



CEPMLP

Centre for Energy, Petroleum and Mineral Law and Policy



Artisanal and Small-scale Mining (ASM) in Malawi

Report to the: Scotland Malawi Partnership (SMP); Malawi Scotland Partnership (MaSP); and Scottish Government

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Abstract : The Malawian ASM subsector below is analysed critically further to conducting thirty-two interviews (all but one, conducted in-country) and through a thorough literature review. This ASM focal point provides a nuanced and balanced reflection of the wider issues, not least environmental but also developmental, facing the wider Malawian mining sector a sector that is, however, far better placed than that of its EI sibling, petroleum.

Acronyms

CEPA	Centre for Environmental Policy and Advocacy
CCJP	Catholic Commission on Justice & Peace
ICMM	International Council on Mining and Metals
MGDSII	Malawi Growth and Development Strategy II
MMPM	Mines and Minerals Policy of Malawi
NGO	Non-Governmental Organisation
REDD	Reducing Emissions from Deforestation & Forest Degradation
RVM	Rift Valley Mining

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1. Introduction and Context

Malawi is on the cusp of developing its Extractive Industries (EI) sectors – mining and petroleum – but its directions of travel, timescales, and outcomes are all uncertain. Moreover, the starting points for these two sectors are vastly different, as are the Malawian perceptions of them as revealed through a series of thirty-two semi-structured interviews (and forty interviewees) conducted in Autumn 2014.

In simple descriptive terms, Malawi's petroleum sector remains nascent and is thus far restricted to exploration rather than production. Lake Malawi is central to this issue in multiple ways: its geographical centrality is mirrored by the centrality it takes in Malawian life and consciousness; critically, it is vital for the nation's tourism industry, food production, and freshwater. Much of Malawi's petroleum resources are thought to be located under Lake Malawi, implying both additional financial cost of extraction (whether via offshore installations or through onshore-located directional drilling) and potential dire societal costs should there be an oil spill. Furthermore, Malawi's neighbour Tanzania has an unresolved territorial claim on half of Lake Malawi's northern part; this uncertainty is compounded by the uncertain and unknown grades, quantities, locations, and difficulties of extraction, of petroleum in Malawian. Yet further uncertainty resulted from the Government of Malawi (GoM)'s November 2014 announcement that it was suspending all of its oil licenses pending a review of their procedural validity and in terms of policy (i.e. national benefit). The overall prognosis for the petroleum sector in Malawi is therefore hardly encouraging.

The contrast with the mining sector is stark. In normative terms, there was no significant level of opposition recorded amongst interviewees to Malawi developing its mining sector, but rather support in favour of its properly managed (an important caveat) development. In descriptive terms, Malawi's mining sector is already well established in terms of smaller and medium scale mining (the ASM subdivision of which is discussed below), often undertaken on a labour rather than capital intensive basis, albeit far less established with respect to Large Scale Mining (LSM) industry, especially since its largest- investment mine at Kayelekera in the northern district of Karonga has now entered a care and maintenance phase in response to low uranium prices. Additional to Kayelekera, however, a number of LSM projects are now pending regulatory/ licensing approval, additional to those already in production; should even some of these new mines become operational, then the maturity gap between mining and petroleum in Malawi will come into even sharper relief.

The focus of this report, see below, is ASM, "a sector in Malawi (that) is yet to be fully understood by establishing an inventory of resources capable of extraction. Nevertheless, the sector has the potential to grow by increasing output and providing higher value products, especially cut and polished gemstones" (Tilitonse Fund, 2013, p6.); one estimate puts the number of Malawians "involved" ASM at 22,000, (MininginMalawi, 2014a), and another (Kalmongera, 2011, p.1132) quotes an estimate of "at least" 40,000 "engaged in" ASM as of 2001, since when rapid population growth can be expected to have boosted numbers significantly. Considering that Malawi's largest EI investment to date and then-contributor of c.10% of Malawian GDP (Paladin Africa Limited - PAL, 2014), the Kayelekera uranium mine, when operational employed just 743 Malawian nationals (PAL, 2013, p21), it is possible that the number of Malawian ASM miners outnumbered Malawian nationals employed by PAL, and when Kayelekera was in production, by a ratio of c. one hundred to one.



2. Concept of a Stakeholder

Jorg Andriof and Sandra Waddock (Andriof & Waddock, 2002 p.29) characterise the concept of stakeholders, in a commercial/ industrial context, as “a way to see companies and their activities through constituency concepts and propositions. The idea is that ‘holders’ who have ‘stakes’ interact with the firm and thus make its operation possible.” This study considers a whole industrial subsector within the EI sector, namely ASM, as per the above, prioritising stakeholder engagement with influential groups, as per Freeman (1994)’s ‘Principle of Who or What Really Counts’, including the EI sector itself (inclusive of ASM), the GoM, NGOs and development partners.

3. Research by Stakeholder Interview

The research methodology for this work was through semi-structured interviews, with the questions asked aligned with those of the MoU. Overall, the interviews sought stakeholder responses with respect to the development of Malawian EI in both normative (“ought”) and positive/ descriptive (“is”) terms, to inform future policy and decision making.

A tabulation of interviews is provided at Annex 1, detailing the thirty-two interviews (totalling forty interviewees) conducted. Interviewees were identified and contacted both prior to arrival by the researcher and on arrival, through recommendations and the provision of contact details/ introductions from past interviewees (“snowballing”).

Of the 40 interviewees, 39 of whom were interviewed face-to-face and in Malawi; one interviewee was interviewed by email since the interviewee was then in the USA. A gender imbalance was notable: thirty male interviewees and ten female interviewees, reflecting the same gender imbalance in Malawian EI, an imbalance that was itself a focus of the interviews.

Given the imbalanced nature of extant Malawian EI, there was far more focus on the mining sector rather than petroleum; in order to ensure at least one solely petroleum-focussed interview (that with Thomas Kebbie, Saturation Diver at petroleum support services firm Technip), (student number) extended the research by an additional day. The resulting split between those interviewees primarily focusing on mining (39) against those primarily focused on petroleum (1) reflects that Malawi has an extant mining sector, but has had no petroleum extraction to date, as discussed above. Hence, whereas petroleum-specific responses were, in most cases but not universally, restricted to the singular/few question(s) posed specifically relating to the petroleum sector, mining-specific responses were routinely given to questions raised, e.g. regarding gender equality or state participation and forming the large majority of each interview, with respect to the extractive industries collectively, as opposed to the fewer number of question posed specifically raised with regards to the mining sector, including ASM, the focus of this report.

Moreover, a review of this project’s interviews indicates that a strong collective feeling, not universally held by held by a significant proportion of respondents, against petroleum extraction in Malawi on normative grounds; for these sceptical interviewees, environmental concerns are highly salient to their stated opposition.

Interviews were conducted with EI organisations, the GoM, development partners and NGOs. This sectoral split was developed to act as a tool for useful analysis and



critical comparison, and was refined during the five week interview period to better reflect the broad and actual range of interviewed organisations, rather than imposed rigidly from the start; it provides a sound basis for comparison between each other in terms of interviewees' responses. To clarify: the academic, whilst employed by the Malawian State as a public employee, was categorised as "NGO" in light of his academic independence; two of the GoM interviewees were former Ministers no longer in public employment, the latter also being the case regarding one GoM-categorised former civil servant – all three were interviewed on the basis of their former roles and experiences, hence this GoM categorisation; and the NGO category is an advocacy category and excludes social economy cooperatives engaged in production, the latter being grouped with other producers, from the private sector, as "EI". Furthermore, assigning organisational categories to interviewees was problematic where cases of multiple competing categorisations could be supported (but weren't) reflecting some individuals' multiple roles, e.g. within and outwith government.

Of forty interviewees, twelve were from the NGO sector, twelve were EI, nine were development partner interviewees, and seven were GoM interviewees, indicating a good balance across sectors. Annex 1 shows the categorisation agreed with the SMP. Three of the interviews were with multiple interviewees; combined with the fact that the GoM interviewees were/are employed by just two parts of the GoM (and taking these to be different "organisations") the Public Private Partnership Commission and the ex-Ministry of Mining/ extant-Natural Resources, Energy and Environment, twenty-six different organisations were interviewed.

Interviews were conducted across Malawi, in each of its three regions: South; Central; and North. Of these, only one interview (that in Kanyika) was in the North region, with exactly 50% of the remaining face-to-face interviews being either conducted in the Centre (all in the capital, Lilongwe) or on the South, most notably Malawi's commercial capital, Blantyre. However, this picture is misleading since Malawi's mining industry is concentrated in its North and South regions, and not in the Centre; the fifteen Lilongwe interviews were hence with organisations headquartered there but with operations nationally (e.g. the GoM) or in either the North or the South (e.g. PAL's Malawian mining asset, Kayelekera, is located in the former). The balance of the interviews thus reflected the North and South concentrations of extant mining exploration and production rather than the actual interview location.

Interviewees were informed both orally (and had opportunities to question further with the researcher ahead of the interview) and in writing, prior to the interview, about why they had been approached for their views; and were offered the opportunity to specify which of their comments were attributable to them or not, in line that the research remain a "moral enterprise" that does not cause harm (Kvale, 1996). One group interview was wholly non-attributable, excepting a statement that it was from a development partner, and two further interviews were partly non-attributable; the remaining interviews were wholly attributable, with the caveat that one group interview was conducted on a collective basis rather than taking the names of individuals; this last interview was the only one conducted in Chichewa, via an interpreter.

Interview questions covered a range of topics, some on an emergent basis, i.e. particular issues (e.g. deforestation) become apparent through the earlier interviews near the start of the five week interview period and question(s) on these topics



routinely asked thereafter, and some from the outset, in particular those relating to the different parts of the extractive industries value chain, gender equality, and accountability/ transparency/ governance issues. It became apparent during the interview process that some questions, e.g. regarding the related concepts of local content (which policy issue lies at the crossroads of regulation and local capacity) and local benefit (which additionally is related to corporate social responsibility concerns and broader issues of government policy), elicited far greater numbers and lengths of responses than other topic areas, e.g. tax and revenue management. Broadly speaking, issues of policy, and legal and contractual frameworks, that is the start of the EIVC, elicited the greatest volume of responses.

Interview responses were therefore grouped against thirteen different subject areas: • Petroleum sector;

- Mining sector;
- ASM sub-sector;
- Gender Equality;
- EI Transparency and Governance;
- Deforestation;
- Five different subject areas relating to the EI Value Chain:
 - Local Content;
 - Policy, Legal and Contractual Frameworks (outwith Local Content);
 - EI Sector Organisation;
 - Revenue and Fiscal; and
 - Sustainable Development.
- Donor Coordination and Effectiveness; and
- Would and should there be a New Licensing Moratorium pending legislative reform.

4. ASM Centrality and Salience

ASM is an important and widely recognised policy subject area in Malawi, and an important – albeit hard to quantify – part of the country’s economy. The overall level of response from the SMP interviewees was very high: 34 interviewee responses out of a total of 40 interviewees. Half (three) of the non-respondents were development partners, whereas and in contrast all nine of the extractive industries interviewees responded, indicating a very high level of saliency of ASM issues for this group. Additionally, high rates of response were recorded for both Government of Malawi (GoM) interviewees (six respondents out of seven interviewees) and the NGO sector (ten respondents out of twelve interviewees). Whilst differences are identifiable in the responses between these different sets of interviews, common themes are clearly present too, not least the acknowledged role of ASM within the Malawian extractive industries now, and in the future. This fact is reflected by both the GoM’s publication (Republic of Malawi, 2014) in 2014 of a draft “National ASM Policy” accompanied by its leadership of a domestically-focussed, broad stakeholder, ASM symposium held in Lilongwe partly to collect structured feedback on this draft policy (GOXI, 2014).

5. Defining ASM

However despite this centrality and salience, Buxton (2013) notes that, “definitions for ASM are disputed” (Buxton, A., 2013), a conclusion that Hentschel et al (2002,



p.5) had reached some eleven years earlier: “while many attempts have been made to define ASM finally until now a common definition of the term has not been found”. Buxton (2013) instead offers the following description:

“broadly speaking, ASM operations exploit marginal or small deposits, lack capital, are labour intensive, have poor access to markets and support services, low standards of health and safety and have a significant impact on the environment. In this paper” (2013, p.1)

Hence (Buxton, 2013) in “this paper we use the phrase ‘artisanal and small-scale mining’ and the abbreviation ‘ASM’ .. mean mining activities fitting this description” (ibid, p.1), a circuitous route to definition but also one consistent with that of Hilson (2003) ten years previously who noted (p.2) previously a general retreat from attempts to define the constituent terms “artisanal mining” and

“small-scale mining” given an “increasing realization that no one criterion is sufficient to define either term ... (hence) this books is unconcerned with crafting definitions” of the terms. Hilson then proceeds, much as the Buxton (2013) does above and using a consistent description, to state that the books’ authors (of which he is the editor) use the term to describe “the low-tech, labour intensive branches of the mining industry prevalent in developing world economies.”

Hentschel et al state (2002, p.6) “in many countries the ASM sector is part of the informal sector”, including, it would seem, Malawi as the 2013 MMPM (Republic of Malawi, 2013) states that “ASM operations tend to be informal”; this is consistent with Buxton’s (2013, p.4) statement that “most ASM is informal.” Extrapolating logically, this paper adds two refinements to Buxton’s descriptive definition of ASM:

1. that only informal mining may count as ASM; and
2. recognition of a third mining category, neither LSM nor ASM, namely formalised small-scale mining; and
3. medium scale mining companies that are formalised; this has the benefit of more sharply defining Buxton’s descriptive definition of ASM, since formalised mining firms of any size are excluded. This approach has the benefit of giving recognition to medium sized mining firms that both Grain Malunga (in his interview), former Minister of Mining, and the MMPM both specifically remark upon, albeit both negatively, respectively stating: “there is a lack of medium to larger mining” in Malawi; and ASM (p.11) “collaboration with medium to large-scale private mining companies is poor.”

One further refinement is also proposed: definitional allowance for the existence of social economy/ not-for-profit formalised ASM.

These refinements take into account both the evidence from the interviews and that of Malawian policy documents, e.g. the draft NASM Policy which states that (2014, Republic of Malawi, p.12) “the policy will facilitate the formation and strengthening of ASM cooperatives,” implying that formalised cooperatives may still be considered as being in the ASM subsector. This is an implication supported by the single interview with such a cooperative, the self-identifying ASM sub-sector Tithikoze Lime Cooperative Society, whose representatives commented:



“ASM is very good for Malawi, it provides paid work to local people, is the kind of development that is the best for Malawi, which can last, and which could usefully be supported through ‘Buy Malawian’ publicity campaigning.”

None of the other EI organisations, all of which bar one were for-profit private sector companies rather than cooperatives, interviewed self-identified as ASM, and in fact they generally spoke about ASM in terms of “them” rather than “us”. Russel Thornicroft, Director of RVM, a small-sized but formalised mining company, is a good example of this majority viewpoint, prefaced his ASM remarks with the opening observation: “ASM is a problem....”; when he did so, he was clearly not including his own company in that criticism.

6. ASM Formalisation Debate

Formalisation is therefore a central point of departure in the Malawian ASM policy debate, and internationally ASM formalisation is a central debate amongst policy-makers. Due to its informal nature, ASM “operat(es) in the absence of an applicable or appropriate legal framework” (Buxton, 2013, p.4). The ICMM asks, in its undated publication “How LSM can engage with ASM?” and notes that “the fact that much of ASM activity occurs outside regulatory frameworks – whether illegal or not – can also present significant challenges for companies and regulators” (p.1), e.g. that ASM miners chose to ignore other government policies, such as taxation, rather than just the one that they formalise. Whether they therefore “should” do so, or simply do what they think is in their best interests, is a central (inherently political) point of the ASM policy debate.

The formalisation issue is clearly and unambiguously addressed in the MMPM 9 Republic of Malawi, (Republic of Malawi, 2013, p.11), the first (from five) of which policy statements reads: “(a) Government will formalise and regulate the ASM sub sector”; in terms of the challenge of ASM/LSM co-existence, this issue is merely recognised in the MMPM rather than directly addressed: “collaboration with medium to large-scale private mining companies is poor” (2013, p.11), a addressed in headline terms by the policy objective stated in the draft NASM Policy (Republic of Malawi, 2014, p.13): “Government shall continue creating an enabling environment that will support and encourage co-existence of both ASM and LSM operations.”

Of all ASM comments made, the twelve pro-formalisation comments were the equal-second most numerous, however five of these were made from just one sector – EI.

A representative example of these EI comments is that of Yotam Ndovi (President, M&N Gemstones), viz.:

“ASM should be formalised, to tackle smuggling, to enable monitoring, to ensure that forex is generated for the country, not for middlemen-smugglers, to ensure fair prices for ASM miners. ASM mining lacks geologists... hence ASM miners don't know the value of the miners that mined”

In contrast, there was just one such GoM comment, but GoM policy, which is in favour of ASM formalisation, was lauded through four further GoM interviewee responses, implying that the former figure is misleadingly low. The one explicit comment was by Charles E. Kaphwiyo (Director of Mines, Department of Mines), viz.:



“ASM is rooted in Malawian society. Most of it is not formalised, and there are many people in this industrial subsector - with some people operating at the margins of ASM and other activities, notably agriculture, including different members of the same family - an informal and poorly delimited workforce. Through formalisation we can support ASM, and we will do so, and help the miners progress up to larger and high added value mining operations.”

Four NGO responses strongly supported formalisation, e.g. Laurence Mpekansambo (Lecturer, Chancellor College, University of Malawi):

“the problem is lack of formalisation and coordination, leading to lack of value added (just raw materials that get exported), prone to cross border smuggling (NB lack of fiscal take and benefit to MW as a whole) and miners being exploited by buyers.”

Two development partners interviewee responses were received, one, that of Gershom Sichinga (Programme Director, World Bank), being very pro-formalisation:

“ASM is often too small scale to take on commercial supply contracts, but formalisation may help. ASM miners should be assisted to work in groups and to identify and exploit synergies. There is currently lots of exploitation of poor people, e.g. unfairly low prices paid, and also smuggling. The government should provide processing points and encourage the formation of cooperatives. Currently ASM is not making an impact changing people's lives nor in helping them out of poverty. Mzimba, e.g., has a long history of ASM gemstone mining, but people still very poor; with whom has the economic added value ended up?”

In contrast, the other (non-attributable) development partner comment was more ambivalent:

“Rumours of foreigners coming in and getting the gemstones of ASM miners at very low prices abound - we should follow the example of Malawian tobacco, where education has resulted in better knowledge amongst producers who have demanded fairer prices from intermediaries. In terms of ASM formalisation, I note that most of the rest of the Malawian economy operates in an unregulated grey zone, so ASM practice simply congruent with that too.”

Another non-attributable, this time EI sector, comment alleges that many miners did not trust the authorities given alleged past incidents of *de facto* gemstone confiscations by police who stated that they were merely collecting product samples to aid international marketing (awareness raising) of Malawian gemstones, and that these would be (but were not) returned to the miners or any sales revenue forwarded to them. Another (NGO) interviewee, Rachel Etter (Mining Project Coordinator at the Revenue Development Foundation) reached a measured conclusion, effectively a not-proven verdict: “I am not sure about the formalisation debate re. ASM, who would really gain? Uncertain. The miners need to take an informed view of this themselves.”

Etter’s open-minded scepticism is supported by Maconachie’s analysis (Maconachie, 2011, slide 7) and resulting conclusion that that “any attempt to formalize ASM must be informed by detailed field-based research”, consistent with the principle of unintended consequence. In particular he argues that there needs to be:



- “Understanding local governance contexts, particularly the unequal power relationships which exist at different scales”, a point that resonates with the above non-attributable accusation; and
- “Fostering cross-linkages between policies, and creating more flexible policies that allow for diversification and movement between productive activities to improve and safeguard livelihood bases.”

7. ASM Pejorative Usage and Pushback

Thornicroft’s hostile views on ASM noted above are listed in full below, and reflect wider disquiet about ASM within and beyond the EI sector, as reflected in the interviews:

- *“ASM is a problem, and we had to put a stop to it from our Exclusive Production License area. It is impossible to control, monitor, mediocre at best extraction, not environmentally friendly, and ASM miners are able to manipulate the licensing system: get a mining claim license (cheap and easy) for one area, and find ore / gemstones somewhere else, mine it and claim it was from their mining claim area”;* and
- *“Furthermore, ASM limestone mining, as an example, is often conducted without proper equipment, protective clothing, with the miners hammering the stone at very real risk of potentially blinding themselves.”*

Moreover, Danielson, in the Foreword to Hilson, notes that (2003, p. x) “governments often see this sector as a source of problems: earning on which taxes are unpaid, occupation of lands to which there is no title, revenues flowing outside of the banking system, and even as an economic power base for criminals or revolutionaries.” The evidence of the interviews is that fellow EI firms are the most critical: whereas the modal (sixteen comments) response of all interviews re. ASM is one of critical appraisal in some form – such that ASM is seen as a missed opportunity for Malawi, in conflict with other Malawian objectives/ needs, or simply as a negative aspect of mining *per se* - over half of these responses were from the extractive industries’ interviewees (eight out of sixteen responses), of which they made up the vast majority of ASM responses (eight of nine EI responses).

However, criticism of ASM is not limited to other, non-ASM, firms: whilst EI respondents constituted the majority of such critical responses, three such development partner comments, three such GoM responses and two such NGO sector responses were also made, i.e. this viewpoint was common across all four groups of interviewees. An example of one of these (GoM) responses is as follows (made by Grain Malunga , ex-Minister of Mining): “there is an issue in terms of stones not being properly graded, in order for ASM to become more profitable. Generally, ASM needs better regulations and sustainability to achieve its potential and benefit ASM miners themselves”.

A reflection of the criticism of ASM by non-ASM EI companies is apparent in policy guidance developed by the predominantly-LSM’s ICMM (ICMM, 2013), a seemingly positive sounding title to a document in fact lists a number of security and reputational risks for LSM with respect to ASM, in particular the risk of illegal encroachment by ASM miners onto land which the large scale miner has the exclusive rights to (a point made above by Thornicroft), before seeking to identify ways of positive engagement. One LSM interviewee, Greg Walker of PAL, puts the



case even stronger than Thornicroft, albeit with respect to non-Malawian ASM activity: “the experience of other countries, e.g. Angola, is that ASM tends to screw up the resource.”

8. ASM Revisionism

However, pejorative usage of the term ASM is actively contested, as implied by the title of the Malawi-specific journal paper (Kamlongera 2011) “Making the Poor ‘Poorer’ or Alleviating Mining Livelihoods in Rural Malawi?”, followed a year later by an overtly revisionist presentation in which he states that the “purpose of my research is to facilitate a change in mind-set” re. ASM, since “it is not as bad as it is portrayed” (Hilson, 2012, p.5), a phraseology mirrored in the text box (2.1) authored by Hilson’s doctoral-supervised researcher Perks, titled: “Re-framing the ASM debate: its integration into the EI Value Chain” (University of Dundee, 2014).

At the furthest end of this scale, one of the most positive introductions to the concept of ASM is that provided by Hirons (2014, pp9-10):

“the notorious reputation of mining as a source of conflicts and environmental degradation is countered by its importance as an engine of economic growth. In addition to the multinational mining companies topping stock indexes in financial capitals across the world, the ASM sector produces significant quantities of minerals and provides numerous employment opportunities, particularly in poor rural areas where agriculture fails to provide an adequate livelihood.”

Furthermore, even the critical view of Walker is tempered by his following comment that ASM was very positive for Malawi in terms of the provision of inclusive and accessible employment opportunities; moreover, over a third (six comments) of the fifteen critical (and modal) viewpoints of ASM were from the perspective of it as a missed opportunity, rather than as a negative thing in and of itself (five comments), or of it as being in conflict with other Malawian objectives or needs (five comments).

Twelve interviewees commented positively about ASM – all bar one focussing on economic impacts, and eight commented positively about GoM ASM policy; six additional interviewees since there was an overlap of two interviewees amongst the above sets of comments.

EI interviewees made three of the above, positive and economic benefit-focused, comments, two of which comments have already been quoted above, viz. those of Tithikoze Lime Cooperative Society and Walker; the comments of Neville Huxham, (Executive Manager: Africa, Globe Metals and Mining, Globe Metals and Mining) complete this trio, and in common with Walker’s positive comments, temper his previously critical ASM observations: “gemstone ASM is often done in a non-confrontational, unproblematic manner in Malawi, and ASM is labour intensive, having an uplifting impact against poverty, certainly.”

Representative of the four pro-ASM comments made by NGO interviewees is that of Clement Masangano (Programme Officer at MaSP), viz.: “ASM is to be encouraged as contributing greatly to the Malawian economy.” NGOs also made comments supportive of GoM policy development on ASM, including one comment (from Cynthia Simkonda, Director of CEPA) welcoming GoM’s apparent willingness to pursue legislative reform on ASM issues ahead of new licensing, which she said should result amelioration of the overall impact of the subsector in Malawi, and a



further comment by Clive Bacon, (Country Manager of Pact), commenting on the willingness of GoM to work with Pact constructively on ASM issues, including regarding both preparations for and management of the upcoming national ASM symposium in Lilongwe, albeit on an unfunded basis.

Four pro-ASM comments were made by GoM interviewees, including two by former Ministers of Mining, shown below and representing the range of qualified (i.e. from Malunga) to whole-hearted (i.e. from Bande):

Malunga:

“ASM dominates in Malawian mining... ASM strong in following subsectors: stone aggregates, limestone, terrazzo, gemstones. ASM supports lots of people economically, albeit often on a subsistence basis, and ASM miners tend to be local.”

John Bande:

“ASM is very good for Malawi. We have an 80% rural population, and its mainly to that population that ASM incomes accrue, helping people out of poverty. ASM has to be encouraged. There are synergies with LSM too: LSM may explore a site and decide that the minerals identified are not commercially viable for it to extract, but they could easily be suitable for ASM extraction, duly notified (e.g. via government) of this opportunity.”

Both of these former Ministers of Mining were amongst the four GoM interviewees making supportive comments re. GoM ASM policy. In common with these ex-Ministers, ex-Principal Secretary of the Ministry of Mining, Leonard Kalindekafe, is no longer employed by Ministry responsible for ASM (or EI in general) affairs, but was still resoundingly positive re. both ASM itself and current GoM ASM policy:

“ASM is a vital sector and needs to be supported, prior to the 2013 MMPM we did not have an ASM policy, and now we are developing a very progressive, inclusive and constructive ASM-specific policy, working closely with stakeholders in civil society and the ASM subsector itself.”

Only one donor made a statement in support of ASM or GoM ASM policy (she commented positively in both regards), Tinyade Kachika, speaking on the behalf of UN Women; in terms of the latter, she stated that: “GoM is to be applauded for its positive approach for not taking a negative, knee-jerk reaction to the sub-sector. GoM has a specific ASM Policy 2014 pending, in draft and pending final consultations.”

In response to the question posed by (Kamlongera, *ibid* p.132) “how committed are policymakers and donors to promoting the sector?” in Malawi, the interview evidence suggests strong, but not uniformly emphatic, GoM support but only lukewarm support from development partners (i.e. donors).

- Extractive industries comment: made by the Tithikoze Lime Cooperative Society: “GoM policy for us (ASM) miners has been helpful, particularly under Joyce Banda’s Presidency, she really understood our needs, and was helpful”.

This evidence is supplemented and supported by demonstrated GoM support and leadership of an ASM national Symposium this year (GOXI, 2014), and supported by Pact, see above, and the launch of, again this year, of a draft ASM Policy that is very supportive of the sector, see extract below:

“Government is committed to support the sub-sector by facilitating the transformation of the ASM activities into more organized and modernized mining operations, and further promote modalities of mineral marketing which encourage transparency business transactions and discourage smuggling” (ibid, Foreword, signed by Atupele Muluzi, Minister of Natural Resources, Energy and Mining),

GoM ASM policy is clearly stated in the 2013 MMPM (Republic of Malawi, 2013), which makes 2013, (p.11) five policy statements, as follows: in favour of (1) GoM formalisation and regulation of ASM, (2) the provision of relevant training support and for both (3) access to finance and (4) gemstones value addition; and, finally, that (5) “government will establish a robust monitoring mechanism to curb smuggling of precious and semi-precious stones.”

How this ASM policy is implemented is another matter, however. For example, Emma Adam (Director, Malawi Women in Mining Association - MAWEMA), in her interview, strongly advocated for great ASM self-help and support, with the implication being that a key element of GoM ASM policy should be to fund associations such as MAWEMA to delivery ASM objectives, rather than the GoM seeking to do it itself:

“we are an ASM association, providing practical support, with 75 members, 72 women and 3 men, and is weighted in membership towards the southern region. Our members are both miners and/or traders ... GoM civil servants go into the field to teach health and safety issues to ASM miners willing to listen, and also environmental issues. If MAWEMA and other associations had the funds then we could do this teaching ourselves, as we know where the ASM miners are. There is a basic lack of facial protection, ear muffs, and respirators in use, with devastating health implications. There is also the danger of encountering radioactive yellowcake - re. which there is a clear training and capacity building need.”

This was a view mirrored by Hilton Banda (President, Geoscientist Association of Malawi - GAM), who stated, in interview, that:

“GAM can take forward ASM projects for World Bank and possibly other funding, e.g. by learning good practice lessons from Tanzania and other countries, including what this agency and other donors have funded there. MAWEMA is a member, by default, of the Geoscientist Association of Malawi indirectly, given the number of GAM geoscientists who are members of GAM. Geoscientist Association of Malawi is now encouraging group/ subsector activities, e.g. ASM gemstone miners, as a way of expanding our base and added value.”

9. ASM and the Diversification of the Malawian Economy

Hence, policy development (and implementation) in Malawi is unlikely to be linear nor simple, e.g., and as per the above, in the choice of economic agents to take forward ASM policy, within and outwith the State. This finding is in line with Maconachie’s call (2011) for more detailed, contextualised, policy development with respect to ASM is in line with that of Hilson (Hilson, 2006), “Introduction: resuscitating the policy and



research agenda for artisanal and small-scale mining”, Small-scale Mining, Rural Subsistence and Poverty in West Africa, Rugby, Intermediate Technology Publications) who stated that “prolonged neglect of .. broader socioeconomic issues has ... rendered promising ASM policy and support initiatives ineffective”, particularly in light of the complexity of the dynamics linking ASM to sub-Saharan African poverty and familial routes out of that poverty.

In a Malawian context, these dynamics are dominated by the pressing need, a point of consensus amongst the interviews, for the nation’s economy to diversify away from just agriculture and, *inter alia*, towards greater contributions to national GDP from the mineral sector, including ASM. This need for diversification to the minerals sector, inclusive of ASM, and away from agriculture, in turn supports the ASM-positive, revisionist agenda.

Bande (Republic of Malawi, 2013) provides the general case in favour of economic diversification in the foreword of the 2013 MMPM (2013, p.v), that “the MGDSII identifies mining as one of the sectors that could potentially generate economic growth for the country”, noting that Malawi “has abundant mineral resources” the extraction of which could “transform the country from a predominantly importing and consuming nation into one that is predominantly producing and exporting” overcoming Malawi’s “perpetual imbalance between supply and demand of foreign exchange... originat(ing) from the fact that the country heavily relies on agriculture in order to generate foreign exchange.” Specifically, a 20% GDP target is set for the sector, a precipitous increase from the *ex ante status quo* level of just 3% prior to the opening of the Kayelekera uranium mine in the north of Malawi, a mine now closed to production due to low global prices and high costs of production, maintained by its operator PAL (a firm interviewed by this report) on a care a maintenance basis pending amelioration of these circumstances (MininginMalawi, 2014b).

Momentum needs to be regained should Malawi’s mining sector again act as a driver rather than a drag on the overall economy’s diversification: in April 2014 the Reserve Bank of Malawi (Reserve Bank of Malawi, 2014) issued a statement to the effect that the mining sector was expected to decline in value in the forthcoming year in contrast to all other sectors, which were expected to grow, a negative prognosis that it links with the entry of Kayelekera, Malawi’s largest mining project, pausing its production.

Bande notes, in interview, the widely-held perception of the Malawian economy as being fundamentally agrarian; this perception was commonly attributed to Malawi’s first and longstanding (1966 to 1994) President and his frequent declarations to that effect, often contrasting Malawi’s situation with that of its minerals-rich neighbour, Zambia. Equally common across these interviews was the clear understanding of how Malawi already had diversified its economy away from this narrow characterisation *and* a strongly and widely held beliefs that it *should* diversity much further – in particular through developing its mining sector, as opposed to that of the more problematic (e.g. for environmental reasons) petroleum sector.

Bande correctly identifies (2013, p.v) that the above “MMPM is a logical extension of the MGDSII” in its central proposition – promotion of minerals sector development for the national benefit of Malawi. That policy (2013) clearly states (p.10) that “this sub-sector has been identified as one of the key sources of economic growth and poverty reduction” for Malawi. Succeeding him following the 2014 elections, Muluzi led the development and publication (Republic of Malawi, 2014) of a discrete and specific NASM policy, albeit in draft form. By stating in the Foreword (p.iii) that “the



implementation of this policy will be done in line with the MGDS, which seeks to promote the participation of ASM in mineral development", Muluzi asserts the centrality of ASM in delivering mineral sector development and confirms the mineral sector's critical role, as specified in the MGDSII, in driving forward Malawian economic diversification away from solely agriculture.

Muluzi's actions effectively take forward the central policy imperative of Kamlongera (2011), writing three years previously, who had (2011) presented evidence to the effect that this sector presented substantive and significant economic diversification opportunities for Malawi:

- "Recent studies on livelihood diversification in Malawi .. (show) nonfarm activities account for as much as 47% of rural households' incomes" (2011, p.1129);
- "Malawi has a vibrant ASM sector that is fast becoming an important source of income to many thousands of people (2011, p.1129)... for many poor people in rural areas who have struggled to subsist on earnings from agriculture alone, ASM has proved to be an important source of supplementary income" (2011, p.1131); and
- "There were estimated at least 40,000 ASM Malawian miners as of 2001" (2011, p.1132).

This last figure is surely now a substantial underestimate, if for no other reason than the continued growth every year of available labour for ASM activities reflecting the nation's unabated fast population growth between 2001 and the present, and indeed prior to 2001.

Given all of these factors, Kamlongera argues that "there has been no better time than now to promote ASM as a livelihood" (2011, p.1129) for Malawians, which can be read as a summary statement or clarion call for the ASM-positive revisionists in Malawi.

10. ASM Problems and Challenges

Despite this revisionism, real issues are evident with respect to ASM, both from published literature and from my SMP-sponsored interviews.

As noted above, whilst lauding ASM on the one hand, Kamlongera identifies (p.1132) that Malawian ASM is beset by inhibiting factors, not least those linked to perceived failings in government support, in contrast to its interviewees' very supportive comments above: "benefits currently accrued do not match the value of the minerals being produced. The exploitation of miners by buyers, the inadequate support from the Department of Mines—the government arm responsible for regulating and managing the sector—and a lack of established formal markets for minerals are crippling ASM in Malawi." It should be noted that this gap between positive rhetoric and perceived lack of action is not necessarily a contradiction: firstly because Kamlongera's comments predate (2011) the above interviews and GoM-run symposium and its publication of a draft NASM policy which specifically states ASM added-value enhancement policies and implementing measures (2011, pp. 12-13); and secondly, because genuine positive intentions do not imply actual delivery – the critical importance of implementation of GoM policy, rather than its mere existence as reference material, is a frequently noted point across all interviewees, not least GoM ones.



This hypothesis is supported by four interviewee responses, two from NGOs, and one each from a development partner and a GoM respondent, attesting that substantial improvements are required in terms of delivery capability by the GoM in terms of ASM issues, rather than just a focus on ASM legal and policy frameworks amelioration, of which that by Success Sikwese (Project Officer, CCJP) is representative “Note the imperative of reforming the respective legal frameworks and capacity building of the ministries concerned, including Natural Resources and the Environmental ministry. The pace we move forward on new extraction needs to be matched by such capacity building work.” Taking a broader perspective than Kamlongera (2011), Buxton (2013, pp7-10) lists a range of “problems and challenges of ASM”, including:

1. Disproportionate negative impacts on women;
2. Poor prices paid to ASM miners relative to internationally traded prices;
3. ASM activities are rarely taxed, meaning huge revenue losses to the government, and
4. Child labour prevalent;
5. Conflicts between ASM and LSM;
6. Occupational and community health and safety tends to be very poor in ASM;
7. Mine sites with poor security resulting in problems of, e.g., prostitution;
8. Issues relating to minerals smuggling and other illicit activities; and
9. Conflict minerals dynamics, e.g. as per eastern Democratic Republic of Congo.

Contextualising the above to Malawi, from the interviews, points (1), (2), (3), (5), (6) and (8) are confirmed; with respect to (3) and (6) in conjunction, numerous interviewees’ reported that the government was receiving no ASM royalties at all, royalties that would be due on export. Additionally, and from observation (recorded on film), child labour is indeed prevalent amongst Malawian ASM mine sites, as per point (4) above; in contrast, Malawi has no significant history of political violence, obviating the conflict minerals potential issue (9). Lastly, no interview evidence collected supports (7) with respect to Malawian ASM, although prostitution around formal LSM sites was reported, in contrast to the implied presumption of the above. A listing, in frequency order, of the issues, twenty-seven in total and mapping broadly to the listing of Buxton (2013) above, identified through the interviews is provided below:

- 1st: Economic: six comments;
- 2nd equal (five comments each):
 - Environmental; and
 - Health & Safety Perspective.
- 4th: Resource Perspective: four comments;
- 5th: Smuggling: three comments;
- 6th: Public Order: two comments; and
- 7th equal (one comment each):
 - Fiscal; and
 - Accountability & Transparency.



The 2013 MMPM listing of nine ASM challenge areas (p.11) includes all of the above issues bar the last three, i.e. the top five sets of issues recognised through the interviews are reflected in the official GoM policy. All of the issues raised in the above 2013 policy are reflected in the interviews and the above listing, e.g. the point listed at (ii) in the policy that (p.11) “collaboration with medium to large-scale private mining companies is poor” is explicitly confirmed by the comments of Walker and Huxham, who both work for Australian stock exchange-listed LSM firms, and of Thornicroft, who works in the smaller-scale, but still formalised, mining sector.

11. ASM Investment Challenge

For ASM to be a (more) viable route out of poverty for Malawians, significant investment will be needed in terms of both capital and revenue expenditure; there were four comments (again, two from NGOs, and one each from a development partner and a GoM respondent), specifying the need for considerable investment into the ASM sector as a necessary condition for it being able to achieve its economic potential. One of the NGO comments is quoted *verbatim* as representative of these four responses, that of Adam:

“a key challenge is to keep the machinery working properly; the pipes need replacing, parts sourced are not durable, and the main milling machines cannot operate for long stretches of time since they would break down. This creates a problem if the cooperative is asked to produce a large number of bags of lime in short order, e.g. 2000 bags. Other cooperatives have the same problem ... ASM miners would get better prices for their products if they had better machinery, e.g. better ovens/ furnaces for lime production, producing an even higher quality product.”

Realistically, the above listed described investments are only likely to occur within and to formalised ASM, given the needs of recipient-accountability and, in the case of loans, payback.

As part of the interviews, the sole self-identifying ASM organisation interviewed, the Tithikoze Lime Cooperative Society also made it clear that their poorly operating capital equipment was inhibiting them from taking on larger supply contracts, particularly on short timescales, and that they had an acute need for capital investment in machinery. A similar point is made by Hentschel et al (2002, p.50), reporting on the ASM miners’ generally poor physical processing resources, aligned to their continual need to keep costs down, itself an inhibitor for such capital investment, investment which would require amortisation: ASM have certain “common characteristics... characterized by three factors”, namely “quality (all characteristics influencing revenues)”, “bonitaet (all characteristics influencing costs)... crucial for appropriateness for small-scale mining” and “quantity (reserves/resources according to relation revenue-cost).” In terms of the first of these, “Low grade however can be a limiting factor for ASM, as their processing technology usually isn’t capable to process low grade ores.”

12. ASM Environmental Challenge

As the Draft NASM Policy 2014 baldly states (Republic of Malawi, p14) “most of the ASM operations impact negatively on the environment during exploration, exploitation, processing and closure,” including through adding further momentum (see <http://www.rippleafrica.org/environment-projects-in-malawi-africa/deforestation-in-africa>) to Malawi’s the widespread and sustained deforestation.



Mark Hirons (Hirons, 2011)) explicitly examines to what degree, and if, ASM and REDD are in conflict in the wide SSA region, including Malawi. Hirons notes (2011, p.1) that:

“Deforestation caused by ASM undermines sound forest management, and potentially threatens the implementation of REDD. Conversely, the adoption of REDD could further marginalise and criminalise the ASM sector, reducing its contribution to poverty alleviation. Reviewing a series of commonalities between ASM and forest management highlights many difficulties facing policymakers.”

NGO advocacy on these ASM and mining issues is clearly apparent through their interview responses, including by Clifford Mkanthama (LEAD Malawi, Programme Officer) and Paul Taylor (Blantyre Branch Chairman, Wildlife & Environmental Society of Malawi), the below comment (from the former) being representative: “When teaching at the College of Forestry and Wildlife at Dedza, I took my class to an ASM site at Ntcheu, to speak to ASM miners, who used (and use) firewood to burn for charcoal for use in the production process, e.g. in mining of terrazzo. ASM can hence be a problem in terms of deforestation - Ntcheu is now quite bare of trees.”

13. Conclusions

Malawian ASM is at a cross-roads, offering a microcosm of the issues facing the mining sector as a whole, but typically at a more extreme level, and in contrast to the other part of Malawi’s EI, petroleum, re. which extraction is yet to start. In contrast to non-ASM mining, ASM is characterised as inherently economically inclusive in terms of benefit sharing, yet prone to dangerous practices, both environmentally and in terms of personal safety and fundamentally under-capitalised, and both a symptom of poverty and a possible route out of it – albeit a route strewn with obstacles, e.g. realised prices significantly under the market rate due to asymmetry of information between ASM sellers and non-ASM traders (buyers). Ever-present in any consideration of ASM is the strong, emerging GoM focus on the subsector and, as the obverse to that attention, strong demands on the subsector to formalise.

The recent national ASM symposium and draft, importantly (as this implies space for stakeholder engagement to result in necessary redrafting if needed) NASM, both led by the GoM, is therefore both an opportunity and threat for Malawian ASM miners; viewed from the perspective of the nation as a whole, such GoM leadership is surely to be welcomed since a strategic approach to Malawian ASM is required to maximise net benefits to the country, e.g. by curbing environmental degradation caused by unregulated, informal ASM. NGOs have been quick to welcome this policy development and GoM focus. However, these policies are still very new (MMPM was published in 2013 and the draft NASM policy in 2014) so it is still too early to form a definitive judgement about the development of ASM in Malawi, whether it will be to the benefit of the nation as a whole and the ASM miners themselves.



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