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Mining in Uganda

A conflict sensitive analysis



August 2017

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Executive summary

THE RECENT DISCOVERY OF MINERALS IN UGANDA offers a significant opportunity for the country; particularly as a way of contributing to social and economic development. This includes fulfilling Uganda's 2040 vision and the National Development Plan II 2014/15–2019/20¹. The challenge is that the mining sector will require investments in infrastructure and other technologies to be effective. Investments must be carefully thought through and conflict-sensitive so as not to create or fuel existing tensions in the communities where mining is taking place.

While there is steady growth in the mining sector's annual production value – 149,654,032 Uganda Shillings (US\$ 41,571) in 2013 to 168,339,534 Uganda Shillings (\$46,761) in 2014² alone – underlying tensions remain over ownership and access to land and resources. For instance, communities in Karamoja are confronted by different types of mining-related conflicts, which are either inter-communal or intra-communal, but all relating to how the communities find themselves interacting with other groups, individuals, communities, state or corporate actors. Issues related to mineral resources include: disputes ignited by the speculation activities of commercial companies; conflict between private mining companies and communal land resource users due to changing livelihoods; conflicts among small-scale miners themselves driven mainly by jealousy and the need for access to perceived areas of better mining results, sharing of proceeds, and alcoholism. Conflicts between small-scale miners and investors are driven by the need for control of mining activities, land, unclear terms of operation, and the perception that investors came to know of the minerals before local people.

This study examines if mining sector frameworks in Uganda can support peaceful, transparent and mutually beneficial mineral extractions in Uganda. The study explores the perceptions and attitudes of: communities living in and around mining areas; government officials in mineral holding districts; and mining company officials. It focuses on how communities are affected by mining activities.

The study reveals significant gaps between policy and practice in how mining companies and individual investors operate in the mining industry. Communities have complained about inappropriate mine closure processes, ignored mining and land rights, inadequate consultations on access and control of land, breakdowns of social norms due to the mining economy, and disregard of gender norms. Saferworld seeks to reduce the above sources of conflict in the mining sector by increasing awareness about them and calling on government, mining companies and investors to undertake mining in a manner that addresses the concerns highlighted by communities.

¹ The goal of the NDP is to propel the country towards middle income status by 2020 through strengthening the country's competitiveness for sustainable wealth creation, employment and inclusive growth.

² Uganda Bureau of Statistics (2015), Statistical Abstract, (Kampala, Uganda Government Printer), p 205 available at www.ubos.org/onlinefiles/uploads/ubos/statistical_abstracts/Statistical%20Abstract%202015.pdf

While the study acknowledges the efforts made in addressing poor behaviour and bad practices likely to cause conflict related to land and mining activities, challenges remain. Although there are multiple underlying drivers and legacies of different conflicts in Uganda, we address land and mineral-related conflicts as a timely priority for the country.

The study concludes with a call to all actors in the mining sector to be aware that there is potential for conflict if investments are not handled in a conflict sensitive manner. The study then provides recommendations on:

- decreasing land and land-use competition by adopting a more consultative approach to land access as a way to minimise the potential for conflict and the consequences it might have on mining operations
- supervision of agreements – the role of different sector players
- harmonising the legal framework through a comprehensive review
- royalties sharing
- alternative mechanisms for dispute resolution
- addressing the social effects of mining
- increasing the role of civil society groups in raising public awareness on rights, corporate and social responsibility, accountability and conflict sensitivity targeting state agencies, mining companies and the general public
- the need for civil society to engage with and on behalf of communities to ensure artisanal and small-scale miners are considered for licensing before external players.

1

Introduction and objectives of the study

THE MAIN PURPOSE OF THIS STUDY is to promote better policy for conflict-sensitive investment in the mining sector and to contribute to increasing information sharing. Specifically, we hope that relevant actors will apply conflict-sensitive practices in the allocation of licenses, granting of surface rights, review of policies, and in promoting citizen engagement in the sector. We trust that increased and transparent resource allocation to communities will reduce conflicts in the mining sector.

The study is important because different actors are provided with information on issues arising from mining activities. The study will increase understanding of the conflict environment in which actors operate. It will also increase awareness of the potential positive and negative impacts investors might have on the mining sector.

The target audience for this study includes the:

- Ministries of Energy and Mineral Development and Lands, Housing and Urban Development
- Parliament
- District officials where mining is taking place (including but not limited to Moroto, Kabale, Busia, Mubende, Kasese)
- Mining companies
- Artisanal and small scale miners
- Communities directly affected by mining activities
- Responsible agencies like the Chamber of Mines, Geological Survey and Mines Department, National Forestry Authority
- National civil society organisations (CSOs) and community-based organisations
- Development partners

The study examines the regulatory legal, policy and institutional frameworks for the mining sector to establish whether they provide for an adequate and conducive set of rules and guidelines to ensure mining activities are conflict-sensitive or not. It also captures existing and potential mining-related conflict issues, identified by communities in mining areas, and makes recommendations to relevant stakeholders in order to address conflict risks and maximise opportunities to build peace.

The report is divided into three sections. The first section provides an analysis of the conflict dynamics as experienced and described to the research team by mineral exploration license holders³, employees of mineral license holders, communities engaged in artisanal and small-scale mining, as well as communities in mineral-rich areas not directly involved in mining. The second section examines the conflict sensitivity gaps in Uganda's regulatory frameworks for mining activities, especially in the Mineral Policy (2001), the Mining Act (2003) and the Mining Regulations (2004). The third section provides a set of recommendations for the government, mineral rights holders and civil society.

1.1 Methodology

The study is based on qualitative data gathered through participatory research methods.⁴ In order to identify relevant research areas, a literature review was carried out which focused on reports about mining in Uganda, and policy and legislation relating to the mining sector. From the review and the issues arising in the mining sector a set of questions was developed, which explored how communities were being affected by mining activities. These questions guided key informant interviews and focus group discussions. The research tools were reviewed, pre-tested and administered in the purposively selected districts of Mubende, Kasese, Kabale/Rubanda, Busia and Moroto. These districts were selected because of the high intensity of mining activities and the heterogeneous nature of the socio-political dynamics related to mining in each of the districts.

The respondents were from three major actor categories: mining actors (large, small-scale and artisanal mining companies and individual investors); authorities, especially the local government; and communities living in and around mining areas.⁵ A total of 35 key informant interviews were conducted, each lasting between 1–1.5 hours, and 15 focus group discussions were conducted, each taking an average of 1.5–2 hours. The focus group discussions comprised 15–25 people each, at least one third of who were women. The research was carried out between 17 December 2016 and 30 January 2017.

³ One of the legal requirements for carrying out mining activities.

⁴ Participatory research comprises a range of methodological approaches and techniques, all with the objective of handing power from the researcher to research participants, who are often community members or community-based organisations, see <http://participate2015.org/methods>

⁵ Government respondents at district level were either chief administrative officers designated to handle mining activities, district environment officers or natural resources officers. In some cases, the sub-county chief provided the information.

2

Background

UGANDA IS GEOLOGICALLY ENDOWED with a wide variety of mineral deposits, including both high value minerals (such as gold, limestone, uranium, marble, graphite, gypsum, iron ore, wolfram, nickel, copper, cobalt, tin, rare earth elements) and low value minerals like industrial minerals, construction materials, dimension stones and semi-precious stones. Mining reserves and activities are prevalent in Kabale, Hoima, Buliisa, Kasese, Ntoroko, Masaka, Kabong, Kisoro, Busia, Tororo, Ntungamo, Mubende, Kotido, Bushenyi, Rukungiri, Moroto, Amudat, Kanungu, Bugiri, Gulu, Buhweju, Namutumba and Mayuge districts. While small-scale and artisanal mining has a long history over the last 100 years, a more formal mining sector has developed recently.⁶ The mining industry in Uganda has grown in successive years. Nationally the mining industry is seen as a key way to contribute to ‘Vision 2040’⁷ and the National Development Plan II (2015–2019)⁸. According to Vision 2040 and the National Development Plan II, Uganda has the opportunity to build a strong mining industry that will be a source of revenue, employment and socio-economic development.

Mining in Uganda is carried out by a combination of officially registered mining companies (both local and international) and artisanal and small-scale miners. The artisanal miners are usually manual, unlicensed and ad hoc in terms of mining activity. The small-scale miners on the other hand are manual, labour intensive, sometimes mechanised, small in scale (< US\$ 4,000 in investment), employing few workers, disorganised or informally organised and unlicensed, sometimes licensed.⁹ The most established companies with large operational mining plants are Tororo Cement Ltd and Hima Cement.¹⁰ Tororo Cement has a 60 per cent market share.¹¹ Hima Cement and the other mining companies and individual investors share the market difference, providing livelihoods to almost 200,000 individuals.¹²

In spite of growth and job production, the industry faces a number of challenges. These arise from a lack of understanding of the country’s conflict dynamics, including human rights violations and conflicts among and between communities, and between communities and companies, and how these impact on (and are impacted by) mining activities.¹³

6 See www.kats.co.ug/sites/default/files/Guide%20to%20Mining%20in%20Uganda.pdf

7 The Vision 2040, aspires to change the country from a predominantly low income to a competitive upper middle income country within 30 years. The mining industry is considered key in fulfilling the aspiration.

8 It’s the five-year version of the Vision 2040 with a theme: Strengthening Uganda’s Competitiveness for Sustainable Wealth Creation, Employment and Inclusive Growth.

9 Gabriel Data (2013), www.globaldialogue.info/Nov1_ASM_2013/IGF%202013%20-%20Artisanal%20and%20Small%20Scale%20Mining%20in%20Uganda%20-%20Gabriel%20Data.pdf

10 This research did not establish the particular contributions of the two companies to GDP.

11 SWOT Africa (2014), ‘Infrastructure Uganda, United Kingdom’ www.swotafrika.com/pdf/Sample-Report.pdf

12 https://wedocs.unep.org/bitstream/handle/20.500.11822/11611/Case_Study_Uganda_June_2012.pdf?sequence=1&isAllowed=y

13 HRW (2014), ‘“How can we survive here?” The impact of mining on human rights in Karamoja’, <https://www.hrw.org/report/2014/02/03/how-can-we-survive-here/impact-mining-human-rights-karamoja-uganda>

Currently the policy and legal institutional framework of the mining sector is being reviewed. The policy is at draft stage, awaiting completion with a Costed Implementation Action Plan. This will be followed by a review of the Mining Act (2003) and the Mining regulations of 2004, which are now out of date. This report aims to ensure that the review process takes into account the views of communities and district leaders, incorporating an understanding of the context to reduce conflicts in the sector.

2.1 Conflict-sensitive approaches and why they are vital and beneficial for Uganda's mining sector

Applying conflict-sensitive approaches are about preventing the emergence, re-emergence or escalation of violent conflict. The approach seeks to maximise opportunities to build sustainable peace, by strengthening people's ability to resolve disputes and tensions, including those linked to mining activities, through non-violent, constructive approaches.

Conflict-sensitive approaches¹⁴ to development and humanitarian assistance arose from a realisation that external interventions interact with conflict dynamics. This can often lead to unintended impacts that aggravate conflict dynamics and undermine intervention objectives. Initial reflections focused mainly on situations of violent conflict, but there is evidence that latent conflict can flare up even after a long time. For instance, actors in the mining sector should recognise the following conflict drivers: the fraudulent acquisition of land for mining, inadequate inclusion of local communities in consultations, rights violations, land use competition, increased insecurity in the mining areas, royalty sharing and disrupted social and gender norms. Recognising conflict drivers – in policy and practice – will lead to more analysis, engagement and acceptance of mining companies and individual investors among different communities. Conflict-sensitive approaches are needed in Uganda even when there's no violence in mining areas.

Almost all parts of Uganda have had a history of violence since the colonial era. While some conflict drivers have been addressed through various interventions, new pockets of conflict still spring up. The Northern Uganda Conflict Analysis, conducted by the Advisory Consortium on Conflict Sensitivity in 2013, provides an in-depth assessment of conflict drivers that risk being exacerbated by ill-informed and conflict-insensitive investments in Uganda.¹⁵

To date, the government and mining companies have not generally included local people in early, equitable consultation around investment processes. This is of particular concern in a context where there is significant competition for opportunities around resources like oil, minerals, forests and land.¹⁶ This, combined with poor and undemocratic governance and the inability of government departments to identify and quickly address community development challenges, such as gender disparities and unemployment among the youth, has led to rising discontent. This in turn is impacting on the economy. Many disputes have arisen around the benefits and impacts of the investment process, and communities have regarded arbitration efforts as unfair. There is growing intolerance from the government towards dissenting views, which has led to a clampdown on civil liberties. Mining companies abuse human rights, such as overseeing dangerous working conditions and long hours of labour, yet local people need to know their rights and how investments should respect and help them to realise those rights¹⁷.

¹⁴ More information about conflict-sensitive approaches at http://local.conflictsensitivity.org/key_reading/conflict-sensitive-approaches-to-development-humanitarian-assistance-and-peacebuilding-resource-pack/

¹⁵ Saferworld (2013), *Uganda Conflict Analysis Report*, *ibid*, p 10

¹⁶ Global Rights Alert (2012), *Human Rights Status in the Gold Supply Chain of Uganda: A Case for Artisanal Small-Scale Mining in Karamoja Region*, (Kampala), p 11 available at www.globalrightsalert.org/download/file/115

¹⁷ HRW (2014), "How can we survive here?" The impact of mining on human rights in Karamoja, Uganda' <https://www.hrw.org/report/2014/02/03/how-can-we-survive-here/impact-mining-human-rights-karamoja-uganda>

The government and mining companies' failures to respect traditional decision-making structures include ignoring community aspirations in project planning, and not agreeing on grievance management mechanisms. This has generated undesirable consequences. If the mining industry and relevant authorities are not mindful of such sentiments, it could easily provoke violent conflict in Uganda. This came out very strongly from research respondents, as set out in the next section.

3

Conflict and potential risks in the mining sector

Field findings and the relationship with the policy, legal and institutional framework

THE LEGAL AND POLICY FRAMEWORK regulating the mining sector in Uganda consists of the Constitution of the Republic of Uganda, the Mineral Policy (2001), the Mining Act (2003) and the Mining Regulations (2004). There are also other laws that have an impact on the mining sector, such as the National Environment Act, the Income Tax Act and the Land Act. These frameworks are analysed in more detail below.

This section sets out the main issues identified in the research related to the potential impact of mining activities on conflict and division in mining-affected areas. It also analyses to what extent policies contribute to – or mitigate – such conflicts and divisions.

3.1 Land and land-use competition

“If you want to help us, please stop these newcomers. Where shall we take our children when they come to take over the jobs and also take our land?”

Community member at a focus group discussion in Rupa sub-county, 19 January 2016.

Access to and ownership of land is a known cause of conflict in Uganda. Conflicts over land manifest in some regions more than others, depending on specific trigger factors such as ethnicity and acquisition of land for development and mining. Mining companies and individuals experience challenges in accessing or acquiring land for prospecting, exploration and mining operations. This is because the customary tenure system is not explicit on ownership rights and because land administrative and management institutions are inefficient. Companies and the district local government also find it challenging to assess and pay appropriate compensation. This has occurred in cases where mining activities restrict land use or deprive communities of their land because of inefficiencies in administration and financial constraints. In Kasese district, the anticipated mineral potential has led to land speculation, falsification of ownership, and increased the scramble for the small pieces of land available for people to live on.¹⁸ Communities around the Kilembe mines are living in unplanned settlements at the top of a copper mining tunnel. Dangerous as it may be, they have not been compensated

18 Saferworld interview, Kooli Augustine, senior environment officer, Kasese district, 2 January 2017.

by the government and are not willing to move because of the opportunities provided by mining activities. They face eviction due to resumption of copper mining activities.

In Karamoja, the customary tenure system that allocates land according to use (grazing, worship shrines, hunting grounds, homesteads and gardens) gives a false picture of land ownership and availability to 'outsiders' because of the presence of apparently unoccupied areas. In Rupa sub-county in Moroto district, the community elders interviewed said that there was no free land in Karamoja and that land had become their main source of livelihood since surrendering their guns and stopping cattle rustling. They therefore feel that they cannot sell their land to the mining companies because it is all in use and threatened to shed blood if 'foreigners' (people from other parts of Uganda and other countries) continue to come after their land. However opinions are varied; in another focus group discussion, one middle aged participant of the 13 participants¹⁹, proposed an arrangement whereby companies could buy gold from their small-scale mining activities instead of setting up big operations. Another youthful member of the group threatened to harm investors with pangas or re-arm themselves to match the strength of the soldiers who protect the investors. Lastly an elder in the group cautioned the youth against accepting bribes to enter into illegal land deals with mining companies and other people interested in their land. The aforementioned perspectives illustrate how mining activities are impacting social relations between youth and elders.

The government recognises that there are challenges in land acquisition for mining operations.²⁰ However, the Mining Act (2003) does not provide clear mechanisms to regulate access or acquisition of land by mineral licence holders to carry out prospecting, exploration and mining operations. The dispute and compensation mechanisms for disturbance of land use to land owners as provided for in the Mining Act (2003) are insufficient.²¹

3.2 Limited knowledge of mining laws

The mining companies interviewed were aware of the presence of a legal regime for the mining sector. In some instances they were found to implement their activities disregarding the law because of weak enforcement. People we spoke to indicated that the mechanisms meant to enforce this regime are weak. According to a senior Kasese district official, some companies claim to be mining for the government,²² which causes some communities to hold the government responsible for any illegal acts by the companies. The inability of the government to supervise and reprimand the mining companies due to weak enforcement and inadequate financial resources has reportedly increased animosity between communities and the government and continued to affect the relationship between the two.²³

Artisanal and small-scale miners interviewed were vaguely aware of the existence of the mining law but had no information about its content. In Mubende for instance, some of the artisans admitted ignorance. They revealed that they went to mine in Mubende illegally after the security forces in the city forced them out of criminal activities in Kampala through several anti-crime operations. Other small-scale miners and artisanal miners were reported to have come to the area as speculators who eventually turned into investors. They told the research team that the president told them during the 2011 election campaigns 'to mine without being disturbed'²⁴. They are

19 One elder, three women and nine men, out of which six were youth.

20 Bwesigye D B (2014), *Negotiate with mineral-rich land owners*, <http://www.oilinuganda.org/features/land/negotiate-with-mineral-rich-land-owners.html>

21 Ministry of Energy and Mineral Development (2016), *Final Edited Draft Green Paper on Minerals and Mining policy for Uganda*, Kampala.

22 Saferworld interview, Asaba Wilson Mwigwa, assistant chief administrative officer, Kasese district.

23 The ruling party performed poorly in Kasese district in the February 2016 general elections, some respondents attributed it to government's failure to manage natural resources especially land.

24 An old male member of the focus group discussion in Mubende with the Ssinga Artisanal and Small-Scale Miners Association.

therefore determined not to leave until the president provides them with alternative businesses or secure sources of income.²⁵

The miners in Kabale/Rubanda admitted to total ignorance of the content of the law: all 25 participants in the focus group discussion had never seen the Mineral Policy 2001. The three key informants drawn from among the artisanal miners had never seen the policy, the Act, or the attendant regulations. The only legal impediment they identified was the fact that they were working without a licence and therefore they were aware that their operations were illegal.

The communities not involved in mining that were interviewed around mining areas said they were not aware of any laws governing mining. They were vaguely aware that mining should not be done without a licence and that someone's minerals should not be taken without payment. To them, everyone involved in mining has been licensed and therefore the government is aware of their operations. Participants in a focus group discussion in Rubanda said the government does not care about the community but only about the mining companies and individual traders who pay royalties to government. The focus group discussion group members were also in disagreement with the constitutional provision that places minerals in the hands of government yet the land on or under which the minerals are found belongs to the people.

Within the current policy framework the provisions for community consultations and participation are weak. Uganda's licensing laws require limited consultation for surface rights agreements,²⁶ perhaps because they are not clearly defined in the Mining Act 2003, and none whatsoever for exploration. There is clearly need to create awareness among communities and artisanal and small-scale miners on the law and the need for companies and individual investors to consult local communities and implement according to the law.

3.3 Legal issues affecting mining

Due to a lack of awareness about the law, artisanal miners and community-level respondents that were interviewed during the study could not identify or articulate legal issues affecting their operations, apart from the process of issuing licences which they saw as "unclear and unfair" to them, as mentioned by an artisanal miner in Mubende who asked to remain anonymous. The failure by the ministry in charge of mining to popularise the process and to issue them with a licence²⁷ has made government lose a lot of revenue. This is made worse by little transparency during the application process and over-centralised management of licensing – assigned only to the Department of Geological Survey and Mines. This view is shared by CSOs who said artisanal miners are not registered; they enter and exit the business at will; there's no record of their business and therefore the government underestimates the production of certain minerals and their market in Uganda.²⁸ This is also emphasised by the Annual Mineral Development Score Card which stresses the need to track and monitor other minerals and trade in gold.²⁹ The lack of transparency and awareness on the licensing process is not conflict-sensitive and can result in conflict among the artisanal miners themselves, and between government officials during the implementation of the law.

There are insufficient requirements in the law for local authorities to introduce licensed companies to the communities so that mechanisms for cooperating with artisanal and small-scale miners can be discussed and agreed. Such a process would also empower communities to ask questions related to engagement of local resources – especially

²⁵ Saferworld interview, Jombwe Mark Asaph, chairman, Ssinga Artisanal and Small Scale Miners Association and Kauma Ivan Male, project coordinator, Ssinga Artisanal and Small Scale Miners Association, Mubende, 19 December 2016.

²⁶ Part VII of the Mining Act 2003 details mineral rights but for surface rights the explanation is not explicit.

²⁷ The Ssinga Artisanal and Small Scale Miners Association said they applied for a licence on 1 March 2015 but had not received a reply by the date of the interview 19 December 2016.

²⁸ Saferworld interview, Charles Kabiswa, programmes director, Ecological Christian Organisation, Kampala, 4 January 2017.

²⁹ National Planning Authority and Africa Centre for Energy and Mineral Policy (2016), Annual Mineral Scorecard, (Kampala), p.4.

labour – and indigenous technologies. Interaction with members of the community would also help companies to be conflict-sensitive and prevent future conflicts.

3.4 Inadequate provisions for supervision of agreements

Responsibility for the issuing, supervision and enforcement of mining agreements lies with the Department of Geological Survey and Mines (DGSM), which results in enforcement loopholes partly due to financial constraints and inadequate coordination with sister agencies. The DGSM is responsible for the supervision of mining agreements. This includes issuing, monitoring, and enforcing licences and their holders. However DGSM activities and plans do not always take into account the policy and plans of other departments related to the same area and sometimes directly contradict them. For example, the National Forestry and Tree Planting Act prohibits activities that are not in line with the work plan of a particular reserve, yet DGSM allows mining companies to access such resources without notifying the National Forestry Authority (NFA). According to the sector manager of the NFA Karamoja Range, different sections of mining agreements should be supervised by coordinated sections of government not solely by the DGSM³⁰. This illustrates the conflicts of interest that are currently undermining the performance of mining activities.

According to the NFA, supervision is further complicated by the fact that forestry for instance, is about sustainable use of forests and not as strict as the conservation of wildlife. The National Forestry and Tree Planting Act allow communities to live in forest reserves, therefore giving communities a sense of ownership, including the right to exploit reserves for mining purposes.³¹ However, mining agreements are signed in Kampala without the involvement of district stakeholders in the location of the mines.³² This creates a conflict because in most cases the district will not know what is contained in the agreement and therefore cannot enforce its implementation while some companies will also have limited knowledge of the context. Furthermore, there is no platform for periodic meetings of stakeholders to share and address complaints at the district level, which denies district officials the opportunity to help mining companies address their community challenges³³. This confusion and contradiction over roles, responsibilities and authority increases the risk of exacerbating tensions between local government, companies and individual investors, and communities.

A marble miner from Rupa sub-county in Moroto district, Karamoja.

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RAMON SANCHEZ ORENSE



³⁰ Saferworld interview, Brian (not real name) NFA sector manager Karamoja range. 20 January 2017.

³¹ Same as above: The Forestry and Tree Planting Act was not reviewed for this study, the statements are as told to us.

³² Saferworld interview, Richard (not real name) (assistant chief administrative officer Kasese district) and Erienyu Johnson (district environment officer, Busia district, 28 December 2016 and 14 January 2017 respectively).

³³ Saferworld interview, Richard (not real name), same day of interview, 14 January 2017.

National Forestry local authority respondents said they lack the ability to stop and prevent encroachment of the forest reserves by artisanal and small-scale miners. Amonikakine and West Bugwe Forest Reserve in Busia district for example have been encroached upon by Busitema Forest Miners. While the district is aware of this illegal activity, not even the police can stop the crime because an entire community is committing it. It was reported that the issues of illegal mining and encroachment of forests come up every election period.³⁴

3.5 Negative social effects

The research reveals that mining has played both a positive and negative role in the lives of mining communities. Respondents from respective districts acknowledged several positive impacts, including expanding business and employment opportunities;³⁵ facilitating access to services, such as transport,³⁶ water and telecommunications; and improving infrastructure, such as roads. The communities lauded some corporations for their corporate social responsibility initiatives like scholarships, building health centres, boreholes and schools.³⁷

However according to Ecological Christian Organisation (ECO), there are no role models for proper mining in Uganda. Companies are focused on profit maximisation at the expense of communities' interests and rights. When companies commit either in agreements or through corporate social responsibility, they sometimes do not fulfil their commitments. In some areas like Rupa, DAO UGANDA LTD and JanMangal did not fulfil many of the promised corporate social responsibility engagements; this was found to be a cause of mistrust and suspicion of mining companies and individual investors that could escalate into conflict.



Children who should be in school are mining instead: Rupa sub-county, Moroto district, 19 January 2017.

The same communities also highlighted concerns such as: the sexual exploitation of workers in mines; buying of minerals from the community artisanal and small-scale miners cheaply; price exploitation of local artisan miners and employees by mineral dealers and small-scale miners and mining companies; failure to provide protective gear and medical care to local miners; injuries on the mining sites; corruption; failure to provide employment to local people; and discrimination against local employees. Communities also complained about the increasing social discord and the erosion of moral values in mining areas. They point to increased prostitution, alcoholism, HIV/Aids, sexual abuse of young girls and family breakdown as causes of conflict from increased capital flowing into mining areas as a result of a mining activities and emigration.

In Sikuda and Busitema sub-counties in Busia district, children have dropped out of school to provide cheap labour in the unregulated artisanal and small-scale mining activities. Young boys and girls participate in digging the pits, collecting and washing the soil and selling the gold harvested. Most of the children spend their earnings on drinking alcohol and participating in illegal activities such as gambling, which are possible causes of conflict.

In addition, respondents feared that famine would ravage Busitema and Sikuda sub-counties of Busia district because productive land has been dug into pits instead of food gardens and most people have abandoned agriculture for mining. In turn, they spend a lot of time prospecting for minerals rather than preparing their fields for the next planting season.³⁸

³⁴ Safeworld interview, Johnson, district environment officer, Busia district. Same sentiments were expressed by Mr. Mayeku Patrick, Chairperson LC 111, Busia district.

³⁵ Communities in all the mining areas visited for this study were happy to have got jobs, earned money to start up businesses like trade and animal rearing, were able to pay fees for their children and build themselves some form of accommodation.

³⁶ Our research team traveled on a newly opened road in Rupa sub-county, Moroto district to conduct an interview with Lafarge. According to Henry Mulindwa a geologist with ACE, more kilometers of road were going to be opened.

³⁷ Safeworld interview, Mr. Omijo James, plant manager, Greenstone Resources Ltd, Busia district, the company has helped the community in Tiira to access water and medical facilities.

³⁸ Safeworld interview, Esther (not real name), a mineral processor in Busitema sub-county, 17 January 2017.

Foreigners (from other parts of the country and outside Uganda) who migrate to the villages are perceived as having positive and negative impacts. On the one hand, their purchasing power has improved the prices of certain commodities, which has increased the incomes of some farmers in the area. However, this has also had negative consequences: in Busitema sub-county respondents complained of low-level conflicts as a result of thefts of garden food, chicken and livestock by fellow community members to feed the market established by the mining community.³⁹

The mining company in Moroto (DAO Uganda Ltd)⁴⁰ has its staff quarters located in the middle of the community in Rupa sub-county. Most of those employees are not indigenous Karamajong, they come from as far as Busoga region in eastern Uganda and have different work cultures and customs than accepted in Karamoja, which creates tensions in Karamoja. The ethnic differences are affecting harmonious co-existence because the company workers are looked at with suspicion and sometimes mistrust due to the advantages they have compared to the indigenous communities.

Mining companies' lack of participation in locally organised events was another issue the communities said affects their ability to raise and resolve conflicts. For instance, when elders call meetings, mining companies do not turn up or send junior staff.⁴¹ In turn, the failure of companies to open their operations for scrutiny to stakeholders and communities causes serious suspicion among locals about the intentions of mining companies.

Corruption is rife as mining is a highly profitable business. There are many levels of actors involved, which can create conflict and tension in multiple ways. This has led to declining social cohesion as some community leaders find themselves in conflicts of interest when they are required to defend the community's interests. Some have been accused of corruption when they side with the mining companies who give them business. Others have been accused of selling off community land to mining companies for exploration, prospecting and mining. In Busia, the district chairman was required to mediate between the community and the mining company on a land conflict in Tiira but was accused of accepting a bribe from the company at the expense of the community's interest. He was arrested and was not elected as chairman in the subsequent election.

3.6 Limited formal role played by districts

The role of the local government and communities in the implementation of mining agreements is not well stipulated in the existing mining laws. Local government officials are not empowered by the law to take action on mining irregularities. Although local government structures are the closest to the mining locations, they have not been resourced or equipped with the knowledge to monitor and supervise mining activities. There are no mechanisms at the local level for authorising action on mineral license holder oversights.⁴² This can lead to conflicts between the license holder and the communities as the district watches. According to the district environment officer in Busia district, the companies have connections with people in high offices of government who prevent the local government officials from taking action against errant mining companies

The law requires some activities that contribute to a conflict-sensitive approach and reduce tensions. For instance: mining companies are by law supposed to notify the chief administration officer in each district, be introduced to the communities and to share their work plans and reports with the relevant local government officials. However, due to weak monitoring mechanisms, most companies do not and therefore

³⁹ Focus group discussion at the sub-county headquarters, Busitema sub-county, Busia district, 17 January 2017.

⁴⁰ DAO Uganda Ltd. is the subsidiary of a Saudi and Kuwaiti construction firm. It acquired an exploration licence over a few kilometers of land in Rata village, on the border of Rupa and Katikekile sub-counties in Moroto district in 2013.

⁴¹ Saferworld interview, Jackson (not real name), the sector manager, NFA, Karamoja.

⁴² Saferworld interview, Mayeku Patrick Wasike, chairperson LC111, Busitema sub-county, Busia district, 17 January 2017.

A miner throws stones at a marble mine in Rupa sub-county, Moroto district. Mining communities experience conflict over minerals and land as well as workers' rights issues such as inadequate pay.

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miss the opportunity to establish a relationship for effective communications with local government and the citizens that would prevent conflicts in the future.

Unfortunately, the draft Green Paper on Minerals and Mining Policy (2016), while recognising the need to strengthen supervision and coordination of mining activities in the institutional framework, still does not define a specific role for local governments at the district level.

3.7 Absence of an all-inclusive platform to deal with emerging issues

The Uganda Chamber for Mines and Petroleum is mandated to coordinate the activities of different mining companies in Uganda. While the chamber has done a lot of work to ensure effective coordination among players, the interactions among mining companies and individuals is happening only in boardrooms in Kampala rather than in mining areas. In the field, relations are characterised by conflict in the form of cut-throat competition, especially among companies dealing in the same type of minerals. The companies and individuals are not conflict-sensitive as they compete for human resources, funding from investors and exercise secrecy about their operations. On the chamber's website, membership is classified into diamond, gold, silver and individual, with different levels of membership fees for each category. The fees are expensive, starting with a one-off payment of Ugandan Sh 500,000 (US\$ 138), followed by an

annual subscription of \$6,000, \$3,000, \$1,250 and \$300 respectively despite the type of miner or individual interested in the mining industry. This makes the chamber an exclusive club not accessible to small-scale miners. This has implications for who is able to participate and is a missed opportunity for inclusive investment in the country's mining sector.

3.8 Inadequate maintenance and repair of infrastructure in mining areas

The government is expected to establish and maintain infrastructure, especially roads, in the mining areas. Respondents from both communities and mining companies expressed disappointment with the state of roads in all mining areas. Communities complained that their roads are damaged by the heavy flow of traffic transporting minerals, yet they get nothing in return. The individuals and companies doing the mining also complained that the bad road infrastructure increased the cost of business because they often had to spend money on creating roads that connect their mining areas to the main roads to transport their workers, materials, equipment and minerals.⁴³

In Rubanda, one member of the community said “the town council authorities illegally collect revenues yet do not invest in social services around the mining areas.” The road network around the mining area is deficient due to the amount of trucks collecting iron ore. According to respondents, fees are charged per truckload of iron ore, and they believe this unreceipted money does not go to government coffers.⁴⁴

3.9 Environmental degradation, pollution, safety and hazards



A woman carries firewood to the marble mining site in Rupa, Moroto district.



Firewood being used to break stones.

Photos by Capson Sausi, Rupa sub-county, Moroto district, 19 January 2017.

Quarrying is carried out at a huge cost to the environment and the community. Community members in Hima and Muhokya in Kasese district complained that the blasts generate a lot of dust, which is unhealthy for the people, their livestock and the environment in general.⁴⁵

In mining areas of Moroto, Busia, firewood is used to fuel fires to break the stones. Cutting trees for firewood has adverse effects on the environment by contributing to deforestation. In Rupa sub-county, the research team saw young girls and women carrying bundles of firewood to the mining areas.

The water used in wet mills and gold panning is released back into the streams. This water contains mercury used for purification. It contaminates the streams, kills fish and livestock and seriously endangers people's health. According to respondents, the mining company is not sensitive and cooperative when communities ask how the issue will be addressed.⁴⁶ The high levels of water pollution associated with mining could be a cause of conflict between mining individuals, companies and communities in the mining areas because water for domestic use is scarce and also a major requirement for panning of gold.

The main safety concern the districts had with mining companies was the composition and breaching of mining agreements signed with the central government. In Busia for example, a mining company has mined beyond the 54 square miles under concession. The same company in Tiira trading centre, located in Busia district, fenced off its mining area 50 metres from the main road; the fence cuts off part of Tiira town. Any construction of major infrastructure like roads and buildings would be risky because underground mining weakens the stability of the area.⁴⁷

There are also occupational hazards due to the rudimentary methods of mineral extraction among artisanal and small-scale miners. According to the chairman of the local council 111 Busitema sub-county, three people were killed in 2016 when they were

⁴³ Safeworld interview, Henry Mulindwa, geologist, ACE, Rupa sub-county Moroto district, 19 January 2017.

⁴⁴ Safeworld interview, Veneranda Ndikubwimana, miner in Rubanda, 22 December 2016.

⁴⁵ Safeworld interview, Augustine Kooli, senior environment officer, Kasese district, 3 January 2017.

⁴⁶ Focus group discussion with members of the community around Busitema gold mining site, 17 January 2017.

⁴⁷ Safeworld interview, Richard (not real name) in Busia, 17 January 2017.



Bow mills are used for crushing stones and are set up near streams: the water is released back into the stream even when it is contaminated with mercury.

Miners in Busitema sub-county, Busia district, 17 January 2017.

3.10 Commercial benefit and payment of royalties

covered by earth in Agata parish, Buteba sub-county, Busia district. Another person died due to poor machine handling.⁴⁸ Workers operate without protective gear exposing them to hazards and risking their lives.

Post-closure management (which occurs once the mineral resource at a working mine is exhausted, or operations are no longer profitable) was reportedly neglected with mining companies and individuals not implementing the post-closure plans they submit together with their mining licence applications. Deep pits are visible in places where mining has been abandoned. The rehabilitation is not completed and the pits cause a risk to people and property, especially around cattle grazing corridors. There are no periodic assessments or independent auditing of mine closure plans by the DGSM and the National Environment Management Authority once the area is no longer needed for mining due to financial constraints.

Respondents reported that apart from individual benefits like income to some of the respondents, mining activities have resulted in little benefits for communities. The percentage of overall profit given to mining communities is too low to contribute significantly to their development. Moreover, the royalties (placed in a pool of the government's consolidated funds and allocated according to sector priorities) to local governments are not necessarily spent on prioritised activities that would result in the socio-economic development of mineral-hosting communities.

The provisions in the current mining law do not clearly address how royalties should be spent. The Mining Act (2003) Section 98(2) distributes royalties as follows: central government 80 per cent, local government 17 per cent, and landowner 3 per cent. This poses several conflict risks according to the communities we interviewed: first, there are insufficient mechanisms to establish the total value from which to calculate the royalties, and second the percentage returning to the individual land owner is very low, while for communal land it is difficult to ascertain the particular owner of the land. In addition, they believe there is a need to determine how, in practice, royalties payable to the central government revert to the affected communities. This lack of transparency contributes to conflicts because of mistrust between communities, local government and central government. This is because communities, who have historically felt marginalised by central government, feel that yet again they are not being prioritised.

Artisanal and small-scale miners are vulnerable because they are paid directly for what they have mined. Respondents reported that iron ore traders are irregular in their payments, sometimes they take the minerals on credit and it takes a long time before they pay the miners, or they do not pay at all.⁴⁹ This has led to low-level conflicts and mistrust between the miners and traders.

⁴⁸ Saferworld interview, Mr. Mayeku Patrick, chairman LC111, Busitema sub-county, 17 January 2017.

⁴⁹ Veneranda Ndikubwimana a miner in Rubanda told our research team that she had lost minerals to middlemen who promise to pay after they have sold to exporters. She attributed this loss to the failure of the authorities to grant her a licence. She said with a licence she would pursue the middlemen and seek justice but she fears because she is illegally dealing in a mineral that belongs to government.

4

Policy recommendations for a conflict-sensitive mining sector

TO ADDRESS PRACTICAL GAPS, those identified in the legal framework and in a bid to enhance the conflict sensitivity potential of the sector, this section presents a number of recommendations based on research participants' responses. It is organised around three main stakeholders: government, corporations/mine rights holders and civil society.

4.1 Recommendations to government

The government – especially the DGSM, the Ministry of Energy and Mineral Development, and the Ministry of Lands, Housing and Urban Development – is urged to pay attention to the concerns outlined in this section.

Land and land use competition

To avoid and reduce conflict, the acquisition of land and the means by which poor people are removed from land by mineral right holders or state authorities on behalf of mineral rights holders, should be more consultative and premised on receipt of compensation.

Before the Ministry of Energy and Mineral Development offer licences they should check whether minerals fall in a forest reserve or protected area. Should it be the case they should liaise with the relevant authority to avoid clash of roles and conflict.

Local Council 1 and Local Council 2 structures mandate should be renewed as a judicial function to allow them to better handle local conflict and dispute resolution around land use alongside traditional leaders, whose authority is being challenged by the youth in some communities.

Supervision of agreements – the role of different sector players

Define the roles of the local government, artisanal and small-scale miners, companies, central government and communities in the implementation of mining agreements. The law should give distinct roles at different stages allowing enough lead time in between stages to avoid conflicts among the different sector players.

Increase communities' awareness of mining and land laws and activities happening in their location. Empower them to effectively monitor the activities of the mining companies and secure them from unnecessary exploitation.

The law should provide sufficient roles for the local government (where mining is taking place) to monitor the activities of mining companies including authority to report to the Ministry of Energy and Mineral Development any human rights violations and breaches in the implementation of mutually agreed clauses of mining agreements.

The legal framework

Revise the Mining Act 2003 to harmonise it with the National Environment Management Act, The Land Act 1998, The National Forest and Tree Planting Act, and other relevant sector policies and legislation to make it investor friendly while addressing the needs of Ugandans in achieving sustainable development.

Licensing

The government should be transparent about the issuance of licences process. Priority should be given to applications made by artisanal miners before considering external applications to boost the general economic wellbeing of locals involved and to accelerate the development of mineral host communities. Ssinga Artisanal and Small-Scale Miners Association in Mubende told our researchers that a licence would give them a sense of ownership required for them to invest in infrastructure development.

Powers of the commissioner: the excessive powers of the commissioner should be distributed across structures. The proposal to elevate the DGSM to a directorate as contained in the draft green paper on the Minerals and Mining Policy 2016 should be implemented but should devolve powers to local governments.

DGSM should be visible: they should ensure people are aware of their services and meet them in person. It was mentioned in two interviews that the commissioner visits mining districts less than once a year. By increasing the DGSM's visibility, this will create more opportunities for reporting and resolving conflict issues arising in the mining sector.

To decrease chances of conflict there is a need to increase public awareness about human rights and the responsibilities of mineral rights holders and other non-state actors. This should include encouraging rights holders to adopt corporate codes of conduct that allow communities to engage with stakeholders; and to make tangible corporate social responsibility commitments in agreement with communities.

Environmental degradation and pollution

Agencies such as the National Forestry Authority and Department of Geological Survey and Mines should aim to avoid conflicts in implementation of their mandates regarding the mining industry.

Royalties sharing

Payment of royalties: District officials and local governments propose that sharing of royalties be revised as follows: central government 55 per cent, local government 35 per cent and landowner 10 per cent. Local government officials further recommended that government should support community development by ensuring that government revenues derived from mining and exploration activities are channelled back to the mineral hosting communities. Respondents proposed that at least 80 per cent of the royalties going to local governments should be spent on government-led initiatives, such as the enhancement of local infrastructure and improvement of social services for the mineral hosting communities.

Platform for dealing with emerging issues

Government should establish a platform at the district level for periodic meetings of participants in the mining industry. The platform will build capacity of the communities to negotiate agreements, as well as enhance their knowledge about the mining industry. It would also help build relationships between the various players, making it possible to deal with conflict drivers and establish trust and respect.

Alternative mechanisms for dispute resolution

Mechanisms should be put in place to address peoples' grievances to prevent latent conflict hitting crisis levels. Conflicts should be identified through regular analysis of places where mining is being considered, long before the investors are allowed to access communities. Investors must be briefed beforehand about the context, identifying drivers and possible social, political and environmental causes of conflict and guided on how to operate in the context without exacerbating tensions. Small 'how to' handbooks on conflict management should be produced and circulated in mining areas so that communities know how to identify conflict and minimise its potential to lead to violence. The handbooks should provide guidelines to deal with the issues at grassroots level.

As part of the government's human resource plan, conflict monitors should be placed in mining districts to identify and alert government structures about brewing conflict earlier on in the cycle. Companies should be helped to appreciate that conflict sensitivity helps their businesses, the communities involved and government. Failure to address the causes of conflict negatively affects business and destroys communities.

Infrastructure around mining areas

Effective development of the mining sector will require improvements in infrastructure, especially road networks and energy supplies to rural areas where mining operations usually occur. Improved infrastructure will also satisfy the mining communities who believe revenues collected from mining activities should benefit the affected communities.

4.2 Recommendations to corporations/mineral rights holders

Addressing the social effects of mining

Mining companies should support communities to form associations and community-based organisations. Communities should be able to enter into community development agreements, ensuring they don't have to resort to protests, demonstrations and petitions to voice their concerns. Agreements should outline all community expectations and the roles of different actors and commitments of the mineral host community. Make and fulfil good promises made as part of corporate social responsibility to gain trust and acceptability.

Incorporating conflict-sensitive approaches in mining activities

If companies involved in the mining sector incorporate conflict-sensitive approaches into their activities it can help ensure that the profits and benefits of mining are realised, instead of being undermined by costly and time-consuming disputes and expensive security measures. Ensuring proper public accountability, allowing space for stakeholder participation and adopting participatory approaches decreases the potential for conflict and can contribute to safer, more productive mining activities.

Safety and occupational hazards.

Adopt a code of conduct based on human rights such as the UN's Guiding Principles on Business and Human Rights. Provide decent employment and business opportunities for local communities and respect the environment, labour rights, socio-economic rights and land rights as enshrined in the constitution. The code should make provisions for the consideration of complaints from communities or individuals adversely affected by mining activities.

To reduce conflict occurrences, companies and individuals should refrain from exploiting local communities, damaging the environment, unlawfully or unfairly disrupting the social fabric of communities and other forms of human rights violations.

4.3 Recommendations to civil society and other actors

“God gave us this mineral so that we can survive on it given our harsh conditions. NGOs come here, take our fingerprints and register us but we never see the benefit. They should leave us alone if they are agents of land grabbers”

Community member at a focus group discussion in Rupa sub-county, Moroto district, 19 January 2017.

Civil society organisations should step up advocacy aimed at amending and fast tracking parliament's approval of the draft green paper on Minerals and Mining Policy for Uganda 2016. They should also engage government to start the process of revising the Mining Act 2003 in which sufficient provisions for conflict sensitivity should be made.

Civil society groups should raise public awareness on rights, corporate and social responsibility, accountability and conflict sensitivity targeting state agencies, mining companies and the general public.

Undertake research on the mining value chain to show and understand who loses and who reaps huge benefits at different stages. Further research should focus on themes like land acquisition, evictions, compensation, determination and payment of royalties. A study to assess the understanding and uptake of conflict sensitivity among the mining corporations is also recommended.

Provide capacity building training on conflict sensitivity for stakeholders to help them understand the relationship between their investments and the socio-political context.

5

Conclusion

MINING IN UGANDA takes place against a backdrop of challenges and a history of land-related conflict. Some of the practices associated with the mining sector, such as unregulated mining, unclear and opaque licensing processes, and outdated laws not fit for purpose, can both directly and indirectly impact on levels of tension, marginalisation and violence – between individuals, the state, communities and companies. The review of mining legislation offers a timely opportunity to address these issues at the regulatory level and to change behaviour at the operational level.

It is important that a comprehensive understanding of the mining sector context is considered throughout the ongoing mining legislation review process. Specifically, this study identifies different aspects that could lead to escalation of conflicts between and among different stakeholders in the mining sector. It therefore recommends that relevant legislation and various stakeholders should include provisions that address these issues. It particularly notes that a consultative mining legislation review is vital for enhancing the sector amid increasing community and investor engagement and participation. Revising the act to address mine closure, periodic assessment, independent auditing of mine closure plans and human rights before large-scale mining takes place are essential steps toward fulfilling the potential the mining sector offers for all Ugandans, not just the few.

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We are a not-for-profit organisation with programmes in nearly 20 countries and territories across Africa, the Middle East, Asia and Europe.

COVER PHOTO: A miner works under the midday Karamoja sun at a marble mine in Rupa sub-county, Moroto district, Uganda. Mining conflict is one of the main security issues in Moroto; miners report land grabbing and inadequate pay by the mining company.

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