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Rights at risk: Mining Companies to bypass Land owners

Uganda's Experience



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Uganda's constitution provides that all land in Uganda is owned by the people of Uganda, however, mineral wealth beneath belongs to government. Ugandans therefore, have absolute surface rights.

While the Minerals Act, section 42 states that all exploration companies must obtain surface rights from landowners before any mineral license is granted. Government now wants to change the land ownership system so that mining companies deal with the government instead of those with land titles.

Already government is in the process of amending the law to allow intending investors in the mining industry to access private land that contains minerals without negotiating with the land owners.

We are talking about community-owned land, which these communities have owned for generations and generations. This is land that has sustained communities' livelihoods –provision of food, water, shelter, medicines etc.

The mineral sector in Uganda is beginning to boom, and along with it comes the contentious issues of land and resettlement packages. Now if government, that would intervene when communities and mining companies fail to reach agreement on resettlement and compensations packages, then what will communities go?

Government should ensure that the mining sector achieves the objectives of the Country Mining Vision – Improving livelihoods and industrialization.



Small-scale gold miners in Karamoja at work.



A man crushes a rock in search of wolfram in the closed Kirwa mine in Kisoro district



Fishermen in their boat near an oil rig on Lake Albert, Western Uganda

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A Publication of the National Association
of Professional Environmentalists (NAPE)
P. O. Box 29909 Kampala, Uganda
Phone: +256 - 414 - 534453
Fax: + 256 - 414 - 530181
E-mail: nape@nape.or.ug

EDITORIAL BOARD

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EDITORIAL

Extraction of myriad other resources and loss of land to agricultural multinationals is increasing in the country with the discovery of more and more minerals. In the middle of all this, environmental rights defenders (ERDs) are struggling to defend the integrity of ecosystems. The fight to save the environment and natural resources that poor communities depend on is intensifying as oil and gas are discovered in more and more places in the country.

Advocacy for political decisions and actions that respond to the interests of people who directly face poverty is challenging as legal frameworks that govern mineral resource underneath the land on which communities live and have farmed for generations is well understood by host communities.

It would be prudent to ensure that host communities understand that they only have surface rights and do not have the right to minerals underneath their land as provided for in the Uganda mining Act 2001. Government should ensure that sections of this act is translated in different languages and communities are educated about the laws to avoid delays whenever communities are asked to give way for mineral extraction projects on their land.

Government should also put in place a mechanism to ensure that communities are compensated for the damage of their property on the loss of their land that is used for a mining activity. And compensations should be paid in time to avoid unnecessary tensions and anxiety among the affected communities that may reflect badly on the companies.

Who owns my mineral-rich land?

By Betty Obbo

The concept of land ownership sounds very simple. You may inherit land or pay money and in return you are given unfettered access to a predetermined amount of land. But how much of that land do you actually own? Do you own the sky above it? How about the land below it? What about all the animals that may live there; do you own those too? All of these questions and more define what exactly it means to “own” a piece of land. Surprisingly, many of the answers are not well defined from a legal standpoint.

The surface and its attendant rights (associated rights) of a particular tract of land can be owned separately from the minerals underneath. In some countries, the state has ownership rights to everything –the surface, the minerals beneath, pore space, the water, the sky, animals and the executive power that goes with their rights.

In Uganda surface rights is detached from mineral rights underneath. The people have surface rights and the government has ownership rights to mineral wealth underneath.



A man walks in his mineral-rich land in Karamoja. People are key stakeholders in mineral development in their areas and should not be sidelined or violate their surface rights



A woman small-scale miner in Karamoja washes ore in search of gold.

As the Uganda mining industry begins to boom, the sector should ensure that all policies and legal frameworks place local communities at the centre of development. As developing economy, Uganda should focus on improving the livelihoods of her peoples and not only glorifying Foreign Direct Investment.

As for animals, you cannot claim ownership of any wild animals on your land; you are, however, allowed to hunt them if they are not endangered. Trees, plants and fruit, on the other hand, are yours to do with as you please as long as the plant was originally planted or seeded on your land.



A wild animal being killed for food. Forest communities do not ask anybody permission to hunt animals in the forest.

If you have a stream running through your land, you are entitled to fish while they are in the water on your land, but you cannot do anything that would impede the flow of water to other people's land



Fishermen freely go about their work on a river. Most often they do not need a license to catch fish

In short, if you own a piece of land, you may own more than you would expect, but in a lot of cases, perhaps less of it than you might wish.

My land is my strength: the fear of losing land to Multinational Companies

By David Kureeba

Land is a source of power amongst African communities and therefore, depriving one's land right in some communities is compared to rendering them impotent. In Uganda and many other parts of Africa, lives have been devastated and or even lost in land conflicts as the rush to exploit mineral increase.

The emerging extractive industries in Uganda and associated developments have resulted in numerous human rights concerns in host communities, including loss of land and evictions, without compensation and/or relocation; lack of timely and efficient information to enable communities to protect, negotiate and participate in decisions about land. Many communities have been evicted from their land and are now destitute.



A man standing in his house that was burnt down after violently being evicted from him land in Buliisa.

Source: Global Rights Alert

People fear losing their land on which they have lived for generations. It is also true people only have surface rights and do not have the right to minerals beneath their land. Therefore, they need to be compensated for their property on the land they have been living. The only problem is that people do not have informed in time, and often times not even involved in the decision-making process. It is good practice to consult the affected community and agree with them on the terms compensations and the mode to avoid violent evictions.

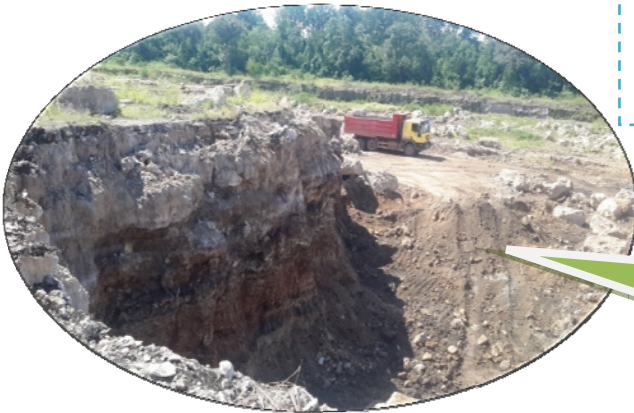


Affected communities can willing accept compensation packages offered if they discus it early enough and when payments is done in time. This is good for both the companies and the affected

Ecological footprints of Hima Cement Industry in Kasese region

By Rajab Bwengye Yusuf

Mining is one of the main courses of environmental degradation. Uganda has substantial deposits of limestone in the East and Western parts of the country that will be extracted for many decades to come. There is need to extract these resources in a manner that will not have serious negative impacts to health and the environment.



Excavation of limestone happens daily, although on isolated sites. Continuous excavation is leading to serious land degradation in these areas.

Hima Cement Company has several quarries that operate 24 hours a day. Limestone quarrying process produces effluents that must be treated before releasing into the river to minimize contamination health impacts to aquatic life in that ecosystem.

The effluent from limestone quarrying process is discharged through large pipe into River Dura and end up in Lake George. The lake is a source of fish for communities near and around Kasese and beyond.



Hazardous waste must be stored for a temporary period, at the end of which the waste is treated, disposed of, or stored elsewhere. It would be good if Hima develops a comprehensive waste management framework that will help address effective management of chemical waste management in Hima.

Hima's oils and lubricants wastes are stored in containers placed on the ground. When oil waste leaks into the soil, it will have a negative impact on the entire ecosystem and on the livelihoods of those who depend on it.



Hima should review their waste management policy and ensure that it is well implemented.



It is the responsibility of Hima to rehabilitate former quarry sites after the limestone is exhausted. However, some quarries have been left open and they fill with water during rainy season forming deep ponds. Such quarry foot prints pose a danger to communities and the environment.

Let us talk about it: Ugandan women impacted by mining industry share experience

By Betty Obbo

Salt mining at Katwe Salt Lake started way back around the 16th Century. For all this time to-date, these salt miners have been stuck to their traditional mining practices and thinking that salt mining was the only economic activity that could sustain their livelihoods. For centuries this community has been carrying on their work despite the social, economic, health and environmental problems they confront.

When NAPE started working with the community around Katwe on sustainable use and management of their natural resources, the miners realized that they were wrong. Today, women salt miners have started to think outside the box. They now meet in a group and discuss their problems and also meet with other women groups from other areas who also face similar challenges accruing from resources extraction to share experience and suggest ways to address these challenges.



NAPE facilitated a platform for women impacted by extractive development processes to share their experiences and discuss ways to resolve the challenges they confront on a daily basis.



Women impacted by salt and oil mining sharing their experiences at Katwe, Kasese, December 2014

Find out whether sharing makes any experience more pleasant or actually intensifies specific feelings (positive or negative), was the most fascinating experience for these women. It gave them hope that they were not alone after-all and increased their strength to develop alternative livelihoods outside mining.

Evas Birungi shared powerful and inspiring stories of women affected by the oil development activities at Lake Albert, Buliisa with their counterparts at Katwe Salt Lake..



Bring women affected by the extractive model of development resulted in multiple benefits;

For learning

- reinforces learning, heightens awareness
- empowers individuals to look back on what they have done
- helps personal understanding of experience (internalizes outdoor learning)
- enables use of different skills (learnt or latent) e.g. presentation, IT, artistic, drama
- sharing throughout an experience can help gauge 'flow' of participation, enjoyment & understanding (active reviewing)

For the individual

- offers scope for individual input to experience
- offers opportunity for individual to reflect on experience
- gives value to individual experiences



Rural farmers producing improved

Sharing group stories also;

- recognizes group experiences, helps strengthens relationships with each other and with place
- shared moments - shared success - shared adversity

For change

- Sharing at end of an activity can be useful to act as a definite end



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