



Hwange Coal Seam Fires Special Report to the Parliament of Zimbabwe.

Dates of 1st Monitoring Mission: 4 – 8 December 2022

High Level Inquiry date of visit: 27 - 30 March 2023

Area: Hwange, Matabeleland North Province, Zimbabwe.

Human Rights Concerns:

- **The Right to Life,**
- **Right to Education**
- **Environmental Rights**
- **Right to Safe, Clean and Potable Water**

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Introduction

The Zimbabwe Human Rights Commission (ZHRC) has a mandate to promote, protect and enforce human rights and freedoms at all levels of the society in Zimbabwe as provided for in Section 243(1) (a) of the Constitution of Zimbabwe Amendment (No.20) Act, 2013. According to the United Nations Principles relating to the Status of National Human Rights Institutions (NHRIs) also known as the Paris Principles, of 1993, NHRIs such as ZHRC, have an obligation to give advice, opinions, recommendations, proposals and reports to the Government, Parliament and any other competent body about any matter regarding the promotion and protection of human rights.

In light of the above- mentioned provisions, the ZHRC conducted a monitoring mission to Hwange from the 4th to the 8th of December 2022 and a follow up mission from 27 March to 30 March 2023. This was for purposes of assessing the human rights situation of persons affected by coal seam fires in Hwange Areas 2, 3 and 5 of the Hwange Colliery Consortium Settlements. The mission was largely guided by Section 243 (1) (c) of the Constitution, which mandates the ZHRC to monitor, assess and ensure the observance of human rights and freedoms in Zimbabwe. From this visit, the Commission gathered facts on the severity of coal seam fires focusing on the impact they have had on the enjoyment of fundamental rights and freedoms and further proffer viable recommendations to the Government of Zimbabwe (GoZ) on how best to improve the human rights situation of the affected communities.

The first monitoring mission was conducted by a six-member delegation from the ZHRC that met with various stakeholders in Hwange District, including the affected communities. The follow up mission was conducted by a delegation from the ZHRC which included the Chairperson, one Commissioner, the Executive Secretary, Director for Monitoring and Inspections and two Human Rights Officers.

Background Leading to ZHRC Conducting the Monitoring Mission in Hwange

Through media monitoring, ZHRC learnt of several reports regarding the proliferation of underground coal seam fires, which had claimed lives and left some people disabled at Hwange Colliery Company Housing Areas 2, 3 and 5¹. As Zimbabwe's coal industry was reportedly expanding, inhabitants around the western town of Hwange experienced the effects of underground coal seam fires. The people mostly affected were purportedly those residing in Number 2, 3 and 5 settlements, which house employees of the Hwange Colliery Company Limited and other tenants. It was alleged that these families all used communal toilets and bathrooms, and as such, had resorted to use of the bush system. There was a reported case of an eight-year-old girl, who was pulled into one of the tunnels with underground fires when the ground beneath her shifted whilst relieving herself in the bush. She later succumbed to the acquired injuries².

These bushy areas were reportedly also used by children as playgrounds since they are not fenced or properly barricaded³. Another reported case was that of a 16-year-old child who almost sunk into one of the tunnels with underground fires after stepping on hot coal when he was playing with his friends and survived by holding on to a tree. He sustained serious burns which are still affecting him to date. There was also a case of a ten-year-old boy who was herding cattle when the ground opened, plunging him into a tunnel of burning coal. It was reported that the incident left him with permanently deformed limbs⁴.

It was reported that the unsafe place is not just near playing areas for children but also near a school which is more perilous. The affected communities reported that all these tragedies occurred because of negligence by the responsible authorities who did not properly barricade the unsafe area and the signage that was not clearly visible. In addition, the responsible authorities allegedly did not render any form of assistance or compensation to the affected persons to cover their hospital bills after such ordeals occurred. It is from this

¹ [Govt mum on Hwange coal seam fires -Newsday Zimbabwe](#)

² [What burns beneath: the deadly threat of underground coal fires to children in Zimbabwe | Global development | The Guardian](#)

³ [Eos.org/articles/coal-seam-fires-burn-beneath-communities-in-zimbabwe](#)

⁴ [Neglected underground coal fires threaten lives of Zimbabweans | Environment News | Al Jazeera](#)

background that the Zimbabwe Human Rights Commission embarked on a monitoring mission to assess the human rights situation of the affected communities in December 2022 and subsequently in March 2023. The visits sought to fulfil the Commission's constitutional mandate to conduct human rights monitoring and play an advisory to the duty bearers on how to mitigate the human rights challenges being encountered in that area, as stipulated by the Paris Principles.

Objectives

The objectives for the intended monitoring and inspection mission were as follows:

- i. To assess the human rights situation of the affected persons in Number 2 and 3 Settlements of Hwange Colliery Company residence in Hwange.
- ii. To assess the human rights impact of coal seam fires on communities and other mining activities on communities in Hwange.
- iii. Proffer recommendations to the Government of Zimbabwe and relevant stakeholders on how to improve the human rights situation of the affected communities.

Applicable National, Regional, and International Legal and Human Rights Frameworks

The following National, Regional and International Instrument informed the process:

- Constitution of Zimbabwe Amendment (No. 20) Act, 2013
- Mines and Minerals Act [Chapter 21:05], 2021
- Children's Act [Chapter 5:06], 2001
- Environmental Management Act [Chapter 20:27], 2002
- International Covenant on Economic, Social and Cultural Rights, 1966
- United Nations Guiding Principles on Business and Human Rights, June 2011.

Methodology

In carrying out the mission, the ZHRC made use of a combination of methodologies to gather information for the generation of practicable and SMART recommendations. Throughout the visit, interactions were highly consultative in nature and consisted of key informant interviews with Government Departments such as the Minister of State for Provincial Affairs and Devolution (Matabeleland North), Secretary for Provincial Affairs, Hwange Colliery Management, Hwange Local Board, Hwange Rural District Council, Environmental Management Agency (both at provincial and district level),

National Social Security Authority (NSSA) and the Ministry of Mines. Furthermore, the Commission conducted focus group discussions and interviews with affected communities who contributed to the generation of expedient information relating to issues raised in the field.

Expected Outcomes

- i. An increased understanding of the human rights situation of the affected communities and implications of coal seam fires.
- ii. Production of ZHRC monitoring report with recommendations to the relevant duty bearers including the Parliament of Zimbabwe as well as other stakeholders.

Engagement Meetings with Stakeholders

Minister of State Minister of State for Provincial Affairs and Devolution (Matabeleland North), Secretary for Provincial Affairs (Matabeleland North) and District Development Coordinator (Hwange)

The ZHRC made courtesy visits to the Minister of State for Provincial Affairs and Devolution and the Secretary of Provincial Affairs for Matabeleland North to brief them on the visit to Hwange to assess the extent to which the coal seam fires were negatively impacting on people's lives. During the engagement meeting, the Minister welcomed the ZHRC to the Province and highlighted that he would wait for the report to discuss the issues. The Secretary for Provincial Affairs confirmed the occurrence of coal seam fires in Hwange. She highlighted that people were subjected to coal fires whilst gathering firewood as well as collecting scrap material in undesignated areas. The Secretary for Provincial Affairs and the District Development Coordinator (DDC) highlighted that different stakeholders, including Hwange Colliery Company Limited (HCCL), Environmental Management Agency (EMA) and Civil Protection Unit (chaired by the DDC), among others had put in place measures to lessen the casualties.

The Secretary for Provincial affairs and the DDC highlighted that stakeholders were reportedly conducting awareness campaigns on the dangers associated with old coal dumps and discouraging trespassing and use of undesignated routes. In addition, the organisations were reportedly putting up warning signs at high-risk areas. The DDC further highlighted that HCCL hired a Germany Consultant Company to identify the extent of fires and propagation rate as well as ways to de-combust and stop them

(fires) from spreading. He posited that he was aware of three (3) cases of fatalities, which had occurred since 2017 up to the time of the initial ZHRC visit, which was held in December 2022.



Figure 1 The ZHRC Deputy Chairperson and Director Monitoring and Inspections reading one of the signages put up by HCCL

During the interview, the DDC further indicated that there was a school in Number 5 close to a Chinese mine. He reported that the blasting sound effects affected the learning of children. Children were at times purportedly dismissed early in order to avoid the blast effects which in the long term could impact their hearing abilities. This negatively impacts on the right to education as provided for in Section 75 of the Constitution. Further, the proximity of the school to the mining company is contrary to Section 75 (2) of the Constitution of Zimbabwe which provides that “every person has the right to establish and maintain, at their own expense, independent educational institutions of reasonable standards”. In this case, the school is further affected by the air pollution due to the dust raised by the activities at the mine.

During the ZHRC inquiry, the high-level delegation managed to visit the number 2 area where a school shares its boundary with a mine. The issue was raised with HCCL and they indicated that they had planned to decommission the mine and had started with some buildings. HCCL was of the view that the residents of number 2 benefitted more from the situation and the move to decommission the mine was resisted. They however notified ZHRC that the issue would be addressed.

Another challenge cited by the DDC was water rationing subjected to Numbers 1, 2 and 5 settlements. He explained that Hwange Colliery Consortium had communal toilets and bathrooms for use by the whole community comprising an average fifty (50) families. The DDC further expressed concern that forty (40) years after attaining independence, there was still no infrastructural development with modern sanitation services. As a result, water rationing forced residents to rely on the use of nearby bushes to relieve themselves, thus exposing them to coal fires. These challenges contradict section 51 of the Constitution of Zimbabwe, which states that “every person has inherent dignity in their private and public life, and the right to have that dignity respected and protected”. The Constitution does not explicitly place an obligation on the State to provide its citizens with proper ablution facilities. However, when citizens are forced to relieve themselves in the bushes, due to the non-availability of water in the communal toilets, this is a violation of the right to human dignity. According to the UN Guiding Principles on Business and Human Rights, the State has the duty to protect its citizens from business practices that cause harm to communities.

[Environmental Management Authority \(EMA\)](#)

The ZHRC also had a meeting with Matabeleland North Provincial Environmental Manager (PEM) as well as the District Environmental Technician for Hwange District. The PEM notified ZHRC that she was aware of the coal fires in Hwange. She stated that EMA was operationalised in 2007 and that its mandate centred on ensuring that the environment is protected.

In relation to coal fires, the PEM pointed out that there were interventions done by EMA, which included giving an order to HCCL to discontinue using the road to Number 3 Shaft that had cracked due to underground fires and create an alternative road. She went on to advise the Commission that in 2015, EMA noticed a surge in the prevalence of coal burns on people who searched for scrap metal as well as those relieving themselves in the bushes. As a result, EMA engaged with stakeholders, including HCCL, in an appeal to barricade danger zones. Although signages were put by HCCL, the PEM reported that community members vandalised the signages prompting HCCL to erect concrete signages. EMA also advised HCCL to acquire a geothermal drone for purposes of scanning and detecting fires so as to decombust those before people were burnt. EMA also conducted awareness programmes to alert people on their

environmental rights and principles. These awareness programmes were conducted at gatherings such as during stakeholder engagement meetings, presentations at schools and in communities. Furthermore, the PEM highlighted that HCCL had brought an external expert to scan the underground coal fires and advice on ways to extinguish them.

During the discussions, the PEM highlighted that HCCL started way back before EMA was established thus no Environmental Assessments were done prior to its operation. As such, EMA mainly relied on Environmental Management Practices submitted to them by mining companies to proffer strategies on challenges identified.

The PEM and the District Environmental Technician both indicated that there is a gap in legislation as it does not state how coal fires emanating from mining activities are to be dealt with. The existing regulatory instruments only address the issues concerning veld fires which are stipulated in the Environment Management Statutory Instrument 7 of 2007. Forest fires were reported to be a responsibility of the Forestry Commission. The District Environmental Technician further highlighted that the Mines and Minerals Act provided regulations on how mining activities should be carried out and does not have any provision for coal seam fires. It was highlighted that responsible authorities were supposed to take cognisance of Principle 1⁵ of the UN Guiding Principles on Business and Human Rights, which provides that States must provide protection against human rights abuses within their territory and/or jurisdiction by third parties, including business enterprises. This requires taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication.

Another recommendation proffered by EMA was on the strengthening of the mandatory payments towards the Environmental Fund that is already provided for in Article 48 of the Environmental Management Act (Chapter 20:27) which states that there is hereby established a fund, to be known as the Environment Fund, whose management and control shall be vested, subject to this Act, in the Minister as trustee of the Fund. EMA highlighted the need for the fund in order to rehabilitate defunct mine

⁵ https://www.ohchr.org/sites/default/files/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

dumps as stipulated in Article 52 (g and h) of the Act taking into consideration the aspect of rehabilitating degraded environment and cleaning up polluted environment.

Water Pollution

The District Environmental Technician raised concern on water pollution in the Deka River stating that the water was contaminated with mining extracts. He stated that acid mine drainage emanating from mining activities as well as coal dust was affecting the aquatic life as well as people's livelihoods. The Technician reported that he received complaints from community members who claimed that the contaminated water caused miscarriages in livestock. He however highlighted that there was need for a special study to be conducted to confirm if the problem was being caused by water pollution.

As a treatment remedy, the Technician reported that EMA encouraged mining companies to exercise phytoremediation, the process whereby plants such as reeds absorb metal substances in water thereby purifying it. In the long term, the Technician recommended that mining companies should set up treatment plants for purification of polluted water.

Air Pollution

The District Environmental Technician raised concerns over exposure to dust by residents of houses located adjacent to dusty coal mounds. He indicated that employees working at mining companies who were exposed to dust and became ill could be compensated by the National Social Security Authority (NSSA). However other people who are not workers but are exposed to dust are not eligible for compensation. Thus, in terms of environmental rehabilitation strategies, there is need to relocate such communities to safer areas. The Environmental Technician recommended the relocation of Sir Humphrey Primary School located at Number 2 since it shared a fence with a mining plant exposing children to mining hazards that could be detrimental to their health.

Hwange Rural District Council

The ZHRC engaged with Hwange Rural District Council which was represented by the Chief Executive Officer (CEO), the Environmental Engineer and the Ecologist. During the discussions, the CEO highlighted that Hwange Colliery Company was set up 105 years ago when it was called Wankie Colliery Company. The company created townships where they provided housing services and social amenities within those

settlements. Wankie Colliery Company later changed its name to Hwange Colliery Company Limited (HCCL) and the responsibilities continued with the new name as articulated in Section 79 (1) of the Mines and Minerals Act. The Act states that the terms and conditions of every order, which relates to mining on reserved ground shall be binding on any person to whom a mining location registered under such order is transferred and on any miner thereof.

The CEO further explained that HCCL was an authority on its own, that is, the company provided services such as water and healthcare to residents. He added on that the institution ran their own clinic and hospital. The CEO elucidated that there were other different private companies that ran their own concessions in Hwange such as the National Railways of Zimbabwe (NRZ) and the Zimbabwe Power Company (ZPC).



Figure 2 :The Chairperson of the ZHRC in discussion with the Hwange Rural District Council Chief Executive Officer

The RDC CEO confirmed the occurrence of coal fires in the HCCL concessions, however he explained that only HCCL administered the area affected and the local authorities did not have any jurisdiction over the concessions. Councillors were elected by community members in fulfilment of Section 67 of the Constitution on political rights but did not have any influence in addressing development matters that arose in those

communities including the issues of coal seam fires that were impacting on people's lives. The Councillors however, still received allowances from the Local Board. The Rural District Council (RDC) and Local Board administered their own separate areas. At the time of the visit, the RDC area of influence was 20 wards, although ward 19 of the 20 wards was under Parks and Wildlife Management.

The CEO reported that in efforts to ensure that the consortiums had improved service delivery and development, the Ministry of Local Government and Public Works had appointed a Commission to inquire on the possibility of incorporation of the Local Board and private companies. He expressed concern over the use of communal toilets in the HCCL residential houses long after Zimbabwe attained its independence.

The CEO recommended the incorporation of the private companies in Hwange and the Local Board to assist in the development of the concessions. Furthermore, it would allow relocation of some community members to more secure places not proximate to mining plants such as Number 2 settlement area which also has a school sharing a fence with a mining plant. In his submission, the CEO indicated that the community was also exposed to dusty coal mounds. He further recommended that anyone doing mining activities in Hwange should restore the land to its former state. He raised concerns of mining companies polluting the air as well as damaging roads with heavy vehicles without rehabilitating the damaged areas.

The CEO also recommended that the victims of coal fires be compensated as provided for in section 80 of the Mines and Minerals Act which states that *'...any owner or occupier of reserved ground who is injuriously affected by the exercise of any rights under an authority or order granted under this Part or by any mining operation on any mining location registered under such order shall be entitled to recover compensation from the person to whom the authority was granted or in whose favour the order was made or the holder of the mining location, as the case may be, in such amount as may be agreed upon or, failing such agreement, as shall be determined by the Administrative Court'*.

On other matters that arose during the engagement, the CEO raised the issue of human and wildlife conflict in Hwange which he requested the Commission to look

into. He highlighted that Hwange town occupied about 2,2 million hectares of land and 50% of it was under Parks and Wildlife. Some people were moved to pave way for the Parks and Wildlife. The CEO suggested that this was another area for research.

[Hwange Local Board](#)

The Hwange Local Board Public Relations Officer (PRO), articulated that Hwange is a quasi-administrative authority where private companies administer their own areas. He indicated that there were three (3) private companies administering their own concessions namely HCCL, Zimbabwe Power Company (ZPC) and National Railways of Zimbabwe (NRZ). The Local Board purportedly indicated that it managed three (3) areas only, that is, Mpumalanga High density, Chibondo Medium Suburb and Baobab Low Density area. In terms of community leadership, the PRO confirmed the assertions made by other stakeholders that the wards that fell under the concessions of the private companies had councillors who received allowances from the Local Board although administratively, the Local Board did not have a say in the areas under the concessions.

During an engagement meeting, the PRO stated that ten years ago the Local Board applied to the then Ministry of Local Government, Public Works and National Housing for an upgrade from being a Local Board to a town council. He reiterated that they re-applied 2 years ago and were awaiting a response. As raised by the Hwange RDC, a Commission of Inquiry was appointed by the relevant Ministry to assess the readiness of the Local Board to qualify as a Municipality. The representative highlighted that no feedback had been received. An upgrade to this effect would enable the Local Board to qualify in managing more areas or wards in Hwange and ensure there is efficient service delivery in those areas.

In terms of provision of a consistent water supply and improvement of ablution facilities, the PRO pointed out that Hwange concessions were not getting funding from the Government of Zimbabwe (GoZ) for developmental purposes since they were privately owned. He recommended that there be incorporation of private concessions with the Local Board in order to ensure improved service delivery. He reiterated that incorporation would improve service delivery in terms of water provision, sewage reticulation, refuse and improvement of ablution facilities with the assistance of other

development partners such as the United Nations Children's Fund (UNICEF) who usually fund WASH projects. He added that UNICEF could assist with the connection of houses to sewage systems to reduce use of the bush. The PRO indicated that in the event that the incorporation was successful, the assets (houses and buildings) were to remain properties of the private companies with only the administration of those places being taken over by the Local Board.

In other emerging human rights issues, the Local Board representative expressed concerns over the pollution of Deka river in Hwange, as discussed earlier with EMA. He posited that acidic contents emitted by coal mines as well as Zimbabwe Power Company (ZPC) destroy aquatic life in the river and livestock.

[NATIONAL SOCIAL SECURITY AUTHORITY \(NSSA\)](#)

During an engagement meeting with the Administrator of the Hwange District Office, NSSA confirmed the existence of coal fires that negatively impacted on people's lives. According to his submission, NSSA 's mandate was centered on the provision of social security including setting up public policy measures to protect individuals in life conditions where their source of revenue and security was threatened by workplace accidents, retirement and death. He highlighted that the applicable Act did not empower NSSA to order mining companies to stop operating if their activities negatively affected people outside the mine as was the case at the HCCL consortium settlements. He reiterated that their institution only focused on compensating those who were injured at work. The Administrator stated that NSSA conducted factory inspections to assess if workers had protective clothing to wear whilst on duty and if the offices were habitable. It emerged that the institution focused on the after-effects of accidents and as such could not do anything about lessening the coal fire incidences, which occurred in the residential settlements of HCCL.

The Administrator went on to notify ZHRC that NSSA conducted some workplace related initiatives in mines, which included awareness campaigns on occupational health and safety as well as paying compensation to those injured whilst on duty. With regards to sub-surface fire victims, NSSA stated that they cannot compensate them especially if the victims are dependents of those who work in mines. They only compensated workers in the event that the breadwinner gets injured and fails to provide for the family. The Administrator referred the Commission to the Ministry of

Mines and Mining Development as it played a leading role in how mines were governed. He reiterated the point that NSSA and the Ministry of Mines had no working relationship whatsoever and there is no point of convergence between the Ministry of Mines and NSSA in terms of legislation. He held that such synergies are pertinent especially when addressing cases such as the issue of coal fires.

MINISTRY OF MINES AND MINING DEVELOPMENT

The Commission also engaged the Provincial Mines Inspector to get information on measures taken towards minimizing the incidences and accidents from coal fires. He stated that the inspectorate mainly focused on assessing if the mining operations were controlled and whether due processes were followed. He indicated that the Ministry inspects mining operations and gives orders to stop the operations if there are dangers emanating from these operations. He alluded to the fact that there was no specific statute that addresses measures to be taken to remedy accidents and incidences which occur outside the mining companies.

He further stated that if accidents occurred in active mines, the Ministry of Mines ensured that the mine owners were held accountable and as such remedied the situation. However, he stated that for passive mines, their guiding statute did not state who is to be held accountable for the accidents, particularly those which occur in residential settlements as is the case of Hwange Colliery Consortium.

The Provincial Mines Inspector highlighted that HCCL engaged a German consultant who is anticipated to come up with recommendations on how to subdue the fires. The Ministry was reportedly conducting regular inspections in mines and producing reports on their operations.

Engagement Meetings with Communities

Area Number 2

The ZHRC visited area Numbers 2 and 3 of HCCL settlements. From the interviews conducted with the residents of Number 2, the ZHRC was informed that most casualties occurred when people accessed undesignated areas (dumpsites) to extract coal from the coal mounds for resale in a bid to generate additional income and curb the challenges prompted by unemployment. In terms of Section 73 (1)(a) of the Constitution “every person has the right to an environment that is not harmful to their health or well-being”. This is accentuated by Section 70(1) of the Environmental

Management Act which prohibits the discharging of any hazardous substance, chemical or oil into any part of the environment. Given that the dumpsites were not fenced to hinder people from accessing the prohibited perimeter, HCCL's conduct constitutes an improper discharge of coal and, thus, exposed residents of Number 2 to a harmful environment. Further, there was another mining company operating approximately eight hundred metres (800m) from the residential area. Needless to say, the residents of Number 2 were exposed to harmful effects emanating from activities of the mine in violation of Section 73(1)(a) of the Constitution on the right to a safe environment.

Residents further indicated that coal easily absorbs heat from hot weather and emits hot gas which exacerbates the propagation rate of the fires. At the time of the visit, the Commission observed that signage was clearly put up, prohibiting the trespassers from entering the coal dump sites and warning them of the coal fires, however, residents ignored the signage and still went in to extract coal from the coal mounds. In the process of extracting coal from the coal mounds, the coal glided onto the victims which resulted in deaths or injuries from the burning coal.



Figure 3 Figure shows the proximity of the dumps to the residential areas



Figure 4: The Chairperson of the ZHRC to the right, Executive Secretary centre and Commissioner C. Dziva to the left in front of the coal dumps in number 2 area

Area Number 3, Makwika Village

As mentioned earlier in the report, residents alleged that they were forced to access the mine dumps due to poverty and unemployment. ZHRC observed that enroute to Number 3, signage warning people of fires was visible. In area 3, ZHRC had an opportunity to interact with a woman who previously participated in the extraction of coal from dumpsites. Although she had knowledge of the dangers involved, she had no choice as she had to sustain her family. She reiterated that persons involved in such illegal activities were mostly unemployed single mothers

Further interactions with community members revealed that sub-surface coal fires were prevalent in Number 3 and had caused several tragedies. ZHRC had an opportunity to have a dialogue with a young man whose cousin aged six (6) had his ankles burnt whilst playing with other children. He reported that at the time the incident occurred, there were no warning signs of high-risk areas. Even after signs were put up, some children could not deduce the meaning and as a result, continued to play on hot coal surfaces without knowledge. As was the case in Number 2, the failure by HCCL to provide adequate protection to the community constitutes a violation of their right to an environment that is not harmful to their health or well-being.

In another key informant interview with a couple from Number 3, they highlighted that their son aged seven (7) years old had his feet burnt when he was coming from church. The mother explained that this incident occurred on their way home from church when her son diverted from the main road and stepped on hot coal dust. She further notified the Commission that her child was pulled out of the burning coal by a passer-by before plunging in further. The interviewee indicated that the child was taken to Hwange Colliery Hospital where he had a medical procedure of skin grafting done on him. The mother explained that the child attained long term effects from the coal fire burns. Up to date (at the time of ZHRC visit), the child purportedly cannot wear shoes for long periods of time. The disgruntled mother stated that he occasionally came back home from school holding shoes in his hands, especially during summer, as he sweats profusely on the burnt area. She further highlighted that this affected her child's academic performance as he could not be attentive at school.

The couple reported that Hwange Colliery Company barricaded the area where their child got burnt soon after the incident. They explained that when they approached HCCL for assistance, they were told that the child trespassed thus no action was taken by the company to assist the family with the expenses incurred in hospital. The mother of the victim notified the Commission that her husband was a HCCL employee hence due to fear of victimisation, he did not pursue the matter of compensation any further. The interviewee (mother of the victim) notified the Commission that she received psychosocial support from an organisation called Counselling Services Unit (CSU). When the child got burnt, the affected family reportedly became a source of media interest with news agencies and journalists nationwide capturing the story. She expressed her disappointment as nothing materialised with regards to them getting assistance.

ZHRC further interacted with parents of an eight (8) year-old girl who succumbed to coal fire burns. The mother narrated that her child went to the bushes with her two aunts (15 and 18 years of age). While in the bushes playing, one of the aunts threw a shoe near a hot coal surface. Upon retrieving the shoe, the 8-year-old stepped and sunk in the hot coal leading to severe burns. The mother of the deceased child notified the Commission that her child was rescued by passer-by, who then took her home. She was ferried to Hwange Colliery Hospital and later transferred to St Patricks where

they could afford the medical bills. She narrated that her child was given Silver Sulfadiazine (SSD) cream at 0800 hours the day after the incident. From the narration, the ZHRC noted delays in attending to the child at the first instance as doctors requested money upfront.

They were then referred to Mpilo Hospital in Bulawayo for further management. The mother highlighted that they had to sell a cow in order to acquire injections, drips as well as to cover their child's medical bills. The community reportedly assisted with benevolent contributions. At the time of the ZHRC visit, the mother held that she was still traumatised by the death of her child. She further highlighted that she had appealed to be moved from her house after the incident in January 2022 but had not received acknowledgment of the request. She reiterated that her current residential home was a constant reminder of the traumatic experience as it was proximate to the scene where her child got burnt, hence they applied to move to a new environment.

In this case, HCCL only assisted with groceries for the funeral when the child passed on⁶. At the time of the visit, the family had not been compensated, instead, they were now receiving threats from HCCL as to why they were giving out information about the accident to stakeholders who were publishing the story on social media.

[Ward 15 Councillor](#)

ZHRC had an engagement meeting with the Councillor for ward 15 Area 3, Hwange. The Councillor confirmed the existence of surface coal fires in area 3 citing that they were caused but not limited to undisposed old dumps of coal. He went on to explain that children were mostly affected, even if there were signs put up, because they were not able to interpret the messages on the signs. He highlighted that some children had sustained permanent injuries with one succumbing to burns in 2021.

⁶ See annexure for the list of groceries provided by HCCL on the day of the burial



Figure 5: Councillor for Ward Area number 3 (centre) interacting with ZHRC Chairperson and Commissioner Dziva

During the engagement meeting, the Councillor further highlighted that, there were community fields (where community members planted their crops) close to hot coal surfaces. He indicated that the pathways often used when going to and from fields, passed through risky hot surfaces emanating from coal dumps. Other hot surfaces where residents passed through enroute to the fields were hot coal dusts which resembled the natural soil. These hot surfaces were unsafe as they could subject people to burns when stepped onto. Similarly, there were reportedly coal dumps close to a school in area 3 which had instigated an incident that occurred two months before the initial visit (by the Commission) where a grade 5 learner got burnt on his way home. The Councillor cited that since Hwange Town was privately owned by different consortiums, there was no Government department or local authority to be held accountable for developmental issues, in particular provision of social amenities. He notified the ZHRC that he personally reported developmental matters to HCCL which was subjected to bureaucratic processes in terms of addressing challenges, in particular, coal fires.

The Councillor explained that at least thirty families shared one communal toilet, which created a health hazard due to incessant water rationing. This was the main cause of use of the bush instead of the communal toilets, which were easily messed up due to

high demand. It was recommended that HCCL should ensure that there is a constant supply of water to avoid use of the bush toilet system, which violates the right to human dignity as articulated in Principle 2 of the UN Guiding Principles on Business and Human Rights⁷. The Principle provides that States should set out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations read together with Section 77 of the Constitution of Zimbabwe (which emphasises that every person has the right to safe, clean and portable water).

[Hwange Colliery Company Limited \(HCCL\)](#)

The Commission also engaged HCCL with regards to coal fires that were negatively affecting people's lives. During the meeting the ZHRC gathered that there were two types of fires in the affected communities. Number 3 was mainly affected by sub surface fires while enroute to Number 3, there were underground coal seam fires. At Number 2, the challenge was of undisposed coal mounds that ignited fire when it was hot. Furthermore, the coal mounds reportedly collapsed on people who often accessed undesignated danger zones in search of coal to sell.

[Background of the fires.](#)

HCCL reported that that were spontaneous fires that had been raging in Number 2 colliery underground mine old workings for more than 10 years.

⁷ [GuidingPrinciplesBusinessHR_EN.pdf \(ohchr.org\)](#)



Figure 6: ZHRC and HCCL Management viewing cracked road due to underground coal fires

The fire started from the old opencast workings (ramp 7) where underground pillars were extracted by opencast methods. The representatives reported that mining of the pillars by opencast methods exposed the underground old workings to the atmosphere which led to the oxidation of coal in the underground leading to cracking and subsistence of ground on the surface. Furthermore, they highlighted that No 2 underground mine was commissioned as a board and pillar underground mine in 1927 and was decommissioned in 1972 when the Kamandama disaster⁸ struck closing off all access to the underground mine. In 2004 opencast dragline operations commenced reclaiming remnant underground pillars from the Shaft 7 east area. Operational challenges however led to the operation being abandoned. Due to this exposure, the coal pillars (mainly coking coal) and the overlaying thermal coal together with the black shale which form the roof of the mine started burning due to spontaneous combustion. Fires at 7 East were reported as far back as 2006. The fires began from high wall edge and grew gradually spreading into the old underground workings of the mine.

The HCCL highlighted that the known locations of the fires included:

- Number 3 Close to F and H sections (Old Coal dumps)
- Close to Dadani Hwange Secondary school

⁸ Hwange coal mine disaster which took place in 1972 when a series of underground methane dust explosions occurred killing 427 miners. It is alleged that the bodies were never retrieved and the shaft sealed off.

- Along Jacaranda road between the Silos and Jacaranda Dam
- Close to Number 2 sewage plant
- Coal fines dumps at Number 2
- Number 2 stadium near sir Humphrey Gibbs School
- Slurry dam areas

HCCL highlighted that in the long term, the fires, if not attended to, would pose social conflicts as the fires were approaching Number 2 graveyard, in Number 2 village.

[Causes of the fires and Interventions by HCCL to reduce the Accidents](#)

HCCL reported that the causes of the community incidents were as a result of various factors including legacy environmental pollution issues (when HCCL took over ownership from Wankie Colliery Company which had left some undisposed dumps as well as the underground spaces not filled in with inert material to avoid fires igniting from underground). Furthermore, by virtue of the zone being a mining area, there were reportedly spontaneous deposits of coal just beneath the surface of the ground which are not visible especially when covered by soil. When it is hot, they ignite below the surface such that when people step on them unknowingly, they plunge in the burning coal.

Other causes of coal fire accidents were attributed to lack of knowledge of burning areas, bird hunting, firewood poaching, use of bushes as ablution facilities, livestock herding, bush farming, firewood poaching and scrap metal collection. HCCL ascribed these factors as being major drivers leading to people being severely burnt, with some succumbing to burns and some being hospitalized.

HCCL articulated that to ensure that people were not burnt, they were conducting fire safety awareness campaigns in schools and communities monthly, engagement meetings with tribal leaders, community leadership and consultants with a capacity to quench the fires, barricading fire locations as well as installation of signages at all risky areas. HCCL also notified ZHRC that they work with the Mines Inspector who takes part in awareness raising campaigns together with EMA and the Forestry Commission. The main objectives of the fire safety awareness campaigns were to raise awareness on the dangers associated with coal dumps and slurry deposits/ dams, discourage trespassing and use of undesignated routes, make known of the identified burning grounds within the HCCL concession.

In addition, the HCCL reportedly invested in a drone fitted with a small thermal camera sensor for identification of the fires. The institution also processed tender documents to have geophysical experts conduct thermal surveys within the concession. The HCCL representatives also indicated that the institution engaged a German based specialist company to assist with modern technological interventions such as mapping of the fires and outlining the extinguishing strategy.

They highlighted that COVID-19 pandemic slowed down the initial plans for the German company to commence work, however when the restrictive measures were eased, they managed to conduct the assessments. The HCCL further indicated that they were awaiting the report from the German based company, which would further inform them as well as the stakeholders on the extent of the problem.

At the time of the visit, the Commission was notified that the HCCL was intending to cover the fire sites by inert bulk material to prevent any oxygen leading to coal seam fires. They further reiterated that they intended to start the process in 2023 as it required resources as well as earth moving equipment. HCCL highlighted that in 2010, HCCL hired Zambezi gas to dump inert material which cost them approximately one million united states dollars. They highlighted that the process required a lot of resources and the institution was facing resource constraints to speedily do the process.

With regards to a school in Number 2 which shared a fence with a mining plant, HCCL stated that measures were being put in place to ensure that children are not subjected to dust which could be detrimental to their health. Moreover, they notified the Commission that the institution intended to close up the plant. HCCL posited that they had fenced dangerous areas however the fence was stolen as well as signages.

In connection to a constant provision of water, HCCL admitted that they did not have enough water to cater for all communities hence water rationing. They articulated that they were working hard with engineers to ensure there is perennial water supply. Additionally, they were putting money aside to put up a pipeline from Zambezi intended to augment water shortages. For short term strategies, the HCCL indicated that they were intending to supply communities with water storage tanks for use especially in the ablution facilities.

HCCL reportedly had several meetings with the Local Board about the possibility of incorporation and they have been in dispute as the Local Board wants to take over administration powers as well as all the assets owned by HCCL. On the issue of compensation, HCCL stated that they were not liable and responsible for the accidents that have occurred and as such were not going to compensate the victims.

The ZHRC however recommends that the victims be compensated as they are the responsibility of the HCCL. The settlements belong to them and as such, they should adhere to Principle 11⁹ of the UN Guiding Principles on Business and Human Rights¹⁰, which builds on the pillar structure of 'Protect, Respect and Remedy'. The issue of the unrehabilitated coal dumps left by Wankie Colliery should not be treated as legacy issue as the HCCL took over all operations of Wankie Colliery. The ZHRC suggested that the HCCL considers a humanitarian approach to the issue of compensation and not only through monetary means, for example through use of a waiver to pay rentals for affected families or contracted employment for them.

Other Emerging Human Rights Concerns

Environmental Rights- Acid Mine Drainage

HCCL representatives took ZHRC for a tour to a natural acid mine drainage treatment system. He advised the ZHRC that the key drivers of the hazardous waste disposals were the issues of legacy pollution whereby coal was mined by their predecessors (Wankie Colliery) leaving vacant spaces after mining activities were completed. As a result, the vacant spaces were filled in by water which found its way out through the weakest points, in this case, the exploratory boreholes and the sedimentary rock joints. The acidic water would infiltrate and be deposited in the Deka river affecting fauna and flora.

The HCCL was advised by EMA to practice phyto-remediation, which is the planting of reeds to take in minerals and toxic wastes from the water to reduce its acidity prior to being deposited into the main water body.

⁹ Businesses should thus seek to protect communities against human rights violations and are expected to respect human rights by avoiding infringing the rights of others. Businesses should also be responsible and address human rights impacts created by their work.

¹⁰ Endorsed by the Human Rights Council in its resolution 17/4 of 16 June 2011



Figure 6 ZHRC delegation being taken through the process of Phyto-remediation

Correspondingly, they did an intervention strategy called liming which assisted in neutralising acidic water before discharging into natural rivers.



Figure 7 : Image showing the process that assists in neutralising the acidic water before being discharged into Deka Rive)

The HCCL representative notified ZHRC that there were other mining companies who were contaminating the water they (HCCL) would have treated. He reiterated that

HCCL had engaged those mining companies as their practices were negatively affecting their company's image.

Analysis of Human Rights Situation

From the submissions by key informants, sub-surface fires were caused by undisposed coal dumps, which blew away when it was windy. Due to hot temperatures, these often ignited fires, which burnt people. The Commission deduced that the non-disposal of these coal dumps is contrary to Section 73 (1) (a) (b) of the Constitution of Zimbabwe, which provides that every person has the right to an environment that is not harmful to their health or well-being.

The underground fires were reportedly caused by operational challenges that led to the abandonment of the mine shafts. The fires allegedly started burning due to combustion. The open spaces had not been filled in causing fires emanating from underground. The open spaces should have been filled in and closed to avoid combustion taking place as attributed by Section 73 (1)(b) of the Constitution, which encourages environmental stewardship and provides for the environment to be protected for the benefit of present and future generations.

From the monitoring visit, the Commission deduced that the community mostly affected was Number 3 where casualties were reported. The ZHRC interviewed the families of the victims who narrated the ordeals that led to the deaths of the deceased due to burns and permanent injuries. The right to life as provided for in section 48 of the Constitution of Zimbabwe was infringed through exposure to the coal surface fires.

From the interactions with the affected people, they submitted that the communities only had one communal toilet that had no running water, which caused the use of the bush toilet system as an alternative. Key informants confirmed that there was continuous water rationing. The Commission witnessed faecal waste close to the residential settlements. Water rationing contributed to the surge in the prevalence of coal fire incidences.

Article 25 of the Universal Declaration of Human Rights, and other regional instruments provide for the right to an adequate standard of living. It includes the right to housing and other social services. Furthermore, section 77 of the Constitution of

Zimbabwe provides for the right to clean potable water. The housing structures constructed in the pre-colonial era, have common bathrooms and violate the right to human dignity and the right to an adequate standard of living espoused in the Constitution. Each household should have its own ablution facilities.



Figure 8: ZHRC and HCCL viewing the site where an 8-year-old was burnt by coal surface fires

The ZHRC observed that there was a misrepresentation of facts pertaining to the following matters:

The HCCL took the ZHRC to the site where one of the victims got burnt and later passed on. The HCCL representatives stated that the place was 3km away from the residential houses. The HCCL highlighted that they had put up signs way before the incident occurred which other interviewees disputed. Upon receiving conflicting sides, the ZHRC visited the very same site (using the direction coming from the residential houses) where one of the victims got burnt and later passed on. The distance was approximately eight hundred metres away (seven-minute walk) from the residential homes and not 3 km away as alleged by the HCCL. The community members who lived near the victim's family also cemented that the signs were erected after the incident occurred.

In other conflicting issues, HCCL reported that the institution engaged a German-based specialist company to assist with modern technological interventions such as mapping of the fires and outlining the extinguishing strategy. During a discussion, HCCL indicated that they were awaiting the report from the German based company, which would inform them as well as the stakeholders on the extent of the problem. With regards to the assessment report, ZHRC had already received the Germany assessment report before the interaction with HCCL from one of the stakeholders, however, HCCL indicated that they were still waiting for the report.

HCCL also reported that the company had acquired a drone fitted with a small thermal camera sensor for identification of the fires, however during the high-level inquiry on Coal fires, HCCL highlighted that the institution had a drone used for security surveys to lessen trespassing of people around areas with coal fires. However, it was not clear if the drone presented to the ZHRC had thermal sensor as reported.

The UN Guiding Principles on Business and Human Rights¹¹ build on the pillar structure of 'Protect, Respect and Remedy'. Businesses should thus seek to protect communities against human rights violations and are expected to respect human rights by avoiding infringing the rights of others. Businesses should also be responsible and address human rights impacts created by their work (Principle 11).

Principle 13 of the Guiding Principles provides that in order to respect human rights, businesses should avoid causing or contributing to adverse human rights impacts through their own activities and address impacts when they occur. The ZHRC noted the efforts of the HCCL to raise awareness in communities and put-up signage where surface fires and underground coal fires are found. There is need to further ensure that communities are settled in areas far from the coal dumps such that they are not able to access dangerous places. Furthermore, where communities experience harm, there is need to remedy it through compensation. This applies to HCCL and other companies operating in the coal industry in Hwange.

Consequently, other factors identified by the ZHRC that led to a surge in community incidents were ignorance, lack of employment opportunities and income. One woman was seen using the undesignated path where warning signs were put up. The ZHRC

¹¹ Endorsed by the Human Rights Council in its resolution 17/4 of 16 June 2011

asked her why she was using the path when there were warning signs and she had no sound reason. Some interviewees notified the ZHRC that they were unemployed and survived on selling coal picked from the dumpsites due to economic hardships after non-governmental organisations stopped giving them humanitarian aid. Article 11 of the ICESCR, urges states to take appropriate measures to ensure realisation of the right to an adequate standard of living. The minimum requirements for adequate housing under the ICESCR include adequate sanitation and provision of adequate infrastructure. There is need for the Government of Zimbabwe to take positive steps to ensure that communities in Hwange enjoy their fundamental rights.

Conclusion

The ZHRC notes the benefits of coal mining to the Hwange community and the country at large. However, the downside has been its harmful effects to members of the community due to coal dumps and surface fires, which are not easily seen. There have been violations of human rights including the right to a clean environment, right to life, right to an adequate standard of living and other economic and social rights. There is need for a coordinated and multi stakeholder response to the negative effects of coal mining and for businesses in Hwange to adhere to the principles of business and human rights.

Recommendations

Hwange Colliery Company Limited

- 11.1. To compensate all known and reported victims of coal fires.
- 11.2. To expedite the process of filling in of old underground workings of the mine with inert material to avoid combustion from underground.
- 11.3. To intensify awareness campaigns in communities, including in schools on the dangers of surface fires.
- 11.4. To make future plans to relocate people residing in areas proximate to undesignated areas mining areas.
- 11.5. To refurbish the houses in Areas 2,3 and 5 through installation of ablution facilities so as to do away with the use of communal toilets.
- 11.6. To make sure there is constant provision of potable water in Area 2, 3 and 5 of the Hwange Colliery Settlements.

- 11.7. To consider incorporation of the Hwange Colliery settlements with the Local Board to ensure improved service delivery and development of their concessions.

Environmental Management Agency

- 11.8. To ensure that mining companies clear up all coal dumps after conducting their mining activities and fine those who do not follow the set regulations.
- 11.9. Enforce the provision on collection of the environment fund so as to rehabilitate mining areas.
- 11.10. To intensify awareness programmes on environmental issues.

Ministry of Local Government and Public Works

- 11.11. To conclude the inquiry into the possibility of incorporation of Hwange mining companies and the Local Board for proper management of the area.
- 11.12. To expedite the process of upgrading the Hwange Local Board to a Town Council.

Ministry of Public Service, Labour and Social Welfare

- 11.13. Extend social protection programmes to vulnerable groups who reside in HCCL Settlements.

Ministry of Finance and Economic Development

- 11.14. To provide financial resources to cover fire sites with inert bulk material to prevent coal seam fires from igniting through the Environment Fund.

Parliament of Zimbabwe

- 11.15. To take appropriate steps to enact legislation and regulations that provide measures for handling coal seam fires and surface fires.
- 11.16. Harmonise legislation affecting mining companies so as to offer effective redress to victims.

Community members living in Hwange Colliery Settlements

11.17. To refrain from accessing undesignated areas, especially where warning signs on coal seam fires and surface fires have been put up.

Annexure 1

List of groceries bought by HCCL on the day of the burial for one of the victims who succumbed to coal burns.

