

## **MINORITY REPORT ON MINING AND MINERALS BILL, 2021.**

**Moved Under Rule 205 of the Rules of Procedure**

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**JULY 2022**

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## **1.0 INTRODUCTION**

Rt. Hon. Speaker and colleague Members of Parliament, we the undersigned Members of the Committee on Environment and Natural Resources would like to state from the onset that we support legislation that provides legal effect to mining and minerals in our country.

The Mining and Minerals Bill, 2021 was tabled on the 18<sup>th</sup> November, 2021 and referred to the Committee on Environment and Natural Resources for scrutiny and processing in line with Rule 129 of the Rules of Procedure of Parliament.

Pursuant to Rule 205 of the Rules of our Rules of Procedure, on behalf of the undersigned members, I hereby present a dissenting opinion from the overall opinion of majority of our colleagues on the Committee.

### **1.1 Brief Background**

Rt. Hon. Speaker, this House passed the Minerals and Mining Bill on 18<sup>th</sup> February, 2022. Four months after passing of the Bill, the President returned it to the House for reconsideration of 3 clauses.

## **2.0 AREA OF DISSENT**

We dissent with majority of the Committee on one ground:

- i. Excessive and open ended delegation of ministerial powers to define and determine the classification "large scale mining".



## **3.0 DISSENTING OBSERVATIONS**

**Rt. Hon. Speaker,** we agree with the President's reasoning on the concerns over the definition of large scale mining. We however disagree on the proposed amendment to cure the identified mischief.



### 3.1 Excessive and open ended delegation of ministerial powers

**Rt. Hon. Speaker** and colleagues, the power to make laws with significant ramification on the citizens of our country is exclusively vested in this House by article 79 of the Constitution of our Republic.

Delegating the authority to determine what is considered "large scale mining" to just an office of Minister is bad legislation. Am aware that any one of us could hold that portfolio of Minister responsible for mining anytime in future. That notwithstanding, the inherent self-interest usually demonstrated by individuals holding public office is the reason some countries like Tanzania and Zambia have cured this dilemma by establishing a threshold in in the Mining Act not through Statutory Instruments.

Rt. Hon. Speaker

Together with my colleague with whom we have signed this report, we conducted a quick desk benchmarking exercise in the 2 countries and we established that;

- i. The Tanzania Mining law provides for the equivalency of large scale mining licenses and defines thus; **"special mining licence"** means a licence for large scale mining operation, whose capital investment is not less than US\$100,000,000 (One Hundred Million US Dollars) or its equivalent in Tanzanian shillings.
- ii. The Zambian Mining law provides the size of the licensed area as follows; **"large-scale mining"** means mining over an area of a minimum of one hundred and twenty-one cadastre units and not exceeding seven thousand four hundred and eighty-five cadastre units;

For avoidance of doubt, **"cadastre unit"** means a quadrilateral formed by the intersection of meridians and parallels and with a distance equal



to six sexagesimal seconds, and that covers an average plan metric surface of 3.3400 hectares;

#### **Proposed Amendment.**

We propose that this House compels the committee to interact with technical officers in the Ministry responsible for mining in order to establish a schedule that will guide the different thresholds for different mineral categories for purposes of satisfying the definition and requirements of qualification of "large scale mining.

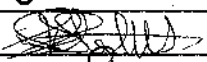
#### **Recommendation.**

We recommend that this House finds our proposal worth considering and accordingly allow the Committee to scrutinize the said part of clause 8 of the Bill.

#### **CONCLUSION.**

Rt. Hon. Speaker and Honourable Colleagues, we request you to consider and support the Minority Report.

#### **MEMBERS OF THE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES WHO SIGNED THE MINORITY REPORT ON THE MINING AND MINERALS BILL, 2021**

SN	Name	Signature
1	Aisha Kabanda Malule	
2	KANTICE RONALD GANI	