

MINING AND ENVIRONMENTAL LEGISLATION IN AFRICA

By Mpai Motlounq

This newsletter was entirely inspired by interaction with a certain client who was pursuing a mining project based in a protected area in a north African country. As a conservationist my first reaction was "there is no way this mining right will ever be granted" to which the client replied "don't worry, the government would rather have mining than forest". For me it was a shocking revelation that such comments can be made in this day and age.

The question is why are mining companies still able to carry out their mining operations at the expense of the environment and the local communities? The answer to that question is probably a combination of factors.

The first issue is that of mining and environmental legislation in Africa. South Africa has very stringent mining law. Then again, it could afford to put such strict laws in place because of the development that it has enjoyed through the previous regime and the influx of foreign investment that was pouring in at the dawn of democracy. To put it mildly, mining legislation in the rest of Africa is very lenient. I have seen a mining license application that is three pages long in its entirety and of the environmental considerations (not compliance) occupied less than 10% of the space provided. The point is, mining legislation in Africa is still very far from measuring up to international standards.

Secondly, mining still takes precedent over people and environmental issues in most countries in Africa for the sake of development. Governments would still rather move people and chop down a rain forest for the sake of enjoying mineral rents for however many years that the mining venture may exist. Ideally these mineral rents are supposed to be invested in infrastructure development, health care and education. Whether this actually happens is debatable.

Will Africa move towards more acceptable standards? Well, I don't think there's anyone who can give an answer to that question with a level of confidence. In many cases, African leaders are doing their best to ensure that Africa's standards compare with the First World countries. An example is an initiative by SADC to harmonise mining policies throughout the Southern African Region. A strategy has already been formulated and the implementation thereof is currently being documented. Another commendable initiative is the African Mining Partnership which involves Mining Ministries of different countries of Africa coming together once a year and sharing ideas and information. Whether any of these initiatives will lead to sustainable practices in mining industries of Africa, it will have to be left to the test of time.

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