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Land and resource tenure tensions driven by extractives on the commons of Karamoja – Uganda: Lessons for evolving tenure.

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Abstract

The Karamoja commons are richly endowed with minerals, including gold, limestone and marble. Both foreign and domestic companies have mining interests in the region. Open access defines the commons, is key to the success of pastoralism, but, to mining it presents a dilemma; there is unimpeded access to mining claims, yet these are being individualized amidst changing land use. The status of the reversionary interest of the once communal and when mining is concluded, is at stake. Open access means high influx of miners, hence high mineral supplies and low prices. Not helping are blind spots between mining and land laws that allow mining companies to operate like 'middlemen' using their licenses to exclude competition. Open access and the legal and policy blind spots make it difficult to determine recipients of surface rights compensation and royalties. This leaves communities with neither the commons for herding nor the benefits from mining.

Key Words: commons tenure, resource tenure, land tensions, use change, open access



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Introduction

There is a wealth of precedence, both local and international, that traces the importance and value communities attach to their land for social, cultural, economic and other reasons. In a situation of chronic poverty amidst limited livelihood and sustenance alternatives, the stakes become extremely high on matters concerning land and resources especially where communities are suspicious of incoming interests on land and natural resources. The Karamoja region located in the North East of Uganda, is richly endowed with over 50 different kinds of minerals, including gold, silver, copper, iron, gemstones, limestone, and marble among others. Currently over 20 foreign and domestic companies have exploration and/or mining rights in this region. These numbers are expected to rise with growing demand for metals and minerals amidst favorable global commodity prices. The persons who work the mines in Karamoja are largely indigenous people, engaging in artisanal mining on claims located in areas that were previously open access rangelands used mainly for pastoral herding. The situation in Karamoja presents a unique interaction between land rights and resource rights because of the co-existence of artisanal and industrial mining interests on the same mining sites. Although artisanal mining is historical to the region, it was never the main stay for most people, the coming in of industrial mining interests has initiated a move by many to artisanal mining as an alternative livelihood/ income option to herding.

The tenure of the commons of Karamoja is changing on account of mining. Communities enthuse that the land on which the minerals are is 'theirs' and for 'all of them'; this on one hand embodies the customary tenure principle of open access to communal lands; and, on the other hand, brings on board an understanding of reversionary interest in the land once mining is concluded. Open access is a defining aspect of the commons, key to the success of pastoral herding; however, in the face of mining it presents a dilemma. Industrial mining companies have been awarded mining concessions in the form of exploration and mining licenses by the central government on the same commons. The mining companies have however strategically not exercised their right to exclude these pastoral communities from the land on account of the mining leases and licenses, instead they have made participation in mining an attractive quick cash alternative to herding. The result has been increasing numbers are moving into mining with a consequence of a growing change in land use.

With respect to the status of reversionary interest, there is an evolution driven by both the artisanal miners and the industrial mining companies. On the part of the mining companies, the state allocates extraction rights over large areas through either a mining lease or exploration license, in the short run, and, because the mining currently is mostly surface collection of stones on an expansive area, more so done by community members, the change in reversionary interest is not overt to the communities; yet, the mining companies are thinking long term extending periods for the mining concessions. This is on account of the anticipated sub surface excavation once surface deposits are exhausted, this will require heavy earth moving equipment and then overt exclusion will be underway. On the side of the artisanal miners themselves, there is self-allocation of mining claims or stakes but once allocated there is a social recognition that those stakes have become individualized to specific persons or families. This study found evidence of these claims being passed on between family members and in some cases the



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payment of rentals for extraction to take place. This makes the change from the commons to individualized land rights irreversible.

From a benefits point of view, this paper demonstrates how the disconnect between land and minerals/ resources policies and laws can result into business and economic blind spots that can be exploited by business interests to the disadvantage of communities. It is difficult to determine who should receive surface rights compensation or royalties. Whereas customary tenure is recognized in the land law, the mining law seeks documentary evidence to ownership as a basis for compensation. The commons of Karamoja are very vulnerable, the semblance of being vacant, unoccupied, under bush has fostered the thinking that it is no body's. The mining companies in Karamoja have turned into middle men, buying from artisanal miners and using the mining licenses and leases to exclude other middle men from the minerals value chain. And because the influx of many persons into the mining sites has been so big, as the resource is considered every body's, this has resulted in a high supply of extracted minerals, thus the prices are low at best on the part of the artisanal miners this is subsistence mining.

1. The Context in Uganda

In Uganda, extraction/ mining activities can be described as both artisanal & small-scale mining (ASM) broadly referring to mining practiced by individuals, groups or communities often informally and at times illegally and industrial mining or large-scale mining (LSM). A global/ common definition for ASM is not established as its legal status, defining criteria, and other definitions vary from country to country. Yet, ASM is often conceptualized by comparing it to large-scale mining (LSM), which involves companies with employees and mechanized operations. The extraction process involves the excavation of raw materials from under the earth. The extractive industry consists of any operations that excavate metals, mineral and aggregates from under the earth. Some examples of extractive processes include oil and gas extraction, mining, dredging and quarrying.

Minerals exploration and extraction in Uganda is one of the core drivers for economic growth and an engine for achieving social and economic transformation. In order to spur growth in the mining sector, the Sustainable Management of Mineral Resources Project (SMMRP) was launched in 2004. This multi-year project was undertaken by the Government of Uganda and financed by the World Bank, Nordic Development Bank, African Development Bank and the Government of Uganda. A principal component of the SMMRP was an extensive high-resolution airborne survey of Uganda's mineral resources. By the end of the project in 2012, the Government had produced detailed maps of mineral resource endowments covering 80 per cent of the country geographical landscape.

Uganda's Extractive Industry (EI) is rapidly expanding after experiencing a downward turn due to the closure of the Kilembe Mines in the 1960's when mineral export earnings were recorded at 30% of foreign exchange and in the 1970's it constituted 8.5% of total export earnings⁶. This downward trend is attributed to political and economic instabilities which continued until the mid-1980s. The department currently reports the growth of the sector at 11% per annum and this is attributed to a progressive legal regime; the enactment of the Mining Policy (2001), Mining Act (2003) and Mining Regulations (2004). The Uganda minerals industry have steadily grown over the past ten years. Specifically, the sector grew at 19.4% in the financial year 2006/07 before

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stabilizing at 12.8% in the financial year 2009/2010. “GDP from mining increased to 238.87 UGX billion in the fourth quarter of 2017 from 221.65 UGX billion in the third quarter of 2017. GDP from mining in Uganda average 163.04 UGX Billion from 2008 until 2017 reaching an all-time high of 239.80 UGX Billion in the fourth quarter of 2015 and a record low of 98.26 UGX Billion in the fourth quarter of 2008” (Trading Economics)⁷. Foreign Direct Investment (FDI) in the mineral sector increased from US \$5 million in 2003 to an estimated US\$ 4.4 million in 2016/2017⁸. Within this period, there has been growth in licensing for both exploration and production of minerals and mineral products. Revenue from license fees and royalties increased from US\$ 0.5 million in 2003 to US\$ 4.14 million in 2016/17; mineral rights (licenses) issued, increased dramatically from 100 mineral licenses in 2003 to over 818 by the end of FY 2016/17. The sub-sector’s positive developments notwithstanding its contribution to GDP remains minimal (less than 1%). This is evidence of the sub-sector’s limited potential to attract investments over the last seventeen years and the inadequate policy and legal frameworks enacted in 2001 and 2003 respectively.

Despite the rapid growth in the sector, industrial, large-scale mining still accounts for a negligible portion of Uganda’s mining activities. (ASM)⁹ still dominates. ASM accounts for approximately 20% of gold supply, 80% of global sapphire supply and 20% of global diamond supply. It also contributes to electronics with 26% of global tantalum and 25% of global tin. (Chapman 2018). The mining industry in Uganda is largely artisanal. Miners use rudimentary methods of mining. They employ less technology in the mining process and the most expensive mineral, gold, being also mined in the same manner. Industrial mining, which employ almost 200,000 Ugandans, is concentrated on a few minerals: limestone (for cement production), vermiculite, and pozzolana are the primary minerals in terms of tonnage, while gold is the country’s biggest export in terms of value (but remains concentrated in the informal sector). Iron ore mining, while of growing importance, has been halted on the national scale as the country attempts to build up domestic value-addition capacities (Alec Crawford, 2015).

The legal and institutional framework under which the extractive industry is governed is a critical factor in determining right of access, capacity and support to claim the benefits or losses accruing from EI activities. Aware of this necessity, the Uganda government developed the Mining Policy in 2001, enacted the Mining Act Cap 148 in 2003, Mining Regulations in 2004, The National Oil and Gas Policy 2008, and the Petroleum Exploration, Development and Production Act (2013). The existing legal framework for the mining is cognizant of the dominance of ASM in the mining sector production and the participation of women in the extractive industry and as a result a number of progressive clauses aimed at empowering women’s participation and regularizing and improving ASM have been incorporated into the law.

Objective 3 of the Mining Policy (2001) mandates the Department of Geological Surveys and Mines (DGSM) to “regularize and improve artisanal and small-scale mining” through the “light-handed” application of regulations; the provision of information on the availability of production and marketing facilities; the provision of extension services through miners’ associations; and

⁷ <https://tradingeconomics.com/uganda/gdp-from-mining>

⁸ Republic of Uganda, Draft Mining and mineral Policy for Uganda 2018

⁹ In this study, we use the phrase “artisanal and small-scale mining” and the abbreviation ‘ASM’ to mean “extraction activities which exploit marginal or small deposits, lack capital, are labour intensive, have poor access to markets and support services, low standards of health and safety and have a significant impact on the environment (MMSD 2002:315).



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the implementation of awareness campaigns targeting artisanal and small-scale miners while a policy mandate to support formalization exists, these institutional roles are not captured in the corresponding legislation.

In Objective 5 of the Mining Policy (2001) explicitly seeks: “To remove restrictive practices on women’s participation in the minerals sector and protect children against mining hazards”. Among progressive reforms in the legislation, Section 14 of the Mining Act has lifted an earlier ban on women’s participation in mining by stating: “Notwithstanding the provisions of any other law to the contrary, a woman may be employed in any underground work in any mine or in any operation or activity relating to or associated with mining”. In reality, less than 5% of persons employed in the formal minerals sector are women while women’s engagement ranges between 25% up to 90% at some sites in the case of extra-legal ASM. The mining policy is at advanced stage of review-the final Draft Mining and Mineral Policy for Uganda 2018 is before Cabinet. It has as one of the strategies of developing a framework for mainstreaming and formalizing artisanal and small scale mining operations to support livelihoods and entrepreneurship. Government will also provide frameworks for ensuring gender mainstreaming, inclusiveness and equity in the mineral industry to promote involvement of women, youth, persons with disabilities, marginalized groups and communities in decision making and program related to mining.

However, according to the Mining Act, 2003, section 114, a woman may be employed in any underground work in any mine or in any operation or activity relating to or associated with mining. This clearly indicates that women have the right to participate in the mining sector but due to the lack of information and cultural ties, women involvement in this sector is deliberately restricted. International Organizations like the World Bank, UN, JICA, USAID, EU etc., have developed guidelines, assessment tools, toolkits, guidance strategies and frameworks emphasizing the need and how to mainstream gender in extractive industry policies, legal regimes, projects and programs. ASM licensing is provided for in the legal framework by way of “Location Licenses” which pertain to “small scale operators” or “prospecting or mining operations which do not involve expenditure in excess of five hundred currency points (approximately US\$5000) or use of specialized technology [e.g. cajadination, floatation]” (Mining Act, 2003). The license is exclusive, granted for a two-year period and renewable in two-year periods.

2. ASM, an Alternative Livelihood to Herding in the Rangelands

Most people who take part in ASM are the local people from the mining area community. Men, women and children take part in ASM globally. Most of these miners are poor and come from communities that have long been in the trade. For example, in countries like, Bolivia, Colombia, Indonesia, Mali, the Philippines, and Zimbabwe artisanal miners usually come from families with a long tradition of mining but do not necessarily get involved full-time. In these countries, artisanal miners work seasonally; in a country like Malawi, artisanal miners get involved in mining gemstones only in the dry season when there is little or no agriculture work. Sometimes people take on mining as a last resort in hard economic times as has happened in Bolivia, Peru, Venezuela and Zimbabwe and most of the African countries. However, artisanal miners are also drawn to an area because of newly found minerals

It is impossible to know the exact number of artisanal miners since most of them work illegally out of the recognized institutions, policies and structures. However, millions of people depend



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on ASM for their survival. According to (Chapman 2018), the mining sector has expanded from 6 million people being directly engaged in ASM in 1993, to 13 million in 1999, 30 million in 2014 and 40.5 million in 2017. Compared to only 7 million people working in industrial mining in 2013. She also indicates that, according to a report by the Intergovernmental Forum on Mining, Metals and Sustainable development, there are anticipated 150 million people living in 80 countries in the global south (Latin America, Africa, and the developing countries in Asia) who depend on ASM for their livelihood. So the question is; “Is Artisanal mining worth it?” Most research points to artisanal mining as rudimentary, very low-tech and it is mainly labelled as very dangerous to human life and the environment. It is characterized as exploiting marginal or small deposits, lacking capital, labor intensive, with low rates of recovery; having poor access to markets and support services with low standards for safety and health; and, having a significant impact on the environment.

With this long list of disadvantages, one wonders why artisanal mining is considered at all as an alternative to herding in the rangelands. Dry lands do not allow for many options for job opportunities. FAO has defined dry lands “those areas with a length of growing period; this includes regions classified climatically arid, semi-arid and dry sub humid.” Arid regions have 1-59 growing days, semi-arid have 60-119 growing days and dry sub humid regions have 120-179 growing days. Together these areas make up 45% of the world’s land area: 7% arid, 20% semi-arid and 18% sub humid. (FAO 2000)¹⁰ Agricultural productivity is very low in these areas and most people engage in herding (nomadic pastoralism) for subsistence purposes; these activities do not yield a lot to help grow the economy or the people living in the dry lands. However, most of these dry lands are well endowed with minerals, for example; some of the most productive petroleum areas on earth are found in arid and semi-arid areas in Africa and the Middle East. For example, Kenya’s oil in semi-arid Turkana, Uganda’s Karamoja is endowed with limestone, uranium, marble, graphite, iron, wolfram, nickel, cobalt, tin and gold. (Mwesigwa 2014).

While Location License category is aimed at encouraging formalization and legalization of ASM, less than 5% of artisanal gold miners hold or work on Location Licenses. The procedures for license acquisition are somewhat complex.¹¹ Location license applicants must be individuals or association members that hold Ugandan citizenship or companies that are more than 50% Ugandan owned. The legislation does not require specific types of association but Ugandan policy, in general is supportive of co-operative formation. Quite clearly like, Greg Radford (Director IGF) said, “For many people in the world’s poorest countries, ASM is the only route out of poverty, or the sole way to boost meagre incomes when there are few job alternatives.” Therefore, instead of spending huge investments in agricultural projects like herding that don’t often live up to any expectations, if governments invested in ASM in dry lands, the local community would thrive better. ASM already contributes a relatively good share to the different economies, therefore, if the miners were trained and availed better working tools and policies and structures are put in place to protect the miners; including market security, the poverty levels would reduce in dry lands and the quality of life would greatly improve. Therefore, it is very vital for Governments to start looking at ASM as an alternative to herding in dry lands.

¹⁰ FAO. (2002) Definitions of Drylands and dryland farming. Retrieved from: <http://www.fao.org/docrep/>

¹¹ United National Environment Programme (UNEP) 2012, Analysis of formalization approaches in the artisanal and small-scale gold mining sector based on experiences in Ecuador, Mongolia, Peru, Tanzania and Uganda



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3. Tensions over Land and Resource Tenure in the Rangelands

Land and resource tenure refers to the rights of one or a group of people to use or own land as a resource but also use the resources on the land like water sources, forests, air and other resources as mentioned above. Therefore land and resource tenure tensions would refer to disruptions in the rights to use or own land or resources in mining areas. Land and resource tenure in dry lands is fluid since most of the activities in dry lands require a lot of migration. People in dry lands move from place to place searching for water for their survival, food and sometimes pastures for their animals. However, this fluidity is made worse when the area has gone through a phase of conflict. As the community recuperates and as people find their place in society and as people from the local community identify their property and how to use it, the discovery of minerals is more of a curse, than a blessing. In areas where land is communally owned, tensions have ensued in the context of large scale migration and resource extraction for example in the Pacific Islanders, the connection they felt with their territory and the central role this territory plays in their conception of who they are, shows they can never fully accept permanent alienation from their traditional land even with monetary compensation. (Wilson 2006)

An example of Karamoja region in Northern Uganda that was ravaged by a civil war for a long time, from 1987 until recently after 2010. As it was just starting regenerating, minerals were discovered all over the region. (Mwesigwa 2014), "Huge mineral deposits in Uganda's Karamoja region, expected to regenerate the conflict-ravaged area, could instead further deepen the suffering of people living there." (Das 2015) suggests that when a development project commences, the public is focused on development without calculating the cost at which it comes. And therefore since this is just a cost, the government reduces it to compensation, rehabilitation and resettlement thus turning the entire thing into a game with the government and the plant/mine owners trying to minimize the 'cost'.

With the discovery of minerals in Karamoja, so much was left not thought through, most of the planning went to resettlement and calculating the cost. However what was forgotten is that, not so long ago, Karamoja was a war torn region. The people lost most of the things they held dear, and their people. Therefore to them, land is the one thing they can all identify with and call their own, the one thing that could not be taken away from them. In technical terms land tenure is "the relationship...among people... with respect to land and other resources"¹². In simple terms, land tenure systems determine "who can use what resource of the land, for how long, and under what conditions" (FAO (2002) *ibid*, pg. 7). As with land and natural resources, land tenure is often used in a way that includes natural resources tenure. Recognizing that land tenure is an institution that is a set of "rules invented by societies to regulate behavior" is an important step in understanding the relationship between land and conflict. Disagreements regarding these 'rules' are often at the heart of conflict.

Marked with chronic poverty and ranking among the regions in the country with the worst literacy rate, the community is more susceptible to land grabbing. According to a Human Rights Watch report, "How can we survive here: The impact of mining on Human Rights in Karamoja", as companies began to explore and mine the area, communities have expressed fears of land grabbing, environment damage and a lack of information as to how and when they will see improved access to basic services or other positive impacts. Fears of land grabs, loss of

¹² FAO (2002) "Land Tenure and Rural Development", Land Tenure Series No. 3, page 7.



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access to mineral deposits, water contamination and erosion, forced evictions and failure to pay royalties to traditional land owners have already prompted communities to question the companies and their own government's role in the companies' operations. From the onset of the extractives operations, there was already mistrust and suspicions because the community lacks the needed legal knowledge to understand the process of mining, acquiring land and compensation. Since the land in Karamoja is the livelihood of the people who live there, it provides the food, income and shelter. But the importance attached to the land is further greater than money could buy, therefore it is close to impossible to displace the people in Karamoja from their land in lieu of compensation.

4. Land and resource tenure conflicts in the mining areas of Karamoja

4.1 Conceptual framework

Research has shown that land and conflict are inextricably linked. Where there is conflict, land and natural resources are often found among the root causes of conflict or as major contributing factors. There is a wealth of precedence, both local and international, that traces the importance of value communities attach to their land for social, cultural, economic and other reasons. Land has a variety of characteristics that lend themselves to conflict. Land for example is a valuable asset. National economies require land as an important input for development. For many households, access to land is central to food security and is a source of cash income. In addition, land may be the only significant household asset to be passed down to future generations. Land is also an important safety net for poor households, during an economic down turn, households can fall back on subsistence farming to sustain themselves; and in extreme circumstances, land can even be sold to ensure family survival. Land however is much more than an economic input or asset. It is also a source of identity-in many societies; land and identity are inextricably linked; the history, culture and ancestors of communities are tied up in land; without land, a community may lose its distinctive identity. Due to its economic, social and emotional importance land is also an important source of power-perceived threats to security, livelihood or identity can mobilize communities to engage in violent conflict.

Therefore, understanding the complicated roles that land plays in society is fundamental to comprehending its role in conflict. The exploitation of extractives has often been cited as a key factor in triggering, escalating or sustaining violent conflicts around the globe. According to available research, violent conflict¹³ is most likely to occur where:-

- There is inadequate engagement of communities and other stakeholders-where communities and other stakeholders-where communities have been systematically excluded from decision-making processes
- There is unfair distribution of the benefits, costs, risks and responsibility associated with extractive industry (EI) development
- There is excessive impact of the EI development on the environment, communities and the local and national economies.
- When the burdens associated with EIs clash with local, social, cultural, religious and environmental norms, or align with pre-existing tensions

¹³ The Canadian International Resources and Development Institute (CIRDI) has defined as "the interaction of two or more parties with perceived incompatible goals, who engage each other through a range of practices including dialogue, persuasion, negotiation, arbitration, legal action, protest, intimidation and physical violence". See [The Rise in Conflict Associated With Mining Operations: What lies Beneath](#)



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- There is inadequate institutional and legal framework to govern the EI development and management of funds.

Thus the identification and understanding of determinants involved in the initiation and evolution of conflict, which define the broad enabling environment in which conflict is either created or avoided is critical. Globally, tensions often occur because of the environmental degradation, land expropriation, migration and unequal job allocation in relation to the people who lived or had the land rights before the mining. (Wilson 2006). This struggle is reflected in world- wide land and resource rights violation of the masses especially in areas of customary land or where the land rights are not properly defined, especially in instances of indigenous people . The struggle for the land and resource tenure begins with the discovery of minerals. The process of relocating, displacing the land owners, environmental implications.

4.2 Extractives and Conflict: causes, drivers, triggers and manifestations

4.2.1 Land grabbing tendencies of mining companies

(Vidal 2012), Huge increase in large-scale mining is being fueled by the rising price of metals and oil a search for minerals centers on Africa. . A report authored by International Alert published by Thomson Reuters Foundation News states the dilemma that comes with the discovery of oil in the Albertan region of Uganda. Expectations of the people to gain from the oil has led to an influx of thousands of people from all over Uganda into the oil regions. As the mining activity increases with time, there have been numerous complaints of land grabbing. The wide argument is that with an overwhelming increase of mining activity all over the world; in 2012, coal mining by 45% and metals like lithium by 125% across Africa and Latin America, more and more lands are being devoured by mining activities. (Vidal 2012).

That the catalogue of devastation is growing, it is no longer an issue of isolated pockets of destruction or pollution but large and disastrous destruction. "Industrial wastelands are being formed by vast open-pit mines and mountains top removal, and the poisoning of water systems, deforestation, and the contamination of topsoil. This is according to a report by Gaia foundation and groups including Friends of the Earth International, Grain, Oil watch and Navdanya in India. The argument is that, even if people are not physically evicted and their land grabbed by mining companies, mining is already making the land very inhabitable. With the pollution and land contamination, the land is as well grabbed. With time, populations will find the land unsuitable for human settlement and they will have to settle anywhere else but their own land. "Humans have almost cleared the surface of the earth. Now all efforts are geared towards going beneath the surface. Large scale mining is now targeting all parts of the planet." (Vidal 2012)

While the case of wide displacement is ongoing, narrow or direct displacement has been happening over the years globally in mining areas. This is where mining companies coercively or forcefully or compulsorily acquire land from the local communities around mining areas, leaving them displaced. A more specific glimpse into the kind of land grabbing in mining areas; Australia has had one of the most outstanding conflicts between land owners and a mining company. Adani, a mining company was granted three mining leases by the Queensland Government in which one of them is being contested by the aboriginal on the land, the area contested on includes a 2750 hectare area over which native rights must be surrendered to provide access to land required for critical infrastructure for mine operations like an air strip, washing plant, worker's village and others. The question of the government allowing the mining



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company to continue to forcibly take over the land by law is not ruled out. This however poses a moral and as well human rights question on whether the property rights of the aboriginals will stand ground or rather priority will be given to mining. (Lyons, Brigg & Quiggin 2017). Since in most governments minerals belong to the governments, therefore, by law, if minerals are discovered in an area, the local community has to surrender their land for compensation. How this is done normally creates a question of conflict of interest for the local communities. According to Environment Justice Atlas, some residents of Buliisa district in Uganda currently a mining area for oil, contested the amount of compensation suggested by the mining companies and their compensation was increased while in many other cases evictions and land grabbing occurred without any compensation and protests were repressed. Some residents end up under compensated while others are not compensated at all but are evicted from their land.

4.2.2 Exploration and mining license processes

An exploration license gives the holder the exclusive right to explore for the specified mineral group(s) within the exploration license area, during the term of license. (Planning and Environment). The main purpose of exploration is to locate areas where minerals maybe present and the viability of extracting the same. Globally, no mining companies are allowed to get involved in exploration for mining without an exploration license from the said governments. In Uganda, the requirements for getting an exploration license are; valid prospecting license, certificate of registration by Uganda Registration Services Bureau, Submitted PL returns, Map of desired area at 1:50,000scale, work program for the exploration operations, Project Brief, Executed form II and adequate financial competence.

It is important to note that, the government does not need the consent of the local communities to issue an exploration license or for their lands to be explored. This creates mistrust and suspicion as foreign people explore their lands without their consent. In some areas, rituals and cultures prohibit foreigners from going to certain areas of their land, like ritual grounds, home to their spirits. As discussed before, among the Karamojong people of Uganda, failure to pay respects to their royalties forced them to question the motives of the mining companies and a lot of mistrust in the government. Most of these areas are occupied by illiterate, uneducated people who don't know much about the legal processes of mining. Therefore, this is bound to cause clashes.

“There is nothing bad about companies coming, but what we hate is the way they come, don't show us respect, and don't show us the impact of their work for my people”, said an elder of one of the Karamojong tribes of Uganda, Human Rights Watch. According to the Human Rights Watch Uganda Report, 2014, the mining companies in Karamoja have consistently failed to secure free, prior and informed consent from the local communities before they started operations on communal lands. The central and local government have failed to insist on this established international standard. Therefore, these companies come promising local communities benefits like, schools, companies, hospitals, jobs but often exploration work continues without the locals seeing the benefits.

Mining companies are acting legally in exploring the mining areas with licenses but informing the local community especially the local leaders about their activities is an important step that would stop mistrust and clashes between the local community and mining companies, but it is also important to start on the basis of trust especially when dealing with communal land.



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4.2.3 The customary land tenure practices.

In East Africa, Uganda still faces very many challenges as regards mining and the nexus of land tenure and resource rights because most of the mining areas are found in areas where the land is owned communally. In one of the gold mines, in Mubende district in Uganda, the artisanal gold miners have defied the government's eviction in favor of a gold mining company, most of who are residents of the area. Although they were faced with other resource tenure tensions like air and noise pollution, or polluted water, the residents are now facing displacement. (The Observer August 4 2017).

A look at Tanzania's land system (Lange2008), there is private ownership of land in Tanzania, individuals have rights to land but ownership is vested in the President. People with land rights are supposed to be compensated for the investment they have done on the land. However, this has been problematic as in many other African countries, because customary land tenure and village ownership of land is not surveyed or registered and the locals lack knowledge about the laws, consent is sought from people with registered land tenure. This why there have been many instances of land grabbing in different mining areas of Uganda as the mining companies and other individuals take advantage of the situation and fail to compensate the local communities or completely grab their land without their knowledge. This because, these individuals find a gap in the land tenure system, where the land does not have a land title or a well-defined ownership system.

The land and resource tenure tensions have been worse in the Karamoja region because of the land tenure system which is customary and communal. Interviewed by Human Rights Watch (July 2013), the mining community organizer said, "We want to see our natural resources exploited, but our people should not be. Pastoralism lives here, we are pastoralists the land looks vacant but it is not." The land in Karamoja is mostly communally owned and used jointly for pastoralism. But since most people are nomadic pastoralists therefore, over time they move from one place to another looking for pastures for their cattle to sustain their livelihood, leaving the land vacant and more easily susceptible to land grabbing. The customary land tenure system that allocates land according to use (grazing, worship shrines, hunting grounds, homestead and gardens) gives a false picture of land ownership and availability to 'outsiders' because of the presence of apparently unoccupied areas.

The nature of the people of Karamoja being pastoralists, the resource tenure tensions are heightened with mining. Mining degrades the land and therefore they cannot find fresh pastures and water for their animals. In the same interview a community member also said that, 'famine has killed many people in this place. Drought has dried the crops. Even wild animals are suffering.' This is a clearer statement of land tenure and resource tensions, where mining has made the remaining land inhabitable for the land owners and wild life. In Tanzania and Kenya, indigenous people living on land owned communally inhabiting an area with minerals have faced the same fate. Where land tenure systems are well defined, land owners are easily compensated. For example, a simple process like compensation in unstable land tenure systems becomes complex. Even when paid to local communities, compensation payments hold the risk of causing conflict as non-recipients dispute the claim of recipients. (Hilson 2003) this is because there are no specific land owners and therefore clear compensation channels.



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In countries where land and resource tenure systems are well developed, tensions are less likely to occur. (Boudreaux 2013) states that when land and resource rights are clear and enforceable, this motivation leads to exploration, use and sale through ordinary market processes. He argues that however when resources are located in areas with conflicting tenure regimes or when local people have insecure tenure over valuable assets, predatory actors (public and private sector) often struggle for control of these assets. In Europe, because of a more developed land and resource tenure systems, the tensions over land ownership are very less likely. However, resource tenure tensions are more pronounced for example, access and ownership of clean water resources.

4.2.4 Elite capture of the land rights from communities.

In the local communities, there are the locals (the illiterate) and the elites. In the face of land and resource tenure tensions, the elite are more likely to benefit than the illiterate. First of all, the elite will be able to interpret the basic law and therefore their rights will not be easily violated like the illiterate who cannot read, let alone understand and interpret a law about their property ownership. Therefore even if there is compensation, the illiterate can be easily cheated. According to Human Rights Watch, in order to establish control over the concession and to build a stable environment, mining companies are inclined to negotiate with local elites and in turn these local elites seek to consolidate their power and benefit from the proceeds of the large mining sector at the expense of the locals in the community. Most times the elites take advantage of the situation and grab land of the uneducated locals and sell it to the mining companies, they end up benefiting more from the mining than the locals, and violating their land rights since they don't understand the legal processes fully.

4.2.5 Multiple land management and administration regimes.

"With perhaps over 50% of the world's land surface de facto managed by the indigenous peoples and local communities, there is need to recognize and subsequently document these rights to land and associated natural resources. Many of these systems have been governed through unwritten, though locally legitimate customary norms that rely on traditional leaders. With the recognition of customary rights there is also a need to ensure that state and customary institutions are able to communicate, share information and work toward complementary objectives." ("Customary Land Recognition: Zambian Approach to documentation and administration.").

Statutory land and customary land often co-exist in different levels in society. Educated urban elites tend to use the statutory tenure system while the illiterate or less educated rural tend to use customary tenure system. The presence of a dual system of land tenure can present conflict and confusion and therefore there has to be a way of integrating the two. In the past, most countries thought that civilization would just wipe out the customary tenure system replacing them with titled statutory systems. Experience now shows that this has not been possible and will not be at least in the short term. But also according to (Freudenberger 2013) as customary systems are undermined they leave a huge void that statutory systems may not be able to fill given the limited administrative capacity in many countries. Therefore a gap needs to be bridged where customary land tenure can co-exist without causing conflict and confusion. Most of the land in Karamoja is communally owned, therefore it is not demarcated or registered and therefore it would be close to impossible to decide on individual demarcating and registration, this would cause more conflict and confusion. Uganda Land Alliance empowered



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the locals in Karamoja to fight for their land rights from land grabbing and tried to form Community Land Associations which are legally recognized in the 1998 Uganda Land Act. However these have not been very successful in reverting land grabbing or claiming fair compensation. (International Land Coalition).¹⁴

(Freudenberger 2013) says that it is important that customary land is formally recognized and provided a legal “space” for customary tenure rights by creating a hybrid model that combines both elements of customary land and statutory tenure. This would definitely bridge a gap that stands between the two systems and they would still co-exist. This would ensure the reduction of land and resource tenure tensions under customary land because of its undefined nature, but it would also protect the customary rights of the local communities from encroachment.

4.2.6 Disconnect between the land and mining sectors

It is inevitable to note that both policy and practice have a very big role to play in the land and resource tenure tensions in mining areas. In this case, policy refers to the laws, guidelines, and generally the legal framework governing the mining and the land and resource tenure system. When the land sector and the mining sector are not in sync, this results into tensions among the mining communities.

“Local property rights systems largely affect the extent to which minerals can be become a conflict nexus. When communities possess well established statutory and/or customary land rights, the presence of mineral resources does not necessarily undermine social harmony.”
(USAID brief issue 2013)

This is well reflected in how most of the European countries have managed to control land and resource tenure tensions, with better relocation, damage control and compensation policies. Which is different for most African countries especially in areas where there is customary land. An example of; Some countries like Greenland and Denmark have completely shut down the mining of certain minerals that rise tension in resource tenure like uranium mining because of its dangerous pollution to the surrounding people. With several different mines all over the West, the most common tensions are resource tenure tensions, which raise moral questions as regards to the environment. (Strategic Assessment of development of the Arctic factsheet 2014) With strong laws and policies people are protected from human rights violations and land and resource tenure tensions.

The Mining Act 2003 allows for mining companies to explore land for mining without the consent of the locals living on the land which is bound to cause conflict. Especially under customary land, where land is owned and administered by communities and their traditions. Some of these traditions do not allow for “foreigners” to go through their land without the permission of especially the elders. “While Uganda’s mining law requires a surface rights agreement to be negotiated with land owners prior to active mining and payments of royalties to lawful land owners once revenues flow, the law does not require any communication or consent from the local population during exploration work. And despite Uganda’s land laws recognizing customary land ownership, the land Board has not yet granted any such certificates anywhere in the country.” (Human Rights Watch Report, 2014). This clash between what is required by

¹⁴ International Land Coalition. Communal Land Associations claim compensations in their territories. Retrieved from: <http://www.landcoalition.org/en/bestpractice/communal-land-associations-claim-compensations-investments-their-territories>



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standards of customary land “laws” and the mining law has led to fears of land grabbing in Karamoja and distrust between the locals and the mining companies.

The Uganda Mining Act 2003, which has been under review provides for protection of the rights of the land owners and their environment. It also provides for small scale associations to apply for a license over a particular area. This is mainly aimed at avoiding collision of small scale miners with large scale mining companies but also amongst the small scale miners themselves. Most of the artisanal miners who are majorly the local community who used to own the land, have been asked to form associations and purchase these licenses to avoid evictions by the government, for example, the artisanal miners evicted from Mubende district in the gold mines have been asked to form these associations. (Muhumuza 2016). However, the challenge is that most of those areas are already licensed to companies, (who are not even locals) but also it is expensive for these artisanal miners who mostly depend on this small scale mining for a living and have no other sources of income to purchase a license which goes for 2.5 million Uganda shillings.

If laws are weak for example on resettlement and compensation, land and resource tenure tensions are definitely bound to arise. In most counties, minerals belong to the state and not the individual land owner. However, the technicalities come in with how the legal framework caters for resettlement and compensation of the land owners. In cases where there is a lacuna, the land rights of the owners can be violated. For example, According to Uganda Land Alliance (“Compulsory land acquisition” 2017) the controversial land bill does not allow land owners to enter negotiations with the mining company but the government instead to liaise with the mining companies on their behalf and compensated as deemed fit. This could see many land owners lose their rights to land ownership without contest. For the rights of the land owners to be protected, the land and mining sectors have to be in sync. There is need for the land and mining sectors to harmonize the different laws governing the two sectors to reduce tensions in the local communities.

The Uganda Mining Policy 2001 according to Chimp Reports, a local tabloid, had been under review for the last three years in 2017. (Aryatwijuka 2017). The review process involved a wide range of stakeholders in the consultative process. Currently the final draft mineral and mining policy 2018 is still waiting cabinet approval. Some of the issues involved are that, the Mining Policy 2001 has irregularities in licensing processes, for example the criteria of how miners especially local miners get licensed is not clear, lack of formalization and regulation of ASM miners, revenue sharing, the issues of occupational health and safety, environment and protected areas among others. (Chimp Reports, July 4th 2017. It’s time to pass the New Mineral and Mining Policy). The National Land Policy 2013 under paragraph 3.8 caters for sharing of benefits from minerals by locals, seeking consent from the locals and availing information on the projects. While the mining policy 2011k8 neglects some of these, the National land policy provides for them. However, both tend to neglect the important aspects of environment, health and safety of the local community staying in mining areas.

“Responsibility for the issuing, supervision and enforcement of mining agreement 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



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enforcing licenses and their holders.” (Mining in Uganda: A conflict sensitive analysis, August 2017, pg.; 9)¹⁵.

4.2.7 Tenure transformations induced by mining activities

Mining operations lead to growth and development of infrastructure in mining areas especially in rural areas. Roads are built to enable transportation of minerals and mining equipment. Towns are developed and other services are brought closer. However, mining activities also contribute to land and resource tenure tensions. In cases where mining practices are archaic or less modernized like in most artisanal and small scale mining instances, land and resource tenure tensions are bound to erupt. A USAID brief issue (2013) suggests that ASM create more tensions, because of the way it is structured with mainly poorly paid employment in difficult working conditions, mining under artisanal or small scale has become one of the leading causes of land and resource tenure tensions in mining areas because of its negative impact on the environment and livelihoods, fierce and sometimes violent contestation over the control of and access to mining sites.

Artisanal mining generally receives negative reactions from governments and mining companies. This is mainly because of its poor methods, poor production and the social and environmental problems associated with it. Most small scale and artisanal miners use very low-tech and employ poorly trained uneducated people (Hilson 2003). This has not only had far reaching impacts on land rights because the whole structure is fluid but also adverse effects on human life, the environment and the land where they're mining.

However, all mining at large, has far reaching effects on the land most times leaving it less favorable for settlement. From the onset of open-pit mining, it involves, cutting of trees and the vegetation around the mining areas. This alone deprives wild life of their habitats, contamination of water sources that the locals use in the daily running of their activities and consumption for example through acid drainage and contaminant leaching, erosion of soils and mine wastes into surface waters and death of aquatic animals killing the livelihood of some of the local people. Mining also affects soil quality. According to (Guidebook for evaluating mining project EAs), soil contamination is in two categories; one from air blown from windblown dust and two from soil contaminated from chemical spills and residues. According to Human Rights Watch, people in Karamoja are already facing the impacts of mining in their areas.

What has been done to curb the effects on the land and resources?

Some mining companies have tried to put in place measures to reduce on the resource tenure tensions, for example enabling access to clean water, like the Heritage Oil Company put measures as regards waste management, according to the Thomson Reuters Foundation News, one local community member (William Kato) was interviewed and he explained that Heritage Oil Company brought them water from the hills and accessible to everyone, unfortunately when another Oil Company took over (National Offshore Oil Corporation) the regulations came to a standstill. So the locals now use and drink the untreated contaminated water. (Ssekika 2017). This is because of a gap in the government polices regulating mining companies.

¹⁵ Safer world, August 2017. Pg.; 9. Mining n Uganda: A conflict sensitive analysis.



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Steps have been taken towards improving the process of mining to reduce land and resource tenure tensions. Artisanal mining, has been considered archaic and more harmful to the environment and the people, several governments have either worked towards abolishing artisanal mining or building a framework where this type of mining is done in a safe way. In Uganda, artisanal mining has been in the limelight as a way of including the local community to benefit from the mineral resources, but it has also been identified as a very dangerous trade and therefore in a way the government has tried to regulate how it is done.

4.2.8 Livelihood vulnerabilities and inequalities in mining communities.

ASM vs. Large scale mining companies

While there are land and resource tenure tensions, different groups benefit from this conflict while others are left behind, and in some instances while all groups are affected, some are susceptible to more harm than others. “Land and mineral resources are associated with material inequality due to unequal control over value producing assets.” (Tilly, 2006: 21). Where there are tensions, in some instances small scale and artisanal miners thrive more than bigger mining companies. (Fisher 2007) seems to suggest that artisanal miners build on pre-existing institutions, relationships, practices and knowledge that enable them to gain access to mineral resources, organize production and market their produce. It is important to note that in most instances, these artisanal and small scale miners are locals who live nearby therefore can easily take advantage of the situation. However, in most instances the rights of artisanal and small scale miners are at stake because they are not legally recognized and attract negative reactions generally from the government. In times of tensions, artisanal miners are more likely to face dismissal and strict regulations against their activities. This leads to what is known as social exclusion, this is where a state prevents individuals or groups from full participation in social, economic and political life and from asserting their rights. (Fisher 2007).

A case in Uganda, the Mines Director ordered all ‘illegal’ artisanal miners out of mines and further describes artisanal miners as a menace to the mining sector. (Ssekika, November). A report by United Nations Environment Programme (2012) indicated that there over 20,000 artisanal miners all over Uganda, these solely depend on the mining as their source of income. Therefore, with tensions and strict regulations keeping away artisanal miners, most people are left unemployed, their rights to work, freedom to use natural resources combined with their land rights (since most of them are among the communal land owners) are violated in favor of larger scale mining companies which in turn provide more tax revenue to the government. (Ledwaba 2017) adds that small scale and artisanal miners are faced with a number of challenges in South Africa relating to access to mineral rights, access to capital, access to markets, inadequate skills and knowledge. Therefore, they’re not set to benefit from the mineral resources and more so, from the tensions resulting from land and resource tenure.

Men, women and children at the center of land and resource tenure tensions.

At the center of the land and resource tenure tensions in mining areas are men, women and children and here lies perhaps the greatest inequality of all in the mining sector. “Women are present in high numbers in ASM zones, yet little is known about their livelihood practices and the impacts of increased mining activity and heightened regulation” (“Women in artisanal and small scale mining in Central and East Africa: Empowerment challenges and possibilities” 2014). It adds that while making adjustments to regulate the tensions, two critical research gaps are left out; the socio-economic, including gender dimensions and potential to support or hinder



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women's economic empowerment and the gendered impact of regulatory initiatives. Both these gaps have been cited as leading to informed policy interventions (especially in times of tensions) that tend to characterize ASM as illegal thereby marginalizing the women. (Research by Carleton University).

While unlike the men, women cannot be easily employed by the large scale mining companies, therefore they continue to work under the informal ASM because mining is still largely a male dominated sector regardless of geographical location, slowly women have been integrated into the industry but females continue to be under-represented. They face a lot of resistance from men with sexist tendencies who do not allow to be led by a woman or do work like a woman does since they are generally seen as weaker. (Worldwide recruitment solutions, an interview with Wilhelmina Manaso, Mine Manager. BHP BILITON in South Africa April 2014). A story by a one Marta Tshilumba published by The World Bank (October 2017), describes the ordeal of women in the mines in the Democratic Republic of Congo. She says women work as hard as men but are not paid as their counterparts the men. (Hinton & Veiga 2003) state that women's roles at the mines go further than just mining unlike men, women are more involved in processing activities which are more often conducted in their homes and therefore they stand a very high risk of mercury poisoning and silicosis. They also state that women are also more exposed to sexual exploitation and sex trade for employment.

Children's rights are more susceptible to violation if their mothers especially, and fathers or care takers work in mines especially under the ASM. Mining of any sort is an extremely dangerous activity for the children and yet according to Amnesty International, children as young as seven are mining cobalt in DRC. Tens of thousands are found in the gold mines of Africa, Asia and South America ("Industry giants fail to tackle child labour allegations in cobalt battery supply chains" 2017). These children's rights to education, health, and many other rights are violated. Therefore, whereas the land and resource tenure tensions might affect all the locals, women and children are the most vulnerable and likely to be affected more than the rest.

Local communities vs. local governments.

Local communities compared to local governments are more affected by land and resource tenure tensions. Very many people from the local community are primarily affected since as discussed before, they derive their livelihood solely from the mines. Therefore, it is their source of income that is affected which barely affects the tax base of the local governments since most of the locals are 'illegal' artisanal miners who do not even pay tax.

The land and property ownership rights in case of tensions could be forfeited, while the local governments stay. The local people have to be re-settled and leave what most of them call ancestral homes. These tensions can however benefit the local government especially when large scale mining companies are put in place which produce more income and increase the tax base. An example is the Peru silver extraction center, there is no doubt that mining has grown in Peru from the country's perspective, growing the tax base and bringing the country significant wealth, however the question still stands, in the midst of land and resource tenure tensions have the native people actually benefited from it? There has been sizable immigration which has brought about gentrification but also dislocation of native inhabitants. (Loayza & Rigolini 2016). Over time, the local community around mines has tried to settle the tensions arising from land and resource conflicts within their circles locally. However, these meetings and resolutions do not normally hold for long if they are not legally enforced before the tensions rise again. An



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example is the Buliisa District, one of the oil rich districts in Uganda ,case where ‘outsiders’ allegedly fraudulently sold land belonging to members of the local community, they were brought to a meeting and the people who sold the land were pressured by the community to return the money to the person they sold the land to. However their informal agreement did not last and they were attacked and beaten by ‘thugs’ in one of their meetings to resolve this land case. This is to show that even with the effort of the local community to end their land conflicts, government still has to intervene and enforce some of these issues with laws. (CM 2012)

An article by a popular tabloid, Chimp Reports, indicated that under the directive of the President of Uganda, the artisanal gold miners in Mubende had been evicted to curb foreign exploitation and mercury contamination. While thousands of these miners were left unemployed, institutions under civil society like Water Governance Institute with projects aquaponics have been widely introduced to cater for displaced artisanal farmers to provide an alternative source of income. The SWFF/USAID project has been implemented in Hoima for the people affected by the oil projects. (Taremwa 2018). While the government of Uganda by evicting artisanal miners is trying to promote the common good of the people and the economy, it has ended up creating more tensions but the role of civil society in calming some of these tensions cannot be dismissed. Most civil societies have engaged in research and solution finding to the different land tenure problems all over the world and making recommendations to the governments since they are the primary duty bearers of human rights. Organizations like Human Rights Watch, USAID, have been main stakeholders in advising governments on handling land tenure reforms in Uganda.

4.2.9 Gazettement of dry lands into nature reserves.

Areas exclusively reserved for conservation in Uganda are; forest reserves, wild life areas and wetlands. Gazetting dry lands into nature reserves would mean, closing out human settlement, any mining activities and solely using the dry lands as nature reserves, habitats for wild life. Kidepo valley is one of the gazette nature reserves in Karamoja, one of the dry lands in Uganda. Kidepo valley has helped to conserve different species and bio diversity.

However, the question still stands , has Kidepo valley helped the local Karamojong community? It is important to weigh the pros and cons of having a reserve. While it helps to conserve some of nature’s most beautiful species and contributes a percentage to the tourism sector of the country, the local communities have not been able to economically benefit from the reserve and most of them cannot even afford to visit the reserve. However, mining in dry lands is more disastrous, it destroys the topography of the land, causes displacement and the effects of mining are long term and not to just a small fraction of the population but the whole population. Therefore, gazetting dry lands would be a better option to mining in dry lands. Like the US ambassador warned (Musasizi 2013), DeLisi urged Uganda to base decisions for the tourism sector on long term goals. He explained that, initiatives like oil drilling should not destroy the country’s biodiversity for quick and short term gains.



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5 Study Area and Approaches used

Why Karamoja? The Karamoja region located in the North East of Uganda, is richly endowed with over 50 different kinds of minerals, including but not limited to: gold, silver, copper, iron, gemstones, limestone and marble, etc. (Hinton et al., 2011). Over twenty foreign and domestic companies presently have exploratory and/or mining rights in this region. These numbers are expected to rise with growing demand for metals and minerals, favorable long-term trends in global commodity prices and increased exploration. (Houdet J., 2015). While other areas in Uganda have minerals, the persons who work at the mines in Karamoja are largely indigenous, presenting ideal study criteria where tracing the role of women is bench marked by more traditional occupation/ livelihoods. The specific district selected within the Karamoja region was Moroto which is host to most mining activities. Within Moroto, Tapac for limestone, Katikekile for marble and Rupa for gold were selected for inclusion in the study.

Study design. This study was designed to blend a strong literature review undertaking with a comprehensive community validation process while taking advantage of resources like the Young Researchers' Forum at Associates Research Trust Uganda to develop elaborate profiles of land and resource tenure tensions. Conceptually, the following were important:

- i) Documenting detailed descriptions of mining activities among men and women
- ii) Understanding the tenure transformative effects of mining actions.
- iii) Documenting the linkages between mining activities and conflict scenarios on land and land-related issues.
- iv) Documenting how industrial mining co-exists and affects ASM activities.
- v) Embedding a comparative case from Busia and Mubende gold mining sites.

Specific data collection activities. These included:

- i) Key informant interviews with district natural resources office, mining groups/ association chairpersons.
- ii) Focus group discussions with ASM miners at different mining sites in Moroto for gold, limestone and Marble; and, gold mining sites in Mubende and Busia.
- iii) Mining site transect walk for ground proofing involving, rapid appraisal questions, observation and photography.



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6 Field findings from the study

6.2 Industrial mining companies have land grab tendencies

Limestone Mining Sites: The cement company operating in Moroto District controls over 50 square kilometers of land from which limestone is extracted. The area is mostly in and around Kosiroi in Tapac Sub county. Whereas the company clearly has an exploration license and a mining lease, there are claims in the community that the company also has a 99 year leasehold title for the same land. In addition, the local communities express concern that they were never consulted about the offer and extension of such rights to the cement company. The local communities agree that they did attend consultative meetings with the company but deny ever signing consent forms of any sort, they only recollect signing meeting attendance lists.

Gold Mining Sites: At Akilong in Rupa sub county, it is not clear to whom the land on which the gold pits are belongs; while the area is understood as customary communal land by most miners since they access without any restriction, it was mentioned by some that the land actually belongs to an individual¹⁶. There are conflicts around the security of claims, it is not uncommon for some miners to opportunistically sneak into the pits of others especially if it becomes known that a particular pit yields better; often fights erupt over such matters¹⁷. Previously, 2-3 years ago, a company was allocated the gold mining rights in the same locality, a displacement of artisanal and small scale miners ensued. This company was quick to implement its exclusionary rights. It was not clear to the community whether the company was mining or exploring and yet no compensation was ever paid to anyone in the community for surface rights.¹⁸ The gold mining site straddles two sub counties, Rupa and Katikekile, at the time the industrial mining company was on the ground, a row over the border between the two Sub counties erupted in anticipation of the possible windfall from the payment of royalties. The boundary conflict has since thawed on the exit of the company. The company exited on claims that the deposits were not commercial.

Marble Mining Site: Conflict was reported with the industrial mining company over rights to the offcuts and chippings; the company had sought to establish a carbonate milling plant which was to use the marble rock offcuts and chipping offered to the artisanal miners in the community agreement. The conflict eventually involved the district authorities since it meant that the artisanal miners would be evicted from the site, a move they resisted. Secondly there was an attempt by the mining company to sell its interest in the mining site to another party, again the artisanal miners resisted because they were not sure whether the new operator would respect the community agreement.¹⁹

6.3 Mining activities are changing customary tenure

All the mining sites studied exist on land that was previously held communally under customary tenure with the rules of open access at play. These lands the study has established were controlled by clans and sub clans when the land use was predominantly grazing. Mineral extraction activities have triggered a process of alienation of this land from the clans and sub clans to individuals and mining companies.

¹⁶ KII Moroto district Gold miner at Rupa. Male.

¹⁷ KII Moroto district Gold miner at Rupa. Male.

¹⁸ KII Lutiang Leo Natural Resource's Office Moroto District 23rd January 2018.

¹⁹ FGD Men Katikekile Moroto District October 2017



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Marble Mining Sites: The industrial site at Katikekile is not expansive, on a hillside, it measures about 10 acres of core extraction activity although a larger area was under concession to the industrial mining company given the location of base camp housing units in relation to the actual marble extraction site. The local miners at the site have a mechanism of allocating plots to each other. Whereas this is not on account of clan membership, it is on account of who came first and who followed next. Those with plots are the ones with capital to operate them i.e. to finance extraction activities. At the marble site although there are many people, both men and women, young and old, most are there to provide labour to extract and crush the stones but they are not operators of the mines. Even when the site was licensed to an industrial mining company, an agreement was entered into with the local miners that gave rights over the stone offcuts and chippings. Hence industrial mining was taking place along site ASM activities. When the industrial miner collapsed, the local miners were quick to revert back to their old plots. It is important to note that these plots accessed without any charge; however, the tendency to exclude once allocated was found to be real.²⁰ At the other marble mining sites in Katikekile, land does not belong to all the people that mine on. The land was indicated to belong to specific clans although this does not stop people from outside that clan from mining. They mine without being charged, given the abundance of the resource, they freely locate where they want to extract from.²¹

However, there are instances of land rentals and evidence of negotiated access where even boundaries to different portions have been instituted. It emerged that the men apportion women different sites within the area, because they have to be very near and support each other in terms of labour. It was also indicated that depending on mutual understanding, one can rent out their land or portions if they are not using them as this is a way of gaining capital for a period of time. If one abandons their site, they can encourage the children, whether girls or boys to continue with the mining. However the children are not allowed to sell these portions to persons in different clans. When someone dies, any child can inherit the portion, be it girl or boy; to the Karamojong's, the girls and the boys are equally treated and they can survive if they have something to depend on. When the girls are married off, they still retain their family right to that portion.²² It is known that there is a company with a license on the land at Katikekile, despite this many people apportion to themselves in accordance to family customs, when one asks for land, she/he is given and markers established for the boundaries.

Limestone Mining Sites: The limestone sites are mostly located in the relatively flat plains of Tapac Sub County at Kosiroi. This was previously clan grazing land, the activities around the extraction of limestone have caused settlements to spring up in many places including the creation of public infrastructure especially roads where they weren't before. Again, the bigger population is of labourers, not mine operators. The tenure situation at the limestone extraction sites is driven by a different business model. The cement company, despite having the exploration and mining license opted not to deploy extraction technology/machinery but leave the community members to extract and then buy from them. This has driven a dramatic change with respect to the relationship people have with the land from which they can collect or extract stone for eventual sell. As is the case with nearly all land in Karamoja, the land here belongs to clans, while clan members were able to gain extraction plots free of charge, they on the other land levy a rental of 15,000- 20,000 Uganda shillings per truck load of stone extracted for none

²⁰ FGD Women Katikekile Moroto 25th January 2018

²¹ FGD Women Katikekile Moroto 25th January 2018

²² FGD Men, Katikekile Moroto District 25th January 2018



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clan members. Again evidence of the land market functioning was found. Several community members attested to the fact that they had purchased the plots from which they were extracting stone.

Figure showing change in tenure driven by mining actions

Change in status driven by mining company				
	State allocation of extraction rights over large areas through a mining lease or exploration license	Initially results in restricted access to areas by community on account of surface or sub surface mineral resources	Eventually results in complete exclusion from access by community on account of extraction	
Customary communal land tenure				Individualized customary tenure of land
	Allocation of extraction rights over plots	Persistence of open access principles at plot allocation	Private holding of plots in the course of extraction, rentals are evident, transmission of plot rights to family members	
Change in status driven by individuals in ASM				

Gold Mining Sites: The land is for the whole community so access is easy, but in cases where one buys land and finds that it has gold, they only allow their families first. Those years, they used to share with others but now when they buy, they do not want to share. What about if you buy the mountain will you still tell people to move? People now have different hearts. If it's a community land, we are allowed to dig anywhere you feel like you just start²³.

6.4 Tenure tensions are being used to distort mineral value chains

Whether it is gold, marble or limestone, the value chains of these minerals are organized in a manner that: First, the holders of the mining and exploration licenses are not the ones undertaking the primary extraction activities. These are undertaken by the local communities, who by reason of limited livelihood options see extraction of these stones as an important livelihood option. The Karamoja region has an environment that is hostile to sedentary crop agriculture, the only viable livelihood option is pastoralism. Therefore the emergence of mineral extraction a livelihood option with a shorter cash turn around period is a big attraction for many away from herding. Within this it should be noted that primary extraction is undertaken using the principles of open access to the resource, whereas this was good for herding on common pasture lands; for mining it creates an unlimited supply of extraction labour resulting in oversupply of the extracted minerals.

Second, the holders of the mining and exploration licenses, irrespective of location and mineral involved have positioned themselves as entities with exclusive mineral buying rights for the

²³ FGD(female)Moroto Gold mining at Rupa 23rd /01/2018



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areas they control, creating monopolistic enclaves where they control price and movement of the extracted materials. Third, this value chain distortion is classic to land and resource tenure tension, fueled also by existence of dual land management and administration regimes. Whereas land in Karamoja is subject to statutory law, making Area Land Committees, District Land Boards and District Land Offices the primary institutions to deal with land; the continuing resilience customary structures in land matters is an issue to contend with. Even, where mining companies have made claims, the residual authority still lies with the clans. This in itself sets a stage for conflict.

6.5 Elite capture is key in driving tenure tensions

In Karamoja land and resource tenure tensions scenario, elite capture is playing at two levels: the first level is institutional, where the Department of Geological Surveys and Mines the local government, the land management and administration institutions have all acted in a manner oblivious of the rights of local communities. The local government and the relevant institutions have failed to take into account the rights of the local community as regards to the land tenure system in the area. Therefore, this has made it easier for the elite to play along the law and grab the land belonging to the local community. The second level is through practice, where the elites have gone ahead to grab the land belonging to the local community without compensation. The elite work with the mining companies to exploit the ignorance of the local community and grab their land.

6.6 There are gender dimensions to land and resource tenure tensions.

Both men and women are faced with resource tenure tensions but the women in the Karamoja region are affected more than the men. According to the Head of NRO, the land in Karamoja was initially male dominated, owned by men. "It was still male dominated. It was profit oriented and a family business. The men dug the soil, the women fetched water, the men panned. The women got to sell too but the man kept the money yet they did the work together."²⁴ At Katikekile, the men say it is the father to give or allocate the child where to build and husbands allocate some land to their spouses. Therefore, generally, land and resources in Karamoja although communally owned belong to the men, as most of the miners comment, the land belongs to "their grandfathers". "In regards to ownership it is the men owning 70% of the land. The women have little ownership, they are supposed to own from the men."²⁵ Land and resources are still managed and controlled by men, who distribute the land to the children and women. Women acquire land; "through relations i.e. from a brother, other relatives, from friends and also family friends and they offer land to carry out mining."²⁶

At Tapac and Katikekile, it was noted that some men had more than one wife and some were divorced. When the husband has a piece of land given to them by their grandfathers and they have to divide it amongst the wives and children this can develop into conflict, especially on who takes which land but then also the land that would have been more efficiently bigger ends up divided into smaller portions. A question also arises on what happens when the husband divorces the wife after allocating her a piece of land. The wife is likely to face eviction from the land since she is no longer married to the man and therefore efficiently does not belong to the clan of the owners of the land. The status of land ownership by women in Karamoja solely depends on the men.

²⁴ Meeting with the Head of Natural Resources Office 23rd January 2018

²⁵ Meeting with the Senior Assistant Secretary 23rd January 2018

²⁶ FDG (men) Kosiroi-Tapac Moroto district, 24th January 2018



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In Karamoja, men are supposed to own bigger areas for security and protection, because women are regarded as weaker, and women are accorded relatively smaller pieces of land. The two constants in the Karamojong society; that land is distributed by men even when it is customary land and that women are looked at as weaker and easier to exploit, makes the struggle for land rights and ownership harder for women than men. Unlike their counterparts the men, women are paid a less amount of money. This is because women are only left to doing 'lesser work' like fetching water, firewood, selling food at the site, which means that at the end of the day, women take home lesser money than the men. Even when they spend the same amount of time in the mines as the men. Women production in mining is relatively smaller since most of the land is owned by the men (70%). However, even when their pay is smaller, some women are required by their husbands to give them their pay which they sometimes waste in alcohol.

6.7 Livelihood vulnerabilities in the communities have been exacerbated.

The livelihoods of men, women and children in the center of mining have worsened despite the sector availing a new livelihood option in the area. Karamoja being a dry land, the options of livelihood were limited to unproductive agriculture and herding being the main source of income. However with the coming of mining, more issues have been created that were not well prepared for.

"There is no rain, plantations die off. A borehole is dug but it also dries out. The government has come up with food aid and so on but it is not sustainable. The conditions are harsh. With a total population of 1400 people, all these are pastoralists, and majorly rare cows due to insecurity issues surrounding the area especially the bad weather conditions. Then due to weather conditions, people are getting into other source of income, then that is how we end up with the mining sector, sorghum is even grown. There are so many partners, interventions and donors trying to help. We are open to research because we want their living condition to improve."²⁷ "We used to have small gardens, but the rainfall failed to come, and then the unfavorable climate. Those who want to cultivate, they extend to the river bends. It last rained in September"²⁸.

The options of earning a livelihood are more limited as mining has taken up the land that used to be used for pastures for the animals. Some people try to engage in agriculture but because of lack of enough rains, the produce is very low, hence the biggest percentage is stuck in mining. Mining; gold mining, limestone mining, marble, and others are destroying the topography of the area. This mining requires digging very far deep into the ground, removing the top soil and the relatively fertile soils, leaving the land inhabitable and not suitable for any form of agriculture or any other income generating activities that require land.

Children, because of their age are more vulnerable and the introduction of mining as a livelihood option has had adverse and unique effects on their livelihood. Some children are introduced to mining when they are as young as breastfeeding babies by their mothers, others were introduced into mining as baby sitters by their mothers and with time they have also joined the mining activity and are earning. They contribute into the family, some are orphans and have to survive, so they end up getting involved. The girls do both, mine and look after the children, the boys mine and also graze cattle. Scooping soil out of the pits, though done by men as they dig

²⁷ Meeting with the CAO Moroto district, 23rd January 2018

²⁸ FDG (women) Kosiroi-Tapac, Moroto district, 24th January 2018



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in Moroto, they are closely helped by children who can easily fit into these pits without leaning on any walls. The children irrespective of gender is gather the soil into heaps.²⁹

At Katikekile, parents advise their children to take over the land they abandon and to keep on the work.³⁰ Children can also inherit mining sites that are left abandoned. But this raises a question on how the rights of these children. For example, if the children are working in mines, they are exposed to dangerous open pits, polluted carbon air which have far reaching health implications. But they're also more susceptible to both sexual and work exploitation. Girls in mines are more likely to be defiled, especially the orphans who don't have their parents to defend them, but also the buyers are more likely to cheat the children and under value their produce. But more outstanding are their rights to education. Instead of going to school, these children spend time at the mines trying to earn income. More of their rights like, the right to protection, the right to a good and developmental environment are violated, but also the environment does not provide for a suitable moral development for children.

Health implications;

"Health and security issues are faced by women mostly. The women get more affected than the men. If the woman is breast feeding, the babies suffer more...The women go too deep in water with mercury, this is a scary case, the stones hit the miners, and this is very common. The use of direct hands in mining claiming that gloves are slippery, most of them are not having protective gear. Both women and men. They prefer to work like that. Claiming that they are not comfortable in shoes or gloves." ³¹

At the mines, women do not have access to enough and efficient food nutrients especially for breast feeding mothers therefore there is a looming danger of being malnourished, both them and their children. However exposure to mercury is very dangerous to their health and can cause very many health complications with fast killing cancer as one of them. Women are often expected to work hard at the mining sites but also carry out domestic work or take care of their children and husbands at home. With the fatigue from work, women are not allowed enough rest for their bodies which is very hazardous to their health.

The risk of rape is high and thus the risk of being infected with HIV/AIDS and other STIs is relatively high among women in mining areas. "They are subject to abuse, rape, violence from men, so women despite the above have to adhere to those conditions."³² However, men are also affected by mining activities. They do the heavy manual work like opening pits, banging stones, loading blocks onto trucks and any other heavy work is done by men.³³ These activities have long term effects on their health and well-being, for example chest and back pain complications.

6.8 Stakeholders' responses are not adequate.

Most of the members of the local community are poor and uneducated as the CAO for Moroto explained, the living standards of most of the people are very low and some families end up not taking their children to school as the boys provide labour and the girls provide water and most of

²⁹ KII Moroto District Gold mining at Rupa female miner

³⁰ FGD(Men) Katikekile 25th January 2018

³¹ Meeting with the Head of Natural Resources Office 23rd January 2018

³² Meeting with the Head of Natural Resources Office 23rd January 2018

³³ KII Moroto District Tapac sub county Females.



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the income earned goes to drinking, thus continuing the cycle of uneducated people. Without basic legal or institutional knowledge about policies, it is impossible for the local community to fight for their rights as regards to land and resource.

However, the local communities are also divided amongst themselves and in turn do not reach a working understanding beneficial to them, mining companies and the local governments as well. An example among the Tepeth, before the start of mining activities, there was failure to agree from the start. "The meetings were not successful and there were commotions among the people, others were chased away. There was violence and beatings and the government and prospectors were chased. Due to the persistent negotiation, sacrificial ceremonies were held by the Karamojong's to open up grounds for mining. Later on the communities learnt that Hajji Siraji had sold off his rights to Tororo."³⁴ Tororo now controls 50square kilometers of the mines in Kosiroi- Tapac and the local members say they do not even understand how it came to own these or who sold Tororo the said rights to own the land. With unclear land tenure systems and due to this lack of uniformity and togetherness, the elites manage to get away with land grabbing and other acts violating the rights of the locals because they cannot speak out as one and defend themselves.

The local governments for example at sub county level, lack the kind of mechanisms needed to keep track for example of the people buying land to enforce the taxation policy. They rely on the local community to know the buyers and if they have trading licenses or if they have paid taxes. However, if the buyers are companies, which are harder to monitor by the local community, the sub-county does not have the necessary mechanisms to levy and make sure that taxes are paid. They lack capacity building, exposure visits and data bases.³⁵ This means that the companies could just exploit the people and the local governments would not know who is responsible and they do not have the technical knowledge to deal with the situation. They do not have effective means of monitoring some of the minerals mined like gold. They say it is not possible to monitor how much gold has been excavated but they use a group from Rupa to tell how much gold has been mined³⁶, which is not an efficient means of monitoring since the people can be corrupted or the companies can excavate the gold making sure the people supposed to monitor do not see, therefore reporting the wrong amounts. The local government does not have the necessary equipment and technical knowledge required to deal with the situation in Karamoja.

6.9 Land and resource tensions have increased predisposition to conflict.

Land and resource tensions have increased conflict in the local community. Both amongst themselves and the mining companies. For example, due to fears of eviction, there was conflict between the industrial mining company over the rights and the offcuts and chippings, the company wanted to establish a carbonate milling plant which was to use the marble rock offered to the artisanal miners, however, they would be evicted, and this caused conflict which later involved district authorities. Another attempt by a mining company to sell its shares to another company caused mistrust and doubts on whether the coming company would respect their land rights and be cooperative too, this tension caused conflict.³⁷ A clearer example is when Jan-Mangal, tried to do extraction of gold mining in Akilong without the locals consent, when they

³⁴ FDG(men) Kosiroi-Tapac, Moroto district, 24th January 2018

³⁵ Meeting with the Senior Assistant Secretary 23rd January 2018

³⁶ Meeting with the Head of Natural Resources Office 23rd January 2018

³⁷ FDG(men) Kosiroi-Tapac, Moroto district 23rd January 2018



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left, the issues were too many, and there were boundary issues between Rupa and Katikekile sub-counties. Conflict was heightened because of the land and resource tenure tensions caused by the mining company.

“The miners discovered that there was gold that side so there was a rush initially, even the Turkana from Kenya came in, but due to security issues they were pushed out”.³⁸ The insecurities, which involve, land and resource insecurities have made conflict more common amongst locals like between the locals from Rupa and the Turkana from Kenya. The local community, constantly clashes with the mining companies due to land and resource tensions, the locals are very suspicious of the mining companies, fears of land grabbing and once they’re accustomed with a company, it is not easy to let in another mining company to replace it without conflict. Amongst the local community, in Rupa, “There are people struggling for almost one pit almost 1000, they are digging in one hole.”³⁹ Since some areas are well-known to have gold and there is no specific way of attaining a gold well, or land to mine from, all people.

³⁸ Meeting with the Senior Assistant secretary 24th January 2018

³⁹ Meeting with the Senior Assistant secretary 24th January 2018



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7 Conflict implications of land and resource tenure tensions

Key Lessons Learnt from field findings

Karamoja region was not ready for mining activities. The biggest percentage of the local community got involved in mining but with raw low-tech mining techniques. Most of these are very hazardous to the people practicing the mining, who involve, men, women, children and breastfeeding babies who are taken to the mines. The local community has suffered land grabbing tendencies, both from the local elite and the mining companies because the local government and the local community too do not have the capacity to address the land and resource tensions arising. However, in the midst of finding solutions to the tensions, women and children are suffering the most due to the tensions. Therefore, a lot has to be done to develop the land tenure system and resolve land grabbing tendencies, sensitize and equip the people with better and safe mining methods and empower both the women and men to realize the women's land rights and train and do capacity building for the local government officials to be able to deal with the issues at hand.

In the Karamoja region, the intersection of insecure land tenure and mining is a cause of present and latent conflict between Karamojong communities and private actors, between the state and Karamojong society, and within Karamojong communities. The practice of ASM in the Karamoja region highlights tensions between the land tenure and resource tenure systems. It also illustrates how failures of the statutory land tenure system and its institutions can create space for exploitation of customary landowners with regard to mining interests. If the institutions that govern land and resource tenure better protect the customary land tenure system, then the Karamojong people would be better placed to benefit from the mining activities. Given the history of armed violence and the economic insecurity in the area, without proper protection of the surface rights, mining activities threaten peace and hinder the livelihood choices of the Karamojong people.

These challenges are not isolated to the Karamoja context. In many contexts where extractive investments are made, a failure to address the interests of surface rights holders creates conflict within and among communities, between the communities and investors, and between communities and the state. However, the interests of surface rights holders are largely absent from the extractive sector's development. Or if it is present, there remains significant questions on how to address the conflicts that can arise. This project will ultimately hope to influence global dialogue and understanding on strategies that can be employed to address these kinds of conflicts, by connecting to the established Global Land Tools Network and beyond.

The conflict dimensions of the land and natural resources tensions

Conflict is created or exacerbated in the Karamoja region by the intersection of the land tenure and resource tenure challenges. Our finding suggest the following sources of conflict:

1. Lack of clarity in mining and land laws creates economic conflict and threatens violent conflict between state and communities, and communities and investors.

For example, the mining law requires that communities provide consent before a license to sub-surface rights is given to an outside actor and also that such communities benefit from that license through the payment of royalties. However, to gain the legal entitlements available to them under the mining laws, the communities must establish themselves as customary land owners under the land laws (to prove their right to benefit from the loss of surface rights).



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2. There is potential for violent conflict between communities and private actors or the state, because customary land owners have essentially become tenants on their own land. Those who have formal resource tenure rights or those who have acquired land ownership through questionable means for mining purposes, receive the vast benefit of the mining with minimal cost because there is: (a) an abundance of mineral; (b) an abundance of mining labor from the local community who have few other livelihood opportunities; and (c) no requirement and therefore no cost on the part of the resource license holder/new land owner to compensate the customary surface rights-holders for their loss of surface rights.

3. Intra-community conflict is possible, as the collective-based land tenure system is stretched to accommodate uses that it was not designed for.

Communal land rights in Karamoja are based on an intricate clan and sub clan system; the mining sites are located on grazing lands controlled by these clans and sub clans. In the case of limestone and marble ASM, the members of the controlling clans/ sub clans are allocated individual plots to extract free of charge while on the other hand, non-clan/ sub clan members pay a charge for every truck load of rock extracted. This creates a situation where some people within the community benefit more than others from the ASM activities. In an area that suffers from significant lack of infrastructure and livelihood options, such inequitable distribution of profit creates tensions that could easily escalate into a return to violence.

Recommendations for mitigating land and resource tenure tensions

The following are some options that might help mitigate conflict – these are not exhaustive and neither are they mutually exclusive, and each recommendation builds on the ones that precede it.

a) Ensure that the Mining laws and policies are better integrated with the Land laws and policies.

Today there is new draft Mining and Mineral Policy in Uganda but it makes scant reference to surface rights related matters. In addition the recently adopted National Land Policy of Uganda provides for integration with other relevant policies and laws, but this is yet to materialize. One recommendation to help mitigate these issues at a systemic level is to ensure that the legal and policy frameworks for mining and land tenure are harmonized.

b) Securing community land rights in Karamoja is a pre-requisite

Previous efforts to record customary land rights in Karamoja have largely failed because they have focused too strongly on statutory institutions at the expense of customary institutions. Piloting use of GLTN tools for Social Tenure Domain Models and Fit for Purpose land administration in the Karamoja region may be a strong starting point for to ensure a hybrid model land institution that merges the positive aspect of statutory and customary tenure systems.

c) Build capacity of district level or other local government actors to play a role in preventing conflicts and ensuring sustainability of activities.

It is clear that local authorities have an important role to play in the regulation of land and resource tenure. Today, these entities lack the information, capacity and resources to fully play the role intended for them in the law. Working with them will be critical to help ensure localizations and sustainability of these approaches.



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d) Connect lessons learned from this work to the work done by others around the globe.

In the global dialogue on extractive investments today, there remains limited depth of analysis and attention given to the specific issues that arise when resource and land tenure systems clash. With this project, we hope to draw lessons from the work and plug them into global discussions on best practice in this sector.



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NOTES.

1. *Land tenure*; this is a legal term that literally translates to “to hold land”. The word tenure originates from a French verb, ‘tenir’ which means ‘to hold’ or ‘tenant’. Therefore, in this excerpt, land tenure will refer to the right to hold or own land by an individual or a group of people.
2. *Rights*; rights refer to legal entitlements that everyone has by virtue of being human beings. The most common rights in this piece are; right to own land, right to education, right to a good environment, right to work, right to compensation, and others.
3. *Tensions*; for this purpose, tensions will be interpreted as conflict between parties, a deviance from how things are supposed to be and most importantly a violation of human rights.
4. *Aboriginal*; aboriginal people are indigenous people who occupy a certain area before external interferences or settlers.
5. *Artisanal and small scale mining*; artisanal mining is a term commonly used for free-lance individual or groups of miners who are normally not verified by the authorities therefore commonly referred to as illegal. Small scale miners can be artisanal miners but some small scale miners are registered by authorities and operate legally even if it is on a small scale.
6. *Customary land*; customary land is land commonly owned by indigenous communities, it is normally owned communally and is administered according to their customary rules.
7. *Lacuna*; for this excerpt, a lacuna will be interpreted as a gap in the laws.
8. *Illegal artisanal miners*; for cases of interpretation of illegal artisanal miners herein, the phrase shall refer to artisanal miners who are not registered under any legal institutions provided by the different governments.
9. *ASM*; artisanal and small scale mining.
10. *NEMA*; National Environment Management Authority
11. *SWFF*; Security water for food.
12. *USAID*; United States Agency for International Development.

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