in the existing mining sector legislative frameworks. Why are reasonable and realistic demands necessary and why proper for only employees to demand for improved working conditions? This is because it is only those labour rights demands by the workplace employees who are party to the respective workplace employers that can be enforced by the operation of labour laws and not those by the non employees who are not workplace bonafide parties. If it is due to fears of being dismissed from work or due to power imbalances that make the bonafide workplace employees unable to fight for their labour rights and instead opt to use their non employed brothers or sisters, then it is recommended that such employees should attempt to achieve their goal objectives through use of their affiliated trade unions or their concerted collective efforts through collective bargaining procedures with their employers.

It should be noted that only the reasonable and realistic demands are necessary for stimulating continued developments into the area arising as a result of the sustained mining operations in such areas. Some unrealistic / unreasonable demands can create unfavourable investment environment for the mining companies that may end up closing their mining operations. The closure of the mining operations can result into immediate loss of jobs; loss of the ongoing little CSR interventions in the area such as road maintenances, health clinic services and water/electricity provision services; and in the long run, results into general underdevelopment of the mining respective areas and the country as a whole through the decrease in the country's GDP as a result of the closed mining operational activities. The recent massive job cuts following the suspension of Kayerekera uranium mining operations in Karonga is one case for reference. Similarly, it is also the reasonable and realistic labour rights demands that

can enable the employers to manage any progressive improvements in conditions of service for workers such as increased salaries among others without necessarily compromising the company's profits for sustainability.

## **Box 2**

### **Various quotes and report extracts demonstrating positive impact of workers' organizations and their activities at a mining workplace.**

*We complain of having no freedom of expression because when we try to complain for something, we are being frightened to be dismissed like what happened on 9<sup>th</sup> September 1996 when the first miners stopped working and went to ask the mine manager on why he was not taking action to their salary scale which had been prepared by his predecessor in December, 1995. Instead the miners were told that if they did not want to work, then they had better leave their jobs and go.*

*Striking miners, 11st September, 1996.*

*We would mention that the following demands have been effected and accepted by you employees: Mk50 per month underground allowance to bonafide underground employees; casual employees have been offered appointments as temporary employees with their salary revised from Mk450.00 to Mk500.00 per month with effect from September 1996 and that the mine will supply fumigation sheet to all employees' not in the mine houses.*

*JA Norton, Mine Manager, November, 1996.*

*I advise you JCCs that you have a role to play between management and workforce and that in future, I would like to meet the workforce regularly at least once monthly to sort small mistakes which may degenerate into big troubles.*

*CR Gilligan, General Manager, August 1997.*

*Employees are forced to work excess hours without being paid overtime. The contributing factors to the above problems are as follows: improper planning by management in that employees sometimes are delayed to be given Cap lamps, explosives i.e. no enough coal at the ends, inadequate wheelbarrows, lack of protective clothing; Cap lamps going off while tramming, this also make trammers not meet given targets; and compressor breakdowns while tramming is in progress. All these management problems are blamed on trammers forcing them to work excess hours hence very unfair treatment.*

*JCCs contributions at a meeting with company management, August, 2004.*

*JCC and management have agreed on the amendment of chapter 29 subsection 29:5*

*of Terms and Condition of Services which reads: “Where the death of permanent employee, his wife, or dependent children occurs, the company shall provide a coffin, and transport to and from the place of burial”. Now the subsection reads as follows: “Where the death of a permanent employee, his wife, children, father and mother occurs, the company shall provide coffin and transport”. This new clause has included father and mother.*

*Management and JCCs resolution, May, 2006.*

*As discussed, we have introduced a 12 hour working arrangement for our security section such that guards work 4 days per week with two resting days (off days). After this, they start another working week period. The arrangement still maintains that a guard works 48 hrs during a week.*

*PE. Ngwira, HRO communication, September, 2007.*

*At Mchenga mining company, there is quick submission of accident report forms for processing of compensation awards; there is disciplinary committee as well as JCCs at the workplace; there is a clinic and a school provided by the company at the workplace; there is a contributory pension scheme at the workplace whereby employer contributes 10 %; there is SACCO established at the workplace from where some workers who are members can access loans; underground mine workers receive a monthly underground allowance calculated at 5 % of their monthly basic salaries; and employer gives support to some workers who wish to get loans from banks by providing introductory letters and surety.*

*Rumphi District labour office extract of quarterly report, January, 2008.*

Source: Malema K. M. (2017), The Working Conditions In The Mining Sector: The Case Of Mchenga And Kaziwiziwi Coal Mines In Malawi. Open Science Journal 2(1), pp. 29-30.

## **4.2 Corporate Social Responsibility Interventions by Mchenga and Kaziwiziwi Companies**

According to the questionnaires administered to the two companies’ authorities, the Mine Managers, the two companies have done several corporate social responsibility interventions for the benefit of their workers and the communities around. These interventions include construction and provision of transportation and medical facility services. Table 5 shows construction activities done by the two companies under each of the named traditional leader’s jurisdiction.

**Table 5:** Implemented Corporate Social Responsibility Interventions

<b>MCHENGA COAL MINES LTD</b>		<b>KAZIWIZIWI COAL MINES LTD</b>
<b>Name of Trad. leader</b>	<b>Constructed structure (s)</b>	<b>Activities undertaken or to be undertaken</b>
Chief Chiguliro	<ul style="list-style-type: none"> <li>• Mchenga primary school where 1 school block and toilets; football and netball playing fields; 5 teachers' houses; school head teacher's office have been constructed</li> <li>• House for late chief Chiguliro where door shutters; door frames and window frames were provided. Such facilities are being used to date by the current chief.</li> <li>• Constructed water pipeline in Jailos village area.</li> </ul>	<ul style="list-style-type: none"> <li>• The company is supplying the community with clean treated water</li> <li>• The company has a clinic that helps the communities for free</li> <li>• Built and maintains school blocks at Kaziwiziwi and Phoka government primary schools</li> <li>• The company fixes/maintains Rumph-Livingstonia road from Livingstonia to Lura</li> </ul>
Chief Zimakazi	<ul style="list-style-type: none"> <li>• Bridge across Thunda river</li> <li>• Thunda primary school and football playing field</li> </ul>	<ul style="list-style-type: none"> <li>• The company sends learners to colleges and helps drivers and operators get/acquire licenses</li> </ul>
Chief Maluwazi & Thekero	<ul style="list-style-type: none"> <li>• Under five clinic near Thekero primary school</li> <li>• Supplied chief Maluwazi with tobacco bailing Jack</li> </ul>	<ul style="list-style-type: none"> <li>• The company helps the community chiefs as one way of strengthening the relationship with the company</li> <li>• The company is supplying free electricity for the compound</li> </ul>
T/A Chief Njikula	<ul style="list-style-type: none"> <li>• Constructed sub TA Njikula's headquarters</li> <li>• Jalawe primary school playing field</li> <li>• Cleared ground for Jalawe CDSS construction</li> <li>• Assisted in the construction of Jalawe health centre</li> </ul>	<ul style="list-style-type: none"> <li>• The company constructed workers' hostels at the mining site</li> </ul>
Sub Traditional Authority Kachulu	<ul style="list-style-type: none"> <li>• Supplied STA Kachulu with tobacco bailing Jack.</li> <li>• Plastering and filling new doors and window frames for STA Kachulu's house</li> <li>• Constructed water pipeline for chief Mpeteta</li> <li>• Constructed Malowera bridge near Phoka court</li> <li>• Two teachers' houses at Mnonono primary school</li> <li>• House for chief Mwaphoka</li> <li>• House for chief Kanunika</li> </ul>	<ul style="list-style-type: none"> <li>• Helps in the management of Kaziwiziwi primary school. At the time of inception, the school was a junior primary school with only 3 classes, 1 to 3. Currently, the school has been upgraded to std. 7 after the company owners constructed a permanent school block. The company pays full salaries every month for 3 school teachers with salaries ranging from Mk24,310 to Mk37,180.00</li> <li>• Constructed a Dam that generates electricity for use at the mine and by the surrounding community. The Dam also acts as a learning tool to educate local staff in the field of engineering and</li> </ul>
T/A Mwamlowe	<ul style="list-style-type: none"> <li>• Assisted in the construction of Chiweta police in T/A's area.</li> </ul>	
Other	<ul style="list-style-type: none"> <li>• Supplies free medical attention and drugs to</li> </ul>	

services	everyone <ul style="list-style-type: none"> <li>• Carries routine construction jobs to the surrounding communities</li> </ul>	maintenance and/or sustainability jobs.
----------	--	---

Source: Malema K. M. (2017), The Working Conditions In The Mining Sector: The Case Of Mchenga And Kaziwiziwi Coal Mines In Malawi. Open Science Journal 2(1), p. 10.

The mining legislative framework has shown that the MMA of 1981 is being complemented by the EMA of 1996. However, to some extent, the two Acts do not complement each other by way of their provisions. For example, the EMA provides, as a mandate, for the mining company to conduct the environmental impact assessment (EIA) as a prerequisite requirement, among others, to be issued with a mining license but the MMA does not provide, as a mandate, for the licensed mining company to mandatory implement the EIA findings that may form as part of the recommended action points (the environmental impact mitigation measures) for the company to help address the mining environmental associated problems. This gap in the Malawi mining sector laws has resulted into incompatible implementation of corporate social responsibility interventions by the mining companies. For instance, table 5 shows several CSR interventions being undertaken by Mchenga and Kaziwiziwi coal mining companies for their workplaces’ surrounding communities but the interventions are still being perceived by both the companies’ employees and the surrounding community members as inadequate. To this effect, the two companies’ authorities are failing to competently and confidently demonstrate to their employees and community members on whether they are doing enough or not for them due to lack of CSR benchmarks in the mining sector laws. It may be true that in the absence of clearly spelt CSR benchmarks or interventions in the MMA, the mining company may end up constructing several houses, for example, for the chiefs in the surroundings of the mining workplaces as is evident in table 5, but such assistance may not be for the benefit of the majority community members at large, as perceived by Frederick (1960) and WBCSD (2000), hence defeats the whole purpose of environmental impact mitigation measures. Does the construction of chiefs’ houses or assisting some individuals with the tobacco bailing jacks really form as part of the expected environmental impact mitigation measures? Such is one question that would not have arisen if the two mining sector laws had clear complementary provisions in respect of the EIA and CSR interventions. It is therefore proper to recommend that the two complementary mining laws of EMA and MMA should be reviewed to contain complementary provisions in respect of the EIA and CSR to the effect that CSR interventions or benchmarks/standards by the licensed mining companies should be made mandatory and be clearly spelt out in a form of schedule for easy implementation by the licensed mining companies and for easy monitoring and evaluation by the

mining community members and the government. This will have a further impact of minimizing the workers' and community members' over expectations on what the licensed mining companies would be legally required to do for the communities and hence reduce some disputes both labour disputes and non labour disputes, a situation that is currently more pronounced at the two studied coal mining companies which is also true in some other mining sector workplaces in the country.

### **4.3 Chapter Concluding Remarks**

Chapter 4 has provided detailed discussions on the actual prevailing working conditions and corporate social responsibility interventions at the two selected coal mining companies in Rumphi district in Malawi. The chapter concludes as follows. First, in terms of the prevailing working conditions, it is clear that the working conditions in general are not favourable for the working employees. Such conclusion has been arrived at because of the following findings:

1. Monthly wages and/or salaries at the two studied mining companies are generally on the lower side in relation to poverty line, that is, normally measured by a dollar earning equivalence per day. It has been shown that, at the time of the study, Kaziwiziwi was paying Mk12, 415.00 (US\$31.69) per month to its lowest paid employees; whereas Mchenga was paying Mk17, 500.00 (US\$44.67) per month to its lowest employees. It has further been discussed that although with such lowest paid monthly wages, Mchenga was compliance with the country labour laws whose minimum wage was equal to Mk16, 530.00 (US\$42.19), this was still not a sufficient enough wage considering the rising cost of living as well as the nature of the mining sector activities which are tedious and hard jobs. On the other hand, Kaziwiziwi was non-compliant with minimum wage law with its lowest paid wage of Mk12, 415.00. It must however, be indicated here, although the indication is not part of the discussed chapter content, that currently with effect from January 2015, the country minimum wage was increased to Mk20, 651.00 (US\$41.33) per a 30 day working month. And against this rise in wages, the two companies as of December, 2016, are paying their lowest paid employees around Mk25, 000.00 to Mk30, 000.00 per month indicating that they are in compliance with the current minimum wage. Nevertheless, such increased wages are already surpassed by the daily rise in the cost of living thereby reflecting inadequate wages earned.
2. It has been reported that there is harsh working environment as there is inadequate and poorly ventilated working spaces while underground the mining facilities. This working environment which forces workers to develop strenuous

body postures when standing or sitting while working underground has been discussed and shown to be detrimental for the general healthiness of a worker. This becomes the case despite workers from the two studied mining companies work for a maximum of 8 hours per day as required by labour laws. Note that working in a harsh environment, with high temperatures for example, is not friendly even if one is allowed to work for few hours.

3. It has also been discussed and shown that the mining workers are not adequately covered with social protection benefits as most of them are working on temporary or casual bases and hence not covered with pension schemes and other social protection benefits while at work. This is the case at the two mining companies despite the fact that every employee in Malawi, unless exempted which is not the case with employees of the two studied mining companies, is with effect from June 2011 covered under the new pension Act of 2011. In addition, injured workers while at work are subjected to very low levels of compensation payments, although this is not really the fault by the employers but it is rather due to low wages because one's monthly average earnings is factored into the legal workers compensation formula as one key computing factor. This means, with low levels of monthly wages, an injured employee is automatically going to receive low compensation amount and vice versa.
4. Finally, in terms of workers organizations i.e. trade union activities, it has been discussed and concluded that existence of operational trade union at Mchenga coal mining company has significantly contributed towards workers' improved working conditions as compared to the delayed improvements in working conditions at Kaziwiziwi coal mining company where there has been no existence of functional trade union until the introduction of CEMAO trade union in 2015. Furthermore, it has also been shown that trade union and its workplace union leaders take a leading role towards the settlements of their workplace labour disputes with their employers, as evidenced in table 4 where most of the workplace labour disputes could be settled by parties themselves without resorting to labour office as was the case with Kaziwiziwi coal mining company.

And second, in terms of implemented corporate social responsibility interventions, it has been discussed and shown that:

5. CSR interventions are implemented at both Kaziwiziwi and Mchenga coal mining companies and that the two companies will continue implementing such moral responsibilities;

6. Various CSR interventions are being undertaken which include: construction and/or contribution towards constructions of primary schools around the mining places; construction and maintenance of bridges and roads; building of chiefs' houses; supplying some traditional leaders with tobacco processing equipments such as tobacco bailing jacks; construction of health clinics and police units; providing employees with clean water; supplying electricity to employees' houses on free of charge (mostly at Kaziwiziwi); supporting some selected learners in colleges with school fees; and carrying out routine maintenance works to primary school blocks. These are just some of the interventions and for full list of interventions, see table 5 in this book. However, the only challenge is that most of the implemented interventions were found to have been done not necessarily according to CSR policies and guidelines. As such the surrounding communities at large including employees are reported to be unsatisfied. This is despite the fact that some individuals have their houses been constructed by the mining companies. In this regard, most of the development stakeholders including government officials and representatives of CSOs who were interviewed and participated in focus group discussions suggested that the Malawi mining laws should be amended or revised to include issues of CSR interventions as mandatory activities; suggested that there should be total coordination between various players working in the mining sector in order to ensure high levels of participation in whatever could be done for the benefit of the broader community and not just some selfishly selected individuals.

In terms of making generalizations with regard to the discussed findings, the chapter has not made any generalized conclusion taking into account that the study had adopted a case study approach which has some limitations with respect to generalization of study findings to a wider population, in this case, to other mining company workplaces. This is because a case study usually employs an intensive approach to focus in-depth into the involved cases to the extent of making the whole study much confined to the studied case only thereby making immediate generalization bit difficult. Nevertheless, discussed findings reported in this book could be similar to most of other mining company workplaces in Malawi having similar operating conditions and environments like those of Mchenga and Kaziwiziwi coal mining companies.

## 5

# Conclusions and Recommendations

---

First, the book concludes that the working conditions experienced at the two mining companies of Mchenga and Kaziwiziwi in Rumphi district are generally poor to the effect that low salaries/wages are being paid to employees; the working environment in the underground mines is unfavourable and that low / delayed payment of compensation is being experienced. Furthermore, the book has also discussed and shown that workers' organizations and their activities in the mining sector may be the effective tools for the improved working conditions among other workplace structures.

Second, the book has also concluded that in general, CSR interventions are being implemented by both, the two mining companies and that they are, however, not necessarily implemented according to CSR policies and guidelines to the extent that most of the mining workplace surrounding communities including employees are left unsatisfied.

Based on conclusions drawn in this book, the following policy recommendations are drawn for action taking by the various respective mandated or responsible authorities.

- It has been recommended that every workplace establishments including the mining sector workplaces should promote and encourage establishment of the workplace industrial relations structures such as the trade unions and safety workplace committees as required by the country's labour laws for the purposes of collective bargaining activities which are seen to be instrumental towards improvement of every company's working conditions which have a bearing on the livings standards of the working population.
- There is need for the government to improve the enforcement of the existing laws and regulation of the mining sector activities through existing government's core businesses of labour and mining inspection activities. This recommendation once observed will, among others, help workplace parties to know or be updated with current labour laws and hence get encouraged to comply with them.
- There is need for revision of the archaic Mines and Minerals Act<sup>15</sup> of 1981 along with its policies and relevant regulations; need for the two complementary mining laws of EMA and MMA to be reviewed to contain complementary

provisions in respect of the EIA and CSR to the effect that CSR interventions or benchmarks/standards by the licensed mining companies should be made mandatory, if possible, and be clearly spelt out in a form of schedule for easy implementation by the licensed mining companies and for easy monitoring and evaluation by the mining community members and the government. This latter broad recommendation has been arrived at considering that the MMA of 1981 and the EMA of 1996 which complement each other have some incompatible complementary provisions in the sense that the EMA provides, as a mandate, for the mining company to conduct the environmental impact assessment (EIA) as a prerequisite requirement, among others, to be issued with a mining license whereas the MMA does not provide, as a mandate, for the licensed mining company to mandatory implement the EIA findings that may form as part of the environmental impact mitigation measures for the company to help address the mining environmental associated problems. It is the author's view that once the two complementary mining laws of EMA and MMA are reviewed as recommended, workers' and community members' over expectations on what the licensed mining companies would be legally required to do for the communities would be drastically reduced and hence reduce some disputes both the workplace labour disputes and non labour disputes.

- It has further been observed that while it may be necessary for the non employee community members to help demand for the CSR interventions and for improved working conditions on behalf of their employed brothers and sisters for the mining companies' employers to undertake, the book has, however, strongly advised that it should only be the mining workplaces' employees or their affiliated trade unions that should be in a legal position to demand or negotiate for their improved working conditions from their employers and that the non employee community members who do not have any right to demand for improved working conditions on behalf of their employed relatives could only participate, where necessary, in demands for the mining companies' CSR interventions which should be reasonable and realistic demands considering that the country does not yet have the prescribed mandatory standards as CSR interventions by the mining companies in the existing mining sector legislative frameworks. This would be good and proper because only those labour rights demands filed by the workplace employees as party to the respective workplace employers can be enforced according to the current country labour laws and not those by the non employees who are not workplace parties. On this note, the book also recommends that employees should attempt to achieve their goal objectives of improved conditions of service through use of their affiliated trade

unions or their concerted collective efforts through collective bargaining procedures with their employers in cases of power imbalances that may make certain workplace employees unable to fight for their labour rights while discouraging the unreasonable and unrealistic demands that may be detrimental towards the country's investment environment.

- Furthermore, it is also being recommended that CSOs should be conclusive in their complementary roles to government works (i.e. CSOs should be focused in formulating their work objectives that should help achieve the balanced results out of their complementary roles). They should be concluding their complementary role through use of well defined approaches engaging government technical officials while delivering their advocacy activities to the communities for the communities to be sensitized on both positive and negative aspects of fighting for improved working conditions so that the negative impacts that are mostly not covered by the CSOs should also be adequately covered to enable concerned citizens including employees to make balanced decisions; and that all the three industrial relations key partners (i.e. the trade unions, the employers organizations and the government) should work together to promote the establishment of effective workplace industrial relations systems (structures) such as the safety workplace committees, JCCs or the trade unions and the industrial tripartite councils (as provided for under section 27 of the LRA of 1996) for the purpose of conducting both the enterprise and sectoral levels of collecting bargaining activities. The established mining employers' sectoral associations for the purpose of the mining sector collective bargaining would be very much beneficial in the event that some workplace mining employees are unable to form their own workplace collective bargaining structures with their employers as has been evident with workers of Kaziwiziwi coal Mining Company. The employers' and employees' sectoral associations together with the industrial tripartite councils established for the Tea Associated Companies in Malawi have proved to be working towards the improvement of the working conditions in the Tea growing industry in Malawi (Kambilinya, 2008).
- Finally, CSOs should not deliver to enable the mining sector community members embark into some unreasonable or unrealistic demands that may not be well supported by the country laws and policies. This working environment would enable government technical officials to provide policy directions and quality control regarding the laws regulating the interactions between the mining workplace parties in the event that the CSOs (CCJPs) officials lack adequate advocacy capacity skills as observed by Tilitonse PEA report of 2013).

## End Notes

1. See the paper by Committee on International Corporate Social Responsibility (CICSR) on the living wage brochure.
2. Malawi Government, "Employment Act (Cap 55:01) of Laws of Malawi, (2000)," Government Printer, Zomba, Malawi, 2000. [Online]. Available: [www.malawilii.org/consol\\_leglist/consolidated\\_legislation/laws-of-malawi](http://www.malawilii.org/consol_leglist/consolidated_legislation/laws-of-malawi).
3. See a series of Mining and Trade review reports for Malawi- eg issue No. 45, January, 2017 from [http://www.eisourcebook.org/1484\\_Malawi.html](http://www.eisourcebook.org/1484_Malawi.html)
4. WBCSD stands for World Business Council for Sustainable Development. The 2000 report entitled 'Meeting the Expectations: Corporate Social Responsibility provides a definition of CSR.
5. "OECD" is a unique forum where the Governments of 30 democracies work together to address economic, social and environmental challenges of globalization. It stands for Organisation for Economic Co-operation and Development. The OECD member countries are: Australia, Austria, Belgium, Canada, the Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Korea, Luxemburg, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, the Slovak Republic, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States. The Commission of the European Community also takes part in the work of the OECD.
6. Mineral Right is defined in the Mines and Minerals Act of 1981 (Cap. 60:01) to mean a reconnaissance license or an exclusive prospecting license or a mining license.
7. Malawi Government, 2013 Mines and Minerals Policy.
8. Malawi Government, 2012 Annual Economic Report by the Ministry of Economic Planning and Development.
9. For example, businesses are asked to support a precautionary approach to environmental challenges (Principle 7); to undertake initiatives to promote greater environmental responsibility (Principle 8); and to encourage the development and diffusion of environmentally friendly technologies (Principle 9) are three environmental principles of the United Nations Global Compact (<http://www.unglobalcompact.org/>).
10. Overall, the whole livingstonia coal field has probable reserves of 2-5 million tons and proven reserves of 4 million tons of coal with ash content of 17 %, sulphur content of 0.5 % and calorific value of 6.800 kcal/kg (Maneya, 2012; MG-Annual Economic report, 2012).
11. Trammers are given a target to carry 102 coal wheel barrows for a distance of 261 metres during an 8hr shift work schedule per day or 90, 70 or 65 wheelbarrows per day with increased tramping distance (workload data collected).
12. Note that according to Mchenga and Kaziwiziwi coal mines companies' conditions of service, an employee serving on temporary or casual basis when given a Mine Number – which is simply the employee's employment number as employee's identity, becomes a permanent employee otherwise, the employee continues to be a temporary or casual worker for as long as he or she is not issued with the company Mine Number.
13. Section 26 (1) provides that in a contract of employment in respect of a skilled worker, the parties may agree on the duration of the probationary period provided that the period shall not, in any event, exceed twelve months; section 41 (3) (d) provides that an employee's continuous employment shall not be treated as interrupted if the employee is absent from work for a period less than six months due to having been temporarily laid-off by the employer; and section 43 provides that where an employer is

engaged in an undertaking in which it is customary to employ some employees only at certain seasons of the year and an employee is employed for successive seasons, the employee shall be deemed to have been continuously employed for the aggregate of all the time he/she has actually performed work for the same employer for continuous seasons. For the purposes of EA section 26 (1), "skilled worker" means an employee in an undertaking who has special ability to do something which ability is gained through acquisition, programmed or otherwise, of knowledge, attitude and behaviour. Thus a casual worker with acquired skills through work experience to do his/her assigned work becomes a skilled worker.

14. Toilet facilities are not available within the underground mines at both Mchenga and Kaziwiziwi coal mining companies. An interview with one of the underground mine workers revealed that a toilet is at the top ground area of each mine base area and that the underground mine workers to respond to calls of nature do move out of the mines to the surface area to access toilet facilities. Furthermore, the interviewed underground workers were non committal to give more light on what would happen in cases where one's call of nature is abrupt due to some body problems such as sicknesses or due to problems with the mine evacuating machines – the Adit shafts. The mine barricaded area is an area which has been mined out (left out) because coal to be extracted has been finished. The mine supporting pillars along the walls of such barricaded area are usually removed and the entry to such an area is usually closed/broked with barricades.
15. The revised MMA should address the Act gaps of “the failure to outline how mining ventures would address the needs of vulnerable segments of society as well as promoting value addition and community development and the gap of according the mining companies exclusive rights without taking into account the livelihoods of the people displaced by the mining projects” and the policy gap of “the absence arrangements governing provision for the community development and benefits sharing, including the role to be played by different stakeholders” (Tilitonse PEA report, 2013)

## Bibliography

Chipofya, V.H., Gondwe, M., Mapila, S., & Chinula, L. [2000], Impact of coal mining on the quality of air and water around Mchenga coal mine, Rumphi district, Malawi. *Malawi Journal of Science and Technology* 5: 50-55.

International Labour Organization (ILO), (2016), Minimum Wage Policy Guide, ILO, Geneva.

International Labour Organization (ILO), (1989), Introduction to Working Conditions and Environment, ILO, Geneva.

Dill, H.G. [2007]. A review of mineral resources in Malawi: With special reference to aluminium variation in mineral deposits. *Journal of African Earth Sciences* 47(3): 153-173.

Government of Canada, [2007], Sustainable Development and Corporate Social Responsibility: Tools, Codes and Standards for the Mineral Exploration Industry, Canada: Prospectors and Developers Association of Canada (PDAC).

Kambilinya, I.E.G. [2008], Assessment of Performance of Trade Unions in Malawi, Masters degree (HRM) thesis, Zomba: University of Malawi.

Kamlongera, P., [2013], The mining boom in Malawi: implications for community development. *Community Development Journal* 48(3): 377-390.

Kazakhstan, [2011], “King of the Producers in Uranium: A Supplement to the Mining Journal,” *Mining Journal*, April 1 P. 5.

Kevin, C. [1986], “Bureau of Mines / Minerals Year Book,” *International Reports*, Vol. 3, p. 994.

Malawi Government, [2012], Annual Economic Report, Lilongwe: Ministry of Economic Planning and Development.

Malawi Government, [2012], Malawi Economic Recovery Plan (MERP), Lilongwe: Ministry of Economic Planning and Development.

Malawi Government, [2010], The Second National Communication of the Republic of Malawi to the Conference of the Parties (COP) of the United Nations Framework Convention on Climate Change (UNFCCC), Lilongwe: Ministry of Natural Resources, Energy and Environment.

Malawi Government, [2013], Mines and Minerals Policy of Malawi, Lilongwe: Ministry of Natural Resources, Energy and Environment.

- Malawi Government, Mines and Minerals (MM) Act (Cap. 61:01), [1981], Zomba: Government Press.
- Malawi Government, Environmental Management (EM) Act, [1996], Zomba: Government Press.
- Malawi Government, Labour Relations Act (LRA) No. 16 of [1996], Zomba: Government Press.
- Malawi Government, Occupation Safety, Health and Welfare Act (OSHWA) No. 21 of [1997], Zomba: Government Press.
- Malawi Government, Employment Act (Cap. 55:01), [2000], Zomba: Government Press.
- Malawi Government, Workers Compensation Act (WCA) No. 7 of [2000], Zomba: Government Press.
- Malawi Government, Pension Act (PA) No. 11 of [2011], Zomba: Government Press.
- Malawi Government, Notice No 57, [2013], Minimum Employment Wage Order, Zomba: Government Press.
- Malawi Government, Ministry of Labour, [2005-2013], Rumphi District Labour Office: Annual Reports of Activities. Lilongwe: Ministry Headquarters.
- Malema, K.M. [2013], The Role of Labour Inspection in Labour Disputes Settlement Framework in Malawi, Masters degree (MBA) thesis, Blantyre: University of Malawi.
- Malema, K.M. [2014], Social Protection: The State Regulation of the Employment Relationships in Malawi – Achievements and Challenges, Conference paper, presented at Chancellor College during the University of Malawi, 2014 Social Science Conference, 25<sup>th</sup> – 27<sup>th</sup> June 2014, Zomba.
- Malunga, Grain W.P. (2014). An Analysis of Mineral Resources of Malawi. ISBN 978-99908-950-0-1.
- Maneya, G.J. [2012], An Integrated Study of Coal Geology and Potential Environmental Impact Assessment at Mchenga Coal Mine in Livingstonia Coalfield in Malawi, Master of Science thesis: University of Fort Hare.
- Mills, J. [2000], A technical discussion of mining operations in the lime and cement industries of Zambia and Malawi. PhD thesis, University of Nottingham.

Mzembe, A., Ngawenja & Meaton, J. [2013], Driving corporate social responsibility in the Malawian mining industry: A stakeholder perspective. *Corporate Social Responsibility and Environmental Management* Online Early View.

Mzembe, A. [2012], Corporate Social Responsibility in Malawi: Case Studies of the Mining and Agricultural Industries. Doctoral thesis, The University of Huddersfield. Available at <http://eprints.hud.ac.uk/17510/>

Organisation for Economic Co-operation and Development (OECD), [2009], “Promoting Pro-Poor Growth: Employment and Social Protection,” OECD Journal on Development, Vol. 9/4, ISSN 1816-8124, Available on [www.oecd.org/dac/poverty](http://www.oecd.org/dac/poverty)

Publish What You Pay Malawi. [2016], Making Minerals Meaningful: An Analysis of Malawi’s Mines and Minerals Bill in light of the African Mining Vision.

Samuelson, P.A. and W.D. Nordhaus [1995], Economics, 15<sup>th</sup> edition, New York: McGraw- Hill.

The 2010 Malawi Code II of Best Practice for Corporate Governance in Malawi: Sector Guidelines for Listed Companies, Blantyre: Institute of Directors (Malawi).

The Benchmarks Foundation. [2008], Corporate Social Responsibility and the Mining Sector in Southern Africa: A Focus on Mining in Malawi, South Africa and Zambia. *The Policy Gap Series*.

Tilitonse, [2013], Political Economy Analysis of Mining in Malawi: Final Report, Lilongwe: Department for International Development (DFID).

United Nations, [2010], The Role of Governments in Promoting Corporate Responsibility and Private Sector Engagement in Development, New York: Bertelsmann Stiftung.

World Bank, [2009], Malawi mineral sector review: Source of economic growth and development. Report No. 50160-MW.

Yager, T.R. [2010], “The Mineral Industry of Malawi,” Malawi 2010 Minerals Yearbook, 2012 U.S. Geological Survey Department of the Interior.





**More  
Books!** 



**yes**  
**I want morebooks!**

Buy your books fast and straightforward online - at one of the world's fastest growing online book stores! Environmentally sound due to Print-on-Demand technologies.

Buy your books online at  
**[www.get-morebooks.com](http://www.get-morebooks.com)**

Kaufen Sie Ihre Bücher schnell und unkompliziert online – auf einer der am schnellsten wachsenden Buchhandelsplattformen weltweit!  
Dank Print-On-Demand umwelt- und ressourcenschonend produziert.

Bücher schneller online kaufen  
**[www.morebooks.de](http://www.morebooks.de)**

SIA OmniScriptum Publishing  
Brivibas gatve 197  
LV-103 9 Riga, Latvia  
Telefax: +371 68620455

[info@omniscryptum.com](mailto:info@omniscryptum.com)  
[www.omniscryptum.com](http://www.omniscryptum.com)

OMNI Scriptum



