GLOBAL RIGHTS

Advocates For Sustainable Justice

PROTECTING HOST COMMUNITY RIGHTS

An assessment report on extractive host communities in Nigeria.

1. BACKGROUND

Nigeria, better known for its rich deposit of hydrocarbons is also endowed with some of the planet's finest minerals. When effectively harnessed, mining can potentially provide the economic backing Nigeria needs for development, improve infrastructure, create employment and importantly – improve the standard of living in mining host communities.

Mineral extraction however comes at a cost to the environment, community health, and with social consequences most of which are borne by mining host communities. At the core of planning and implementation in the mining sector therefore, there must be a deliberate attention to the protection of the rights of mining host communities. Failure to ensure their protection often results in disasters, a classic example was the Zamfara lead poisoning disaster.

Between 2002- 2004, commercial quantities of gold deposits were discovered at Anka and Bukkuyum local government areas of Zamfara state. This discovery was the preface to tragic events that led to the deaths of over 700 children in several rural mining communities of the state. More than 2500 children received treatment for lead poisoning, as a consequence of unregulated artisanal gold mining activities. The exact numbers of adults affected were never ascertained, however, it has been confirmed to have led to higher rates of miscarriages among adult women.

The Zamfara lead poisoning disaster in 2010 gave the world a glimpse of some of the challenges mining host communities in Nigeria grapple with. But then, they only caught a glimpse with very little after thought and action by policy makers and other stakeholders. So in 2010, Global Rights conducted a needs assessment of affected communities in Zamfara state, and based on this, began to raise awareness about the impacts borne by host communities, and the violation of their rights in mining activities. We also began to build local capacity and facilitated constructive dialogues between stakeholders including the government, mining companies, host communities and civil society.

We had three core take aways from Zamfara state:

1. Effective governance of the extractive industry for both formal and informal mining in Nigeria is possible.
2. Extractive host communities are quite capable of demanding for the protection of their rights and seeking remedies, IF they receive the requisite knowledge and support from both government and civil society to do so.
3. The lead poisoning disaster in Zamfara is a potential time bomb waiting to happen in other states in different contexts.

Premised on these we widened the scope of our intervention to other states in Nigeria, starting with assessments visits to extractive host communities in the following states: Plateau, Niger, Ebonyi, Osun, Oyo and Kogi.

In summary, our assessments revealed that the challenges faced by mining host communities in these states were similar to those experienced in Zamfara states. The cross cutting issues they grappled with include: poorly regulated extractive activities by companies and artisanal miners, land and water grabbing, environmental/topographical degradation, air and dust pollution, loss of lives and livelihood, socio-economic imbalances, conflicts initiated or exacerbated by mining activities, loss of social cohesion, loss of self-determination – including issues with free, prior, and informed consent, and threats to vulnerable groups especially women and children. These challenges are exacerbated by lack of awareness on mining laws and policies on the part of host communities, failure to comply with mining laws on the part of mining companies and artisanal miners, and the failure to effectively regulate the sector on the part of government.

Our findings also revealed a palpable disconnect between host communities and the government on the one hand and between government agencies and institutions relevant to the mining sector on the other hand. This glaring lack of cohesion and synergy between stakeholders further perpetuates underdevelopment and poverty in mining communities.

2. SNAPSHOTS FROM MINING HOST COMMUNITIES VISITED

Most extractive rich communities across Nigeria are located within rural and peri- urban areas. Indigenes in these communities are generally poor, illiterate farmers, fishermen or petty traders. Bearing in mind the near homogenous composition of most of these communities, we selected communities from 5 of the six geopolitical zones in Nigeria to provide a wider reflection of the federal nature of the effects of mining on host communities. The conditions in each of these communities are not exclusive to them. They are representative of the realities in all other mining communities and when taken as a whole represent their true state.

EBONYI STATE: Called the "Salt state" because of its large deposits of natural salt, is located in the South Eastern part of Nigeria. It was carved out from Enugu state- a state famed for its large deposit of coal and now defunct state run Nigeria Coal Corporation. While Ebonyi is recognized as an agricultural state and is famous on the one hand for its "Abakaliki rice," it is also recognized for its mineral industry. It boasts of 25 types of minerals, consisting largely of large deposits of lead, limestone, gypsum, a sizable quantity of gold and recently – hydro-carbons. While a number of mining companies operate in this state, it is also host to a high number of artisanal miners. Our focal communities in Ebonyi state were: **Ishiagu**in Ivo Local Government Areas (LGA)**, Enyigba** in AbakalikiLGA**, Umuogharu** in Ezza North LGA and **Ameka** in Ezza South LGA.

Ishiagu community is made up of 20 villages. The major mineral resource in this community is granite occasioning a lot of quarrying activities. Crushed Rock has operated there since 1977, while other companies such as SETRACO and James & John Construction also carry out quarry operations there.

Enyigba community has large deposits of salt, lead and clay. Royal Salt, an Indian mining firm is the major company operating in the community mining lead, clay, and salt since 2010. **Umuogharu community** hosts large deposits of granite and in **Ameka community**, MDS Limited – an international mining company ended operations in 1967 due to the civil war, however, the mine was never effectively closed, with abandoned open mine pits which measure as deep as 40 feet have not been reclaimed, posing serious threat to the community. The MDS mines have since been taken over by unskilled and ill-equipped artisanal miners. The community has recorded several fatal accidents resulting from pit collapse and other hazards occasioned by artisanal mining at these facilities.

OSUN STATE – Igun and Itagunmodi communities

Mining activities have been taking place for over 50 years in Osun State, located in South West Nigeria and is reputed to hold an estimated 20 million ounces of gold[1]. It also boasts of other minerals including clay, talc, limestone and granite. In this agricultural state, a number of artisanal mining sites are located within a large expanse of cocoa plantations with mine pits as deep as65 feet. In 2005, the state government acquired stakes for a state owned mining corporation from the federal government. A few small and large scale mining companies have also started to prospect for gold, some in collaboration with the state government.

Gold mining activities commenced prior to Nigeria's independence at **Igun Community,** first by

[1]O M Ajeigbeet al'Mineral Prospecting Potentials of Osun State.' 2014 6 European Journal of Business and Management, 120

the colonial administration and later, by the Nigerian Gold Mining Company (NGMC) in 1982 amidst promises of social infrastructure for the host community. However, due to mismanagement, the company folded up. The NGMC mines sites are yet to bereclaimed and are littered with non-functional heavy-duty equipment and machines owned by the NGMC, the mines have been taken over by artisans.

In **Itagunmodi community**, land owners arbitrarily lease their land to unlicensed artisanal miners(who come from all over Nigeria -particularly the northern states) for a monthly fee ranging average between N10, 000 –N40,000. We found similar practices in other communities, nationwide.

OYO STATE in South West Nigeria boasts of minerals including gem stones(including aquamarine, tourmaline, amethyst, cassiterite and agate)dolomite, marble, clay, kaolin, tantalite and iron ore. In this state, we assessed **Komu** mining camp which has more than 200 mining pits and shares boundaries with the Republic of Benin. As was found in most mining host communities across Nigeria, there was very little social infrastructure at Komu. The roads were near non-existent and access to the community took over one hour riding on a motorcycle. The major company operating the camp is the AMMO Mining Company alongside other mining companies carrying out mining and quarrying activities at this camp. The camp is host to a wide range of local and undocumented migrant artisanal miners from neighboring West African countries including Niger, Togo and Benin prospecting for gemstones. Some of the undocumented migrants are employed by the companies at Komu camp as labourers, however most are artisanal miners who attach themselves to company mines with the understanding that they will share their mineral extract at a 50/50 percentage share basis - sometimes for even less. We found a proliferation of this practice in several prospecting/ mining camps across the country.

KOGI STATE is located in the North Central region of the country with29 identified solid mineral deposits including coal, limestone, iron, hydrocarbons and tin. The three largest/major mining areas are located at **Obajana** (Limestone), **Itakpe** (Iron Ore) and **Okobo** (Coal). Presently, Dangote Group has the largest mine in Kogi state (Obajana Cement Company). Due to the federal government's directive to abolish all state ministries of solid minerals in 2007, issues pertaining to natural resources at the state level are handled by the Mineral Resources department under the portfolio of the Special Adviser to the Governor on Special Duties. Our assessment focused on **Jimgbe, Oyo-Iwaa (Obajana), Itobe and Eika-Adagu, Taki and Okobo** communities.

The Jimgbes in Lokoja LGA are a settler community with very minimal understanding of the impact and effect of mining activities. Commercial quarrying activities has been on-going in community the since 2007 by the Beautiful Rock Quarry Company.

The **Oyo-Iwaa** community **at Obajana** has played host to extractive activities for over 50 years. The first company the community hosted was the Jakura Marble Company, where a number of community members were employed as site labourers at the mines and were subjected to carrying limestone on their bare heads with no protective gear provided. Although other mining companies have operated in the communities after Jakura Marble Company, the main and most prominent mining company in the locality is the Dangote Group subsidiary company, Obajana Cement PLC with an expansive site located in the Oyo-Iwaa land. Dangote Group has been operating since 2001 and sources all the raw materials for the manufacture of its cement from the community save for gypsum.

Itobe community in Ofu LGA is set to host a 1200 megawatts power plant by ETA Zuma Company. However, it currently hosts a number of quarrying company including Udeoye Quarry Nigeria Limited.

Borini Prono, an Italian company has been operating in **Eika Adagu** community in Okehi LGA since 1997. The environmental and socio-economic impacts of this company's activities are clearly visible. Many of the buildings in the communities are cracked and the community members insistently complain about there s piratory disorders resulting from pollution from the companies' blasting activities. According to them, the company did not bother to notify them ahead of blasts, and that the noise from the blasting was a consistent nuisance.

As with most rural communities, government presence is rarely evident and basic social infrastructure are completely absent in **Taki community**, Kabba LGA where Eta Zuma Company operates its gold mine. The only infrastructure the community enjoyed therefore were those provided by the company. Again, at Taki, is the reality of the coexistence of mining companies and unregulated artisanal miners on the same site.

Okobo community in Ankpa LGA has large deposits of coal and hosts Zuma 828 Coal Limited, a subsidiary of the ETA Zuma group. While coal exploration commenced in 2008, actual mining did not start till2011. Mining operations by the Zuma 828 has resulted in the pollution of the only portable communal water source. The community river has been contaminated to such a level that according to the community "*the water is not even suitable for laundry*".

PLATEAU STATE located in the nation's middle belt region is one of the oldest mining areas in West Africa and once famed for its buoyant tin mining industry yielding up to 17000 tonnes between 1941-1945[2]. The state also boasts of other minerals including columbite, barytes, kaolin, zircon, monazite, marble, lime stone, sphalerite, quartz, galena, glass sand, clay and gemstones. Our assessment focused on **Bukuru and** South LGA, **Bokkos LGA**, Riyom **LGA**, and **Barkin Ladi LGA**.

The landscape of Jos is littered with over 3000 mining ponds[3], artificial lakes created by excavations, and mine pits which have stripped the region of vegetation, caused erosions and reduced the arable portion of land available for agricultural and pastoral purposes exacerbating the conflict in Jos. The state government has made some attempt at reclaiming large expanse of land devastated by mining activities. Most notable of these initiatives is the conversion of the vast gully at Rayfield into the Rayfield Resort, and another abandoned mining pond into a dam to serve the water needs of Bukuru residents.

NIGER STATE- Mineral rich Niger state which has hosted mining activities since the 18th century, boasts of large deposits of minerals including: Gold, Marble, Copper, Iron, Felsper, Lead, Kaolin, Cassetrite, Columbite, Mica, Quartzite Talc, Silica, Sand, clay,and Limestone.

The state is host to a number of quarries, mining companies and artisanal miners and has sought to optimize its mineral potential by wooing foreign investors to mine in the state. Learning from the disaster in Zamfara state, it sought to restrict artisanal mining activities, by formalizing and encouraging the formation of artisanal mining cooperatives with oversight by the state Ministry of Mineral Resources.

As in other extractive host community states, abandoned mines litter some areas of the state and urgently require reclamation. An alarming observation was the unrestricted availability of mercury which artisanal miners recklessly used in the processing of gold.

3. COMMUNITY REALITIES

Knowledge about the impact of mining

Generally most mining communities in Nigeria have little or no knowledge about mining and its impact on their environment, health or social construction apart from those they immediately feel

[2]http://www.onlinenigeria.com/links/Plateauadv.asp?blurb=464

[3]http://thenationonlineng.net/new/plateaus-abandoned-mining-ponds/

or can directly attribute to these activities. At best, their expectations are limited to compensation for land lost to mining activities and because local governance is rarely visible within these grassroots communities, mining companies become their only perceptible 'government' and they tend to lay the buck of governance at the doors of mining companies, and expect these companies to facilitate their basic socio-economic needs – they expect them to build roads, hospitals, town halls, schools, award scholarships, provide portable water and electricity, generate employment, etc.
Most have no knowledge that mining activities – both by companies and artisanal miners are regulated by government. While they knew most companies obtain licenses from the government, they have very vague knowledge o fthe regulatory institutions or the legal framework governing mining or protecting their rights within this framework.

Host Communities' lack of knowledge of government's requirements for mining grossly short changes mining communities in various ways. One of the most striking ways is the situation in which communities, aware of the presence of mineral resources within their own land engage in unregulated artisanal mining, oblivious of procedures for obtaining a mining lease or forming mining cooperatives. Prospectors time and again simply prospect for the location or concentration of artisanal miners in such communities and run off to the Cadastral office of the Federal Ministry of Mines and Steel Development with trumped up communal consent, obtain mining titles for such locations and bar such communities from their communal land. At best, they eventually allow the artisanal miners back to the mining sites and buy their minerals off of them at rip off prices.

Before our visits, most had never heard of an environmental impact assessment (EIA) and were unaware that it was a pre-licensing requirement for companies to submit a valid EIA to the Federal Ministry of Environment. Therefore, virtually none of the communities we assessed had never been consulted or involved in the development of such assessments. Most communities were oblivious of other regulatory requirements such as protocols and permits required for blasting, waterways alteration, or levels of tailings that may be deposited in waterways.

More importantly, most communities were oblivious of their right to reject mining activities within their vicinity. And since the laws only make vague provisions on the consent of the community through an undefined leadership structure, and for a 'community development agreement' to be reached between mining companies and host communities, the discourse of *free, prior and informed consent* is often lost to them.

Environmental, Health, and Social Impacts of Mining Activities in Mining Host Communities

Environmental impact of mining
Mining is an inevitably environmentally degrading activity but its effects can be mitigated through the painstaking implementation of mining and environmental regulations which the Mining Act of 2007 and other laws provide. The greatest setback to environmental protection in Nigeria is the failure to diligently implement available laws and policies. In addition, legacy issues which predate the mining laws are rarely visited. For instance, the ecological disasters at Jos in Plateau state are as a result of over 100 hundreds of years of unregulated mining activities. A primary reason for some of the devastating erosion seen across the country is also attributable to artisanal mining. Littered with thousands of abandoned mines and with limited funding from the government held Ecological Funds, communities in Nigeria continue to grapple with the aftermath of the havoc done to their environment.

In virtually every community Global Rights assessed, there was a proliferation of abandoned mines. Regrettably there were no indications that the government was prioritizing there clamation of these inactive mining gouges. While the Mineral and Mining Act[4] make provision for funds to reclaim

[4]S.121 (1). See also Minerals and Mining Regulations 2011, S.141.

some communities, abandoned mines have been improvised into water wells for community use. In Ishiagu and Komu mining camp, some community members use contaminated rain water collected from these inactive unreclaimed mines to bath and cook. In other communities, they were used as artificial fish ponds.

Illegal underground mines constructed by unregulated artisanal miners in some communities have created environmental hazards and weakened social infrastructure like communal access roads. At Igun, the proliferation of underground mines has resulted in chasms on the community's only access road and is in danger of collapsing. In Anka, Itagunmodi and Igun communities, open and abandoned mines measuring about 20 feet have caused several deaths and continue to pose great threats to the communities. For example:in 2013atUmuogharu community three, young women between ages 19 and 23 drowned while attempting to draw water from one of the abandoned mines which had accumulated rain water and had become a water source for the community. More recently, in March 2014, three young boys were drowned in another mine at Izzi LGA. In Umuogharu community, due to the depth and closeness of the mine pits to the main access road, the Ebonyi government has commenced closure of the mines with refuse waste, even though the community is opposed to the method adopted by the government.

At Barkin Ladi, due to the spate of insecurity and too afraid to venture into mining camps, artisanal miners dug mines behind homesteads, endangering the lives of residents.

Impact on agriculture

Mining has also had a negative impact on agriculture in these states. Large expanses of farmlands have given way to unsustainable mining activities. De-vegetation promotes erosions and is directly contributing to rapid desertification in the Northern region of the country as is occasioned in Zamfara state. Chemical effluences from mining have also polluted waterways and soil composition, compromising crop yields.

Most residents at Igun and Itagunmodi are traditionally cocoa farmers. With the advent of mining in these communities, farms and mines have co-existed on the same land. It is therefore not strange to find mining activities on a cocoa farm. However, farmers' livelihoods have become threatened by poor crop yields attributable to gold processing methods which have compromised the quality of the soil.

Wildlife is also rapidly disappearing from these communities. As a resident in Kogi state put it "Before now, we were hunters and noted for our *bush meat* but the blasting has driven the animals far away into the forests. The fishes are also disappearing"

Disposal of Tailings

The indiscriminate disposal of mining tailings which by regulation mining companies are meant to safely store till they can be reutilized for land reclamation at mine closure, has been problematic. Equally disturbing is the fact that there are no laws guiding the disposal of tailings by artisanal miners who by far outnumber formal mining concerns and the environmental nuisance they create. It is important to note the sometimes toxic and radioactive nature of these tailings. In spite of the fact that NESREAs appears to be proactive about tackling this issue in most states, it is noteworthy that the parastatal lacks adequate equipment to measure the pollution level for the purpose of sanctioning or regulating miners.

Health Impacts

The *Zamfara lead poisoning disaster* is a classic example of how unregulated mining activities can impact health in host communities and with a high human and social cost. The most common health impacts reported in the communities assessed were caused by air effluents and dust pollution resulting in respiratory infections and conditions including asthma, chronic bronchitis, and pneumoconiosis; noise pollution resulting in varying degrees of deafness and stress related disorders; and water pollution resulting in outbreaks of cholera and other water borne ailments. While no concrete studies have been carried out in Nigeria, all of these sources of pollution potentially account for long term health impacts experienced in these communities including cancers, skin disorders, birth defects, miscarriages and infertility. In first half of 2014, Oyo-Iwaa community recorded 7miscarriages and several convulsions resulting from air and water contamination from chemical effluences in mining operations. Residents in Jos and Minna also complained that the high incidence of malaria in their communities was attributable to stagnant water in mine ponds which become breeding grounds for mosquitoes.

Stone blasting

Extractive blasting improperly carried out can be both a health and social nuisance to mining communities. With modern methods for rock blasting which both reduce the level of noise and aftershocks, mining companies have no reason to continue blasting practices that devastate their host communities. Due to poor regulatory oversight, some artisanal miners with access to explosives carry out blasting activities without proper supervision or monitoring. In some of the communities assessed, blasting took place close to residential areas and their effects extended to homes and buildings located over three kilometers from blast sites. Ishiagu and Eika Adagu residents complained that they did not receive compensation for cracks and other impacts occasioned by their buildings in the aftermath of mine blasts. Some families a tIshiagu reported receiving inadequate compensations while Eika Adagu residents claim to have received no compensation at all. When given an opportunity to respond, one of the companies operating atIshiagu noted that some of the cracks complained about by the community members were not as a result of the stone blasting by the company but rather, were due to substandard building materials used by residents.

Regulations require that communities be informed ahead of blasts to prepare them and possibly mitigate the impact they might have. In most communities, the time and duration of blasts are irregular and rarely communicated. Even in instances there were pre-agreed times between communities and mining companies, the companies often failed to abide by the agreed terms. At Oyo-Iwaa, the community complained that Obajana Cement PLC sometimes blasted after 6pm as against the proposed time of 4pm when most residents would be away from the community and would have been spared the noise pollution. Citing an example of their suffering, Eika Adagu community reported that a four month old baby in the community narrowly escaped death when the ceiling at her home gave way and fell on the baby's crib during a blast.

Again, they reported that odors emanating from chemicals and explosives used in stone basting was offensive and adversely affected them. Residents of EikaAdagu, Itobe, Ishiagu and Umuogharu communities reported health challenges ranging from fainting spells from offensive smelling chemicals used in blasts, high blood pressure, recurrent headaches, and sinusitis owing to the effect of blasting by mining companies operating in their community. Jimgbe community, tired of similar effects from Beautiful Rock Company petitioned the State's Mines Officer.

Water!

Mining and quarrying activities are water intensive and often compete with host community water needs. For this reason, the Mining Act stipulates the need for mining companies to obtain permits to access or divert water bodies. Other laws seek to regulate the deposit of effluence in water bodies. Specifically, Section 254 of the Criminal Code criminalizes the corruption of water bodies.

Most artisanal miners process their minerals with little respect for environmental safeguards. It is common practice for them to wash their minerals in communal water bodies, thus depriving communities' access to potable water. Resultantly, residents of Igun community, for example reported that they sometimes had to travel upwards of two kilometers to access drinking water (even though they retained the contaminated water from their polluted river for cooking and other domestic activities). In Niger state, until recently, artisanal miners washed their gold near Shiroro Bridge, in a river which served as the exclusive water source to the Water Corporation serving Minna. Implicit in the crude process of refining gold is the reality that these communities are at risk of lead and mercury poisoning and have suffered several health consequences as a result. AtIshiagu, residents alleged that Crushed Rock Company had taken over the community's water spring for its operations and in lieu provided water trucks to service supplies to the villages on a weekly basis. In spite of this inconvenience, the water trucks sometimes did not show up on designated supply dates. It may be deduced from examples cited by the communities that it is doubtful that government is committed to protecting host communities' access to water resources.

Hazardous Occupation

A sizable number of residents in mining communities derive their income from mining or make a living from mining supply chains and are often the first to suffer from mining related hazards. The most common occupational hazards suffered by both formal and informal mine workers are preventable accidents due to failure to implement mining regulation safeguards, failure to provide personal protective equipment (PPEs) for workers, improperly constructed mine sites, lack of appropriate tools, or misuse of tools; and lack of expertise or skill set required for specific activities - all issues diligent regulation of the sector would have mitigated.

Residents in these communities all reported occupational related fatalities at mine sites, some of which went officially unreported to regulatory authorities as required by law.

Some companies fail to provide protective gears and fail to enforce their use even when provided. The MMSD in some states claimed to have closed down some mining sites due to lack of safety gears. NESREA and MMSD officials at Niger, Osun, Kogi and Ebonyi states said that they periodically carry out awareness workshops and provide Personal Protective Equipment (PPE) for artisanal miners, however, they noted that miners avoided use of protective gears given to them. This information was corroborated by one of the mine workers in the Obajana mine site who had this to say about use of safety gears "*When I no dey blind, how I go use goggle*[5]"

Specific types of hazards worthy of note include: the collapse of poorly constructed mines, flying rocks from blasts, slippery stairwells, failing conveyor belts, faulty ladders, mud slides, suffocation from asphyxiant gas leaks, all resulting in casualties.

The use of hazardous materials such as mercury and the poor handling of lead in mineral processing is another hazard worth highlighting. Global Rights observed the obviously unregulated and unsafe handling of mercury by artisanal miners in these communities and the ease with which it was washed into communal water bodies contaminating aquatic life -especially fish consumed by the communities. The mishandling of radioactive tailings and other toxic materials in the aftermath of mining are also points worthy of notice.

Social Impacts of Extractive Activities

Extractive activities have both positive and negative impacts on host communities which result in a host of changes to local structures and infrastructure. They bring with them an influx of new populations, (often young, single, men from alien cultures), into these communities. This traffic of new populations frequently bring economic opportunities with them. They also result in stressed infrastructures in addition to an increase in competition for commodities and services, resulting in a rise in cost of living which indigent residents struggle to keep up with.

[5]"I am not blind so why should I wear protective goggles?"

In spite of the high revenues generated from extractive activities, socio-economic developments in the host communities assessed were not commensurate by any standards. Most residents complained that mining – artisanal and formal - has done little to enhance their economic, social and infrastructural development. At Komu where a gemstone mining camp is located for example, there is a noticeable absence of governmental presence evidenced by the abysmal level of infrastructural development in and around the camp. The community lacks access roads, portable water, a functional health center, power supply and telephone services. The state of affairs at Komu is representative of other states. Mining communities in Zamfara state have some of the highest number of out of school children in Nigeria – a country that already holds the record for the most number of out of school children in the world. Communities such as Abare and Dareta can only be accessed by motorcycles during the rainy season. The only source of portable water at Dareta is from a borehole installed by the government at the height of the lead poisoning crisis in 2011. Some communities had no access to electricity or their electricity was provided by the mining company as were in the instance of Obajana Cement PLC and ETA Zuma in Kogi state and Crushed Rock Company in Ebonyi state.

Where extractive activities were carried out by companies, the companies seemed to automatically assume the status of 'local governments' in the minds of residents with very high expectations. The tasks of building roads, providing portable water, electricity, community health centers, security and building classroom blocks all seemed to criss-cross the thin lines of Community Development Agreement and local governance.

In some of these communities, sizeable farmlands have given way to extractive activities requiring residents to take up new vocations or increase the yields from their reduced farmlands. The absence of basic infrastructure makes it difficult for most businesses in these environments to thrive. For example, lack of electricity means that most manufacturing and processing activities cannot be carried out, perishable products cannot be preserved, poor roads mean that agricultural produce spoil before reaching consumer markets.

The high level of poverty of indigenes in all the extractive communities visited was palpable, yet the cost of goods and infrastructure were comparatively high for rural settings. While some residents had become artisanal miners, or taken up employment in mining companies or quarries, or had become engaged in supply chain activities and were able to eke out a living, most were caught up in the vicious cycle of unemployment and poverty. High levels of illiteracy and lack of artisan skills among residents means extractive companies often have to import skilled labour into the communities, compounding housing deficits, and access to basic infrastructure.

Increase in school dropout rates and Prostitution

Most extractive host communities reported high rates of school dropouts. They attributed several reasons for this trend. According to them, the spike in the cost of living meant that more residents were unable to afford the increasingly exorbitant cost of education and had to withdraw their children from school. More children had to support their parents in providing for the family and could no longer combine this with full time schooling. Young people eager to upgrade their social economic status abandoned schooling for the mines, working as labourers. A lot of teenage girls in their interactions with migrant workers with divergent value systems to those of the community are lured by gifts and economic advantages. They become pregnant and have to drop out of school to have their babies.

Poverty, unemployment, illiteracy, lack of access to credit, women's lower access to land and to compensation when their land is taken over by mining creates an atmosphere of desperation in which prostitution becomes an easy option for women whose only tangible assets are their bodies. With a high influx of migrant workers - mainly single men or men who have arrived in the communities without their families - comes a ready market for commercial or barter sex. In Ishiagu for example, the influx of quarry drivers from different parts of the country provided the inroad for the spread of STIs and HIV. Alongside prostitution, early and unwanted pregnancies came an increase in sexual violence -all new realities residents are grappling with.

Crime , violence and insecurity

All communities assessed reported an increase in crime, violence and insecurity coinciding with the influx of migrant workers. Most residents claimed that they felt less safe. They opined that migrant workers introduced narcotics which were hitherto alien to them into their communities. A combination of the drugs and young miners often led to violence and insecurity especially for women and children.

At Bagega in Zamfara state, miners expressed concern over the spate of insecurity and reported instances where miners were killed and their bodies dumped in mine pits by robbers who steal their nuggets or take over their mine pit once they have made a rich discovery. Residents at Jos South were fearful of nomadic herdsmen who would attack miners, kill them and throw them in mine pits, in retaliation of their cows falling into mines and are maimed or die. At Shiroro, artisanal miners reported frequent violent quarrels over mineral piles in mining camps.

Compulsory Land Acquisition, Compensation and Resettlement

Land acquisitions for extractive activities have directly affected the livelihoods of families in Nigerian host communities through their decreased access to and control of land. With land acquisition comes the need for compensation and/or resettlement. Compensation and resettlement of affected communities for land compulsorily acquired for mining purposes often raise concerns about the security of land tenure, intensify land disputes and amplify concerns about adequate and fair compensations, and appropriate resettlement. Conversations about compensations in this context extend to cash crops, economic trees or buildings damaged by extractive activities. Ideally, adequate compensation is considered in terms of fair market value; the price that a willing but unpressured buyer would pay a willing but unpressured seller for the property under ordinary circumstances with both parties fully informed of the property's good and bad features[6]. The quantum of compensation in most communities visited was not only very meager but grossly incomparable to fair market value. A tEnyigba for example, compensation for surface rights on food crops was solely determined by the company at a meager sum of N400.00 per Cassava heap and #1,000.00 per yam heap. In addition, compensations for land acquired were paid only to traditional rulers, excluding farmers who held traditional tenure over the land.

Resettlement

In instances where resettlement is presented as the best option, it behooves the government and mining companies to ensure that communities are properly resettled in a manner that ensures their dignity and mitigates adverse impacts, modeled after international standards and best practices. Resettlement does not however abdicate the obligation for compensation for loss of livelihood, economic trees and ancestral monuments. At Oyo-Iwaa community, Dangote Group PLC relocated the indigenous community occupying its present factory site to a new location, owing to the large deposits of limestone at the core of the community. The company made considerable efforts to replicate prototypes of the homes in the community with direction from the home owners. However, indigenes claim that they were yet to receive compensation for the loss of their crops and economic trees.

Surface rent

Surface rent is an annual fee payable by a mineral title holder in respect of land occupied or used by it in connection with its mining operations. There were uncertainties in some communities as to who should collect surface rent i.e. individual land owners or the state government. There are

[6]International Alert "Compulsory Land Acquisition, Compensation and Resettlement in Uganda's Oil Sector" 2013

instances where the state government has made demands on mining companies to pay surface rent and the companies have insisted on paying to individual land owners. However, the Mining Act makes surface rent payable to the owners or occupier of the land and not the government[7].

Community Development Agreement (CDA)

The Minerals and Mining Act of 2007 mandates mining companies to consultatively reach Community Development Agreement (CDA) with their prospective host community towards the provision of social and economic benefits that will enhance the sustainability of the host community[8].The Act further provides for themes which the Agreement must address to include educational scholarship, technical training, apprenticeship and employment of indigenes of the host community; contributory support for the development of infrastructure and maintenance related to healthcare, education, community services, water, roads, and power; helping to create, develop and support small-scale and micro-scale businesses etc[9]. It envisages that this agreement will be negotiated and operational before mining operations begin in host communities. It in fact is a pre-license requirement. Furthermore, the Regulations obligates a mineral title holder, to engage the community and their leaders on the proposed project, prior to the commencement of operations, on likely benefits that may accrue to the community, and measures to be taken to prevent hazards and risks associated with mining operations, especially pollution and environmental degradation[10]. The law however does not stipulate the appropriate representatives to negotiate CDAs with, or insist that social and environmental impact assessments be conducted and explained to members of the communities to assist them understand the far reaching impacts of the mining activities. While the Minerals and Mining Regulations expects a mineral title holder to identify the community leaders known and recognized by the people and who exercise a reasonable degree of control over them[11], it does not provide for oversight by the supervising Ministry.

In reality, most mining companies do not have formal CDAs with host communities visited even in instances where such companies had been operating in the communities for years. At Jimgbe for example, mining activities had gone on for over one year before the company signed a Memorandum of Understanding with the community. In the few communities with CDAs, the agreements have not been implemented by the companies while some mining companies connived with village heads to monetize CDAs for their own corrupt benefits.

At Anka, residents did not know the terms of the CDA reached with their community leaders, or if any was reached at all. Their traditional ruler was also vague and did not reveal the existence of any agreement. There were no visible signs of development within the communities in Anka.

AtIshiagu, certain terms of the CDA including the endowment fund of 2 million naira for youth development and supply of electricity to all 20 villages that make up Ishiagu community have not been fulfilled by Crushed Rock Company.

In Enyigba, the CDA with Royal Salt was negotiated by the Commissioner of Industry on behalf of the community. The community decried the fact that they were not carried along in the negotiation process and that the agreement was not signed by the respective land owners directly involved.

Although, the said agreement was negotiated 5 years ago, Royal Salt is yet to fulfill its obligations to the community, save for the grading of a community road and the donation of N500, 000 made to a secondary school in the community. In addition, the terms of the agreement were negotiated with the understanding that the company was building underground mines; however, Royal Salt has instead commenced surface mining in the area. According to the traditional ruler of Ishiagu, all of the 20 villages that make up the Ishiagu community were not involved in negotiations with the

[7] Section 102(1)Mineral and Mining Act 2007

[8] Minerals and Mining Act, Cap M12, Laws of the Federation of Nigeria 2004, S.116(1), Minerals and Mining Act, Cap

[9] Minerals and Mining Act, Cap M12, Laws of the Federation of Nigeria 2004, S.116 (3).

[10] Minerals and Mining Regulations 2011, S.13 (3)

[11] Minerals and Mining Regulations 2011, S.13(2)

community representatives to negotiate CDAs, however, the preferred position as expressed by most host communities is that CDAs should be negotiated with the recognized local community authority along with their cabinet members / elders, as well as the representatives of the men, women and youth groups in the communities.

In a complex twist at Oyo-Iwaa community where the Jakura Marble Company operates, residents contended that the company has been reluctant to negotiate a CDA because it had leased its mine site to Obajana Cement PLC, a subsidiary of Dangote Group of Companies. However Jakura still crushes and sells lumps of limestone supplied by Dangote's company pursuant to the agreement between both companies. The community insists that both companies hold separate mining leases and irrespective of the lease agreement, there should be two separate CDAs. The community also claims that Dangote Group has been in default of the CDA since 2011. In addition, pleas from community members to Dangote Group to tar the 5 kilometers access road to the community has not been honoured, in spite of the fact that the housing estate constructed by the company for its staff and officials have good roads and drainage systems. The community is also aggrieved by the fact that Dangote has refused to make some material contribution – especially providing cement - to the palace building project the community is currently undertaking.

An important component of the CDA is the transfer of skills, technical training apprenticeship and employment of indigenes of host community. In reality however, there is hardly any transfer of skills by mining companies to host community members. Many of the indigenes are employed as casual labourers or private security agents. Residents of Oyo- Iwaa in particular were disappointed that indigenes did not hold top managerial positions at the Dangote owned company claiming that there are a number of qualified indigenes who were qualified to do so.

Another important component of the CDA is the requirement for review of terms after a period of five years. In Jimgbe, the CDA with Beautiful Rock Quarries was negotiated for a period of 8 years (2007 – 2015) after which it will be reviewed. This is indicative of lack of awareness on the part of the community.

Finally, communities did not know the difference between the exploration stage which involves pitting, trenching, and core drilling and exploitation stage at which the CDA comes into play. Communities were also usually unaware of the capital intensiveness of mining operations and become very aggressive when monetary benefits were not forthcoming from mining investors. Most companies expressed their challenge with implementing CDAs before mining becomes lucrative. It should however be noted however, that in spite of the company's CDA obligations to host communities, the primary responsibility for development still rests on the government.

Communal tensions

Access to and ownership of land is a sensitive matter. In most African communities, interest in land transcends physical monetary interests and often occasions spiritual value. For instance, indigenes' attachment to land is usually hinged on ancestral connections and cultural identity. Most African communities hold the philosophy that land is held in trust by each generation for the next and therefore cannot be sold, but only leased out. It must be kept in a sustainable manner and treated with respect. The colonial introduction of compulsory acquisition of land is therefore a foreign concept most communities grapple with and the unsustainable nature of mining increases the inner unrests and conflicts within these communities.

Again, land is a limited resource serving an ever growing population with divergent needs. Competition for land in these communities transcend buying and selling of land and includes the added spiritual and identity dimensions discussed above. Land conflicts in Africa therefore tend to be highly volatile and involve a large proportion of the community and sub communities within them. In like manner, the mismanagement of land and natural resources is contributing to new conflicts and obstructing the peaceful resolution of existing ones[12].

Several factors account for the escalating conflicts in host mining communities in Nigeria. For one, unfair procedures for the compulsory acquisition of land and inequitable compensation for loss of land reduces land tenure security and increases tensions between the property owners, communal land holders, project developer and the government. Host communities grappling with the concept of losing their hold on land held for generations and in trust for generations to come, see their divestment as a lease and not a complete alienation from the land. Therefore, they feel entitled to benefits derived from the land and feel cheated when royalties from the mining proceeds do not automatically accrue to them. Again, mining companies, traditional authorities and community members are sometimes at cross purposes occasioning communication gaps which result in tensions among community members and companies. According to the King of Oyo-Iwaa, the owner of the Dangote group has never paid the leadership of the community a visit over communal issues save for when the company needed the support of the community leader to discourage an imminent industrial action from the company's workers.

In Ishiagu, it was reported that some community intermediaries connived with officials at Crushed Rock Company to rip off community members of their entitlements and cause unrest. Recently, some youths in Ihietutu allegedly kidnapped an expatriate staff of a mining company, resulting in a communal clash between residents and a group in support of the company, leading to the death of a community indigene.

Use of excessive force by company security forces also often results in violent conflicts in host communities. For example, soldiers deployed to provide security at a Dangote Cement Factory at Gboko in Benue state shot and killed 7 unarmed community members and seriously wounded 8 others who were protesting the torture and shooting of a community youth[13].

Conflicts are not limited to formal companies mining interests. Artisanal mining has also led to or exacerbated communal conflicts. For instance, the crisis in Jos, Plateau is compounded by conflicting interest in land between agrarian communities, pastoral and mining communities. The Hausa-Fulani ethnic groups which are characteristically Muslim, nomadic, pastoral communities are in conflict with an assortment of communities which are largely farming, often Christian, indigenous communities and also tend to be artisanal miners. Not only do these communities have to contend with land for agricultural use, tin mining – which has gone on since pre-colonial era, and more recently, columbite mining has significantly impacted the topography and made arable land even more limited and increased frictions between these ethno-religious groups.

Free Fair Informed Consent

A right that is often infringed upon in mining activities is the right of a community to decide if they want mining activities within their vicinity, or to proffer modalities for this engagement. CDAs which basically seek to compensate mining host communities rather than seek their consent on mining activities is problematic and infringes on their right to be self-determinant.

Even where CDAs are reached, host communities are often rural groups with low literacy levels, incapable of comprehending the impact of mining operations and so are often short changed in the process. The Act also fails to spell out what would constitute an acceptable CDA, who the appointed community representatives the CDAs should be reached with, and who should provide oversight functions for these agreements.

Most communities complained that their consents were not sought before their lands were

---

[12]United Nations " Toolkit and guidance for preventing and Managing Natural Resource Conflict http://www.un.org/en/events/environmentconflictday/pdf/GN_Renewable_Consultation.pdf

[13]https://www.premiumtimesng.com/news/164067-investigation-massacre-in-gboko-soldiers-at-dangotes-factory-kill-7-company-govt-abandon-victims-families.html

allocated to mining interests by the government and where obtained, they were not obtained from the appropriate local authorities or individuals directly affected by the land acquisition. At Oyo-Iwaa community, consent was obtained from the district head instead of the community head directly in charge of the affected community. At Enyigba, the community complained that Royal Salt Company had acquired and fenced about 21 hectares of farm land belonging to farmers in the community without their consent. This led affected farmers to seek and obtain a court injunction restraining the Royal Salt from carrying out any activity on the land. The pending suit alongside other issues complained about the lack of free, prior and informed consent and the destruction of livelihood. The suit also alleges that the community felt cheated, intimidated and marginalized by some highly placed individuals in the community and Royal Salt Limited. There are reported incidences of arrests and illegal detention of community youths by police men from the police post set up by the Royal Salt Company. At a town hall meeting in Niger state, community leaders complained that they were often forced to give their consent after the lands had already been allocated and compelled by threats from government. They were displeased with their inability to decline mining activities in their domain.

Environmental Impact Assessments and Closure Plans

In spite of the fact that some mining companies have been in operation before the EIA Act came into force, they are still required by law to carry out environmental audit of their operations. EIA requirement adherence in most mining communities visited has been relatively poor. A number of mining companies visited did not seem to have valid EIAs. The issue of EIA with regards to artisanal mining is even more complex. Despite the fact that a huge percentage of mining in host communities is artisanal in nature, there is an apparent difficulty in tracking and ensuring EIAs are conducted in artisanal mining by regulatory agencies such as NESREA because there is no legal requirement for them to do so.

At Ebonyi state, six granite facilities were sealed up by NESREA due to their lack of EIA permits. Although information from NESREA and the MMSD indicates that EIA requirement compliance has increased over the years, many companies are still in default. Regrettably, some of the mining companies that were issued licenses by the mining cadastre office do not have EIA permits. One of the quarry companies in Itobe community is a case in point. During an interview with an operator of a quarry site in Itobe, it emerged that the he did not understand or appreciate the import and purpose of an EIA or a closure plan even though he had been operating in the community for over three years. This state of affairs was corroborated by the mines inspection officer who confirmed that the ministry has been “hunting” for him to come put his papers right for over two years.

The landscape of mining communities across Nigeria is littered with open and abandoned mines, a number of which predate Nigeria's independence and the current mining laws. Jos probably has the most number of inactive mines that have not been reclaimed. Other mining communities are inching closer to the records set by Jos in this regard. Mining laws require mines to have and to receive authorization for a closure plan from the onset of their operations. However it will appear that most do not.

Failure to reclaim inactive mines and quarries will often lead to greater ecological devastation than when an attempt is made to return them to a habitable state. They also have the tendency to become artificial ponds breeding a variety of vectors and reptiles. As earlier mentioned they have also been the cause of numerous fatal accidents.

There is the complication of legacy issues from companies who have taken over mines that have been vacated by other companies. At Ebonyi state, James and John Company reiterated this issue when it asserted that it was the third company to occupy the mine site which they currently occupy at Ivo. The good news at Jos is that the government is making concerted efforts at creatively reclaiming some abandoned mines.

Government Oversight

Mining regulation is amulti-sectoral enterprise and requires the collaboration of a cross section of government institutions, agencies and parastatals including the Federal MMSD, the Ministries of environment, health, labour and productivity, trade and investments etc. However, there is an apparent lack of inter-ministerial collaboration and synergy between relevant government agencies. This is coupled with poorly defined functions and lack of clear cut relationship between the federal and state government in relation to mining. In Osun state for example, the tension between the federal and state government is exacerbated by the fact that the state and federal government are of different political affiliations and this dichotomy has hampered effective collaboration between the state and federal government. There is also an indication that the state government boycotts the MMSD and vice versa in dealing with mining issues. The governance failure experienced in the course of the lead poisoning disaster at Zamfara alluded greatly to the chasm between government departments at both the state and federal levels.

Interactions with key government officials suggested that government's focus tended to be more on revenue generation rather than protecting community rights and addressing regulatory issues in the industry. InItagunmodifor example, the local government council imposed and collected a daily access fee of N50 (fifty naira) from artisanal miners most of whom were illegal aliens and no closure plans for the gouges they were creating. In spite of the considerable revenues generated by the government, the MMSD field offices were grossly under-funded and lacked sufficient human and material resources to effectively monitor mining activities in host communities or interact with community members.

Recommendations

- We recommend a detailed review of the Minerals and Mining Act 2007 and the Mining Regulations to increase regulatory oversight for artisanal and small scale mining and to promote a more progressive outlook for mining host communities.

- There is an urgent need for government at all levels to facilitate awareness campaigns to educate all extractive host communities in Nigeria. These awareness campaigns should be in local languages and should focus on protocols for initiating new mining projects by companies and artisanal miners, community development agreements, environmental protection laws, related health and safety issues; and their rights within the solid minerals regulatory framework as well as the "go to" institutions .

- Government should ensure that the requirement of conducting an environmental impact assessment is religiously observed irrespective of the scale of mining proposed. Host communities should be consulted in the process and the likely impact of mining projects should be explained to them in a language they understand. Government must ensure that companies comply with closure plans.

- Some form of environmental impact assessments should be required of artisanal mining cooperatives to ensure that closure plans are factored into artisanal mining projects.

- We therefore recommend that in addition to environmental impact assessments, mining projects should mandatorily conduct social and human rights impact assessments, duly consulting with host communities prior to being granted mineral titles.

at Ivo. The good news at Jos is that the government is making concerted efforts at creatively reclaiming some abandoned mines.

Government Oversight

Mining regulation is amulti-sectoral enterprise and requires the collaboration of a cross section of government institutions, agencies and parastatals including the Federal MMSD, the Ministries of environment, health, labour and productivity, trade and investments etc. However, there is an apparent lack of inter-ministerial collaboration and synergy between relevant government agencies. This is coupled with poorly defined functions and lack of clear cut relationship between the federal and state government in relation to mining. In Osun state for example, the tension between the federal and state government is exacerbated by the fact that the state and federal government are of different political affiliations and this dichotomy has hampered effective collaboration between the state and federal government. There is also an indication that the state government boycotts the MMSD and vice versa in dealing with mining issues. The governance failure experienced in the course of the lead poisoning disaster at Zamfara alluded greatly to the chasm between government departments at both the state and federal levels.

Interactions with key government officials suggested that government's focus tended to be more on revenue generation rather than protecting community rights and addressing regulatory issues in the industry. InItagunmodifor example, the local government council imposed and collected a daily access fee of N50 (fifty naira) from artisanal miners most of whom were illegal aliens and no closure plans for the gouges they were creating. In spite of the considerable revenues generated by the government, the MMSD field offices were grossly under-funded and lacked sufficient human and material resources to effectively monitor mining activities in host communities or interact with community members.

Recommendations

- We recommend a detailed review of the Minerals and Mining Act 2007 and the Mining Regulations to increase regulatory oversight for artisanal and small scale mining and to promote a more progressive outlook for mining host communities.

- There is an urgent need for government at all levels to facilitate awareness campaigns to educate all extractive host communities in Nigeria. These awareness campaigns should be in local languages and should focus on protocols for initiating new mining projects by companies and artisanal miners, community development agreements, environmental protection laws, related health and safety issues; and their rights within the solid minerals regulatory framework as well as the “go to” institutions .

- Government should ensure that the requirement of conducting an environmental impact assessment is religiously observed irrespective of the scale of mining proposed. Host communities should be consulted in the process and the likely impact of mining projects should be explained to them in a language they understand. Government must ensure that companies comply with closure plans.

- Some form of environmental impact assessments should be required of artisanal mining cooperatives to ensure that closure plans are factored into artisanal mining projects.

- We therefore recommend that in addition to environmental impact assessments, mining projects should mandatorily conduct social and human rights impact assessments, duly consulting with host communities prior to being granted mineral titles.

- The government should create an enabling environment for fair and adequate compensation and resettlement during negotiations for land acquisitions by providing independent valuation services to ensure that host communities are adequately compensated for lost land and property.

- State governments, in particular, their Mineral Resources and Environmental Management Committees, and local civil society organizations should play a more active role in CDA process by ensuring that communities are able to negotiate CDAs with adequate **technical and legal assistance** necessary to give free, informed and democratic consents to agreements and ensuring effective implementation and monitoring of the Community Development Agreements required in the Minerals and Mining Act

- Mining companies should avoid the use of excessive force on host communities by their security personnel. We in particular recommend that the Federal Government and all mining companies adopt the tenets of the Voluntary Principles on Security and Human Rights.

- We recommend a review of the protocols for engagement on mining related issues to ensure a more effective synergy and cooperation between government ministries and institutions relevant to the solid mineral sector.

- Government institutions, in particular the Federal Ministry of Mines and Steel Development and NESREA should be adequately funded to effectively carry out their oversight and regulatory functions.

- Civil society should promote better governance of the mining sector by demanding transparency and accountability in the sector. They can also play a critical role in improving governance of the sector by engaging in sensitization and awareness programmes on host community rights.

CONCLUSION

This report has attempted to provide a narrative on the status of extractive host community in Nigeria and at the same time proffered some recommendations. It is our hope that it will increase stakeholder knowledge and catalyze essential conversations with policy makers, and that legal and regulatory reforms will result from these conversations and improve the status of extractive host communities across Nigeria.

GLOBAL RIGHTS

Advocates For
Sustainable Justice

GLOBAL RIGHTS Nigeria *with generous support from* **FORD FOUNDATION**