

ANARDE RESEARCH SERIES

Taking Mineral Royalties to Communities in Karamoja

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ADVOCATES FOR NATURAL
RESOURCES & DEVELOPMENT



November 2021



Executive Summary

The report highlights challenges and/or constraints in the management and administration of mineral royalties which partly explains the persistent low levels of livelihood in Karamoja despite its rich mineral endowment. Against this background, the report proposes a legal and regulatory framework that may contribute to maximization of returns from Uganda’s rich mineral endowment and more so benefit the Karamoja mining communities.

The study proposes ways through which royalties can yield social and economic benefits and improve livelihoods of mineral rich communities in Karamoja. The report demonstrates that this may be achieved in part by ensuring an economically efficient mining industry, while at the same time designing an appropriate collection and distribution mechanism for mineral royalties. In the final analysis, the report proposes recommendations for effective access and utilization of mineral royalties in Karamoja. The role of local governments and other stake holders to monitor and implement the collection and use of royalties is emphasized.

This report emphasizes that transparency, participation, openness and accountability are linchpins in ensuring that royalties are utilized for the benefit of local communities.



Introduction Taking Mineral Royalties to Communities in Karamoja

The Discovery of minerals always generates hope for a new era and a potential improvement in the livelihood of host communities. With exploitation of mineral resources, national governments are expected to generate revenue to improve their social services, infrastructure and uplift the national economic outlook. The local communities located within the mineral rich areas also seek social economic benefits from their resource. Evidence compiled by a research project carried out in Ghana in 2007, funded by the International Council on Mining and Metals (ICMM), suggests that, per capita income in mining communities is generally moderately higher than in non-mining rural communities (ICMM 2007).

This is explained by a combination of the activities of small-scale mining and also employment from industrial mines. As a result of mining operations, there may be usually an increase in the procurement of goods and services by the mining companies consequently adding value to the host communities. However, the ICMM report noted that most large mining companies tend to procure goods and services from outside immediate communities!

However, mining also presents challenges such as: inflow of migrants that can destabilize communities, rising insecurity, environmental degradation and pollution and displacement of local communities from their land. Additionally, as miners embark on the acquisition of acreage, this also raises challenges of unfair and inadequate compensation for acquisition of surface rights and/or land and the lack of free prior informed consent. Due to the negative effects experienced by mining communities, re-distribution of a proportion of state mining revenue to the direct benefit of such communities in form of royalties becomes paramount.

However, available literature suggests that most mineral rich countries in Africa are faced with challenges in the administration and management of mineral revenues, such as corruption, lack of accountability and absence of transparency, prohibitive collection and administration costs, poor planning, unequal distribution of revenues, and inflation as a result of overreliance on mineral wealth at the expense of other production sectors hence undermining the country’s balance of trade. The transfer of mining wealth to mining affected communities may also cause factionalism and distrust, in some ways, a localized manifestation of the resource curse.

¹ *The Role of Mining in National Economics* (2nd edition) 2014. International Council for Mining and Metals. <https://www.icmm.com/en/global-development/2014/04/01/mining-development-impacts-karamoja-summit-gba-shoa-report>

² *Cited in: Cost-Benefit Analysis of the Mining Sector in Karamoja, Uganda, Houdat J, Malooqa H, et al*

Karamoja is one of the areas with the largest mineral potential in Uganda. Some of the minerals in the region include; limestone, uranium, marble, graphite, gypsum, iron ore, wolfram, nickel, gold, copper, cobalt, lithium, tin, gemstones, marble and rare earth elements! However like most mineral rich communities, there is already discontent over how royalties are collected from mining companies, how much is collected and what government exactly declares as the generated revenue. Concerns already abound that raw minerals extracted from Karamoja are not benefiting her people and local governments. For example, cases have been reported of law enforcement agencies impounding loaded trucks in the process of running away from payment of royalties! Evasion of payment of royalties persists in the Karamoja region and in other mining communities partly because the regulator is not able to monitor and supervise field activities on a regular basis due to logistical and administrative challenges.

The recent launch of the aerial survey to map out areas in the Karamoja region is a sign that concerns over payment of royalties must be regulated adequately, otherwise the likely discovery of additional mineral wealth may never benefit the local Karimojong!

The Uganda Cabinet has approved the Mining and Minerals Bill 2021. The purpose of the Bill is to reform and strengthen the legal, regulatory and institutional frameworks to cater for mineral traceability, mineral certification, value addition, mineral revenue management and the formalization of Artisanal and small-scale miners among others!

One of the critical issues highlighted in this report is how the proposed legal and regulatory framework can be framed to maximize returns from Uganda’s mineral endowment and more so benefit the Karamoja mining communities.

The study therefore interrogates ways through which royalties can yield social and economic benefits and improve livelihoods of mineral rich communities in Karamoja. This may be achieved in part by ensuring an economically efficient mining industry, while at the same time designing an appropriate collection and distribution mechanism for mineral royalties.

This report emphasizes that transparency, participation, openness and accountability are linchpins in ensuring that royalties are utilized for the benefit of local communities.

³ *The Role of Mining in National Economics* (2nd edition) 2014. International Council for Mining and Metals. <https://www.icmm.com/en/global-development/2014/04/01/mining-development-impacts-karamoja-summit-gba-shoa-report>

⁴ *Launch of Aerial Survey of Karamoja Region 20th March, 2021. <http://www.up.gov.ug/mining/2021/03/20/launch-of-aerial-survey-of-karamoja-region-20th-march-2021/>*

⁵ *Minerals Ministry Government Approves Mining Bill 2020. Accessed on May 24th 2021. <https://radiopositiv.com/2021/04/15/govt-approved-mining-bill-2020/>*

1.1 Methodology Methods of Data Collection and Analysis

1.1.1 Literature Review.

Documents that were reviewed include the following;

- The Mining Act, 2003.
- The Mining Regulations, 2004.
- The Mining Policy 2018.
- The Mining and Minerals Bill, 2020
- The Africa Mining Vision, 2009.
- Publications

1.1.2 Focus group discussions (FGD) & Key informant interviews (KIIs)

Data collection was undertaken by conducting focused group discussions and key informant interviews. The participants included community representatives such as; mining associations, District technical officials, civil society organizations, subcounty leadership and officials from the Ministry of Energy and Mineral Development. Field interviews were conducted in Tapac and Rupa Sub County in Moroto District. The aim of the interviews was: To find out whether communities, owners or lawful occupiers of land access royalties; and to find out whether paid royalties are improving incomes and livelihoods and; to establish views and recommendations on the most appropriate methods of collection, sharing and distribution of royalties.

1.2 Why pay royalties?

Royalties have three main advantages:

- (1) Compensating the resource owner for the loss of wealth as a result of extraction. This is made possible because they are charged on the value of the mineral extracted;
- (2) A reliable revenue source: useful in influencing the timing and riskiness of payments to the government. Revenues from royalties are collected as soon as production commences, regardless of whether the firm is profitable or not. Given that a mine may not start earning profits until many years later, this brings forward the date when tax becomes payable.

(3) Easy to administer: usually the only information required is the sales volume of the minerals and the unit price. The latter may be the price which the mine claims it received or, if this is considered unreliable, some independent reference price may be used such as the average monthly price published by the London Metal Exchange (or similar agency depending on the mineral).

(4) Companies benefiting by reporting royalty payment as deductible expenses. In most cases royalty payments are often treated as a cost when calculating taxable profits for the purposes of taxes such as company income tax and excess profit tax. In these cases, royalty payments can be said to be “deductible” against taxable profits. One justification for this is if royalties are considered a payment by the mining company for the use of mineral inputs. Such payments can be considered as a cost of production and Companies benefit from the payment of royalties in the sense that they are treated as deductible expenses when computing tax.

(5) Social licence to operate
Last but not least, it is important that mining companies pay the royalties to maintain a good relationship with government and have the confidence of the land owners or lawful occupants of the land from which the mineral resources are extracted.



2.0 National and International Regimes Governing Royalties

2.1 The Legal Framework

A mineral royalty is defined as a right to a share of income from mineral production. Mineral royalties are therefore paid by the owner or the operator of a mine to compensate for natural resources that are extracted. Mineral royalties are regular payments, usually based on the volume or price of minerals extracted, made by mining enterprises to national states or other owners of mineral resources as consideration for the right to exploit particular mineral resources.

In Uganda where, mineral resources are vested in Government on behalf of the Republic of Uganda¹, entitlement to mineral royalties as a right is not a given. Article 244 states that mineral resources are run and managed by the State on behalf of its people.

This explains why royalties in Uganda are divided among the central government on one hand and the local governments and owners or lawful occupiers of the land bearing the royalties, on the other hand. In most jurisdictions, royalties are collected for the same reason, that is, payment to the owner of the mineral resource in return for the removal of the minerals from the land. In contrast, in some civil law nations where minerals are owned by owners of individual parcels of land, the legal basis for a royalty paid to the state is a payment for a continued right to mine, with no actual or implied mineral ownership by the state².

The Constitution of the Republic of Uganda provides that Parliament shall make laws regulating the exploitation of minerals and the sharing of royalties arising from mineral exploitation. It further goes on to state that minerals and mineral ores shall be exploited considering the interests of the individual land owners, local governments and the Government³. However, Section 83 of the Mining Act stipulates that in case the lawful owner or lawful occupier of land takes a share of royalties, such owner/occupier loses the right to seek compensation from the mining company for the disturbance, damage to the surface of the land, or any damage to the trees, crops, buildings damaged during the course of operations. It must be stated out rightly that this provision not only denies communities the right to protection from deprivation of property guaranteed under Article 26 of the Constitution, but also falls short of appreciating that the formula and basis for calculating mineral royalties is at variance with factors to consider when compensating for lost or damaged property. Royalty payments accrue whether or not loss or damage arises as a result of mining operations while on the other hand, compensation arises as a result of actual loss, damage and/or disturbance to life and/or property or upon agreement by the parties affected and the mineral right holder.

¹ Black’s Law Dictionary, 10th Edition, Bryan Aganess, Page 1528
² Article 244(1) of the Constitution of Uganda.

³ Mining Royalties: A Global Study of Their Impact on Investors, Government, and Civil Society James Ottaviani. The World Bank
⁴ Article 244(2)(b) & Art. 244(3) of the 1995 constitution (as Amended)

The likely taxes and fees due from mining companies to Government include: Capital Gains Tax, profit tax and royalties, fines, excise tax, Value Added tax, withholding tax, customs duties and property tax. The Uganda Revenue Authority is the main body responsible for collecting and managing taxes paid to the central government, while the Ministry of Energy and Mineral Development specifically the Directorate of Geological Surveys and Mines (DGS&M) is responsible for sector-specific levies.

All minerals obtained or mined in the course of prospecting, exploration, mining or mineral beneficiation operations are subject to the payment of royalties on the gross value of the minerals based on the prevailing market price of the minerals at such rates as shall be prescribed⁴. The royalties are shared among the Government, Local Governments and owners or lawful occupiers of land subject to mineral rights. The Government takes 80%, Local Governments 17% and Owners or lawful occupiers of land subject to mineral rights get 3%.⁵ The diabolical question during some of the stakeholder engagements has always been whether or not the 3% share allocated to owners or lawful occupiers is adequate as to contribute to transformation of livelihoods of mining communities.

Schedule 2 of the Mining and Minerals Bill 2021 seeks to change the current royalty sharing formula as follows: Government takes 70%, Local governments take 15% and owners, lawful occupiers or bonafide occupants of land subject to mineral rights take 5%.

The assessed royalty must be paid within thirty days from the date of the assessment, and delay in payment attracts an interest on the unpaid royalty at the rate of 2% per annum above the commercial bank lending rate as established by the Bank of Uganda, and the interest on any such unpaid royalty is not deductible for purposes of assessing taxable income⁶. Where royalty is not paid before the due date, the Commissioner is required to prohibit the holder from disposing of any mineral obtained or mined by him or her from the mining area concerned, or from any other mining area held by that holder, until all outstanding royalties have been paid or until an arrangement has been made, acceptable to the Commissioner, for the payment of the royalties. However, the Mining and Minerals Bill 2021 has introduced additional conditions: where the mineral right holder does not pay the royalties payable within forty-five days, the Director of Geological Survey and Mines shall revoke the license or the permit; and in cases where there is a default in payment of the prescribed royalties by a mineral right holder, the Commissioner General of Uganda Revenue Authority shall issue a Notice in line with the Tax Procedure Code Act, 2014.

The Bill also prescribes a penalty for nonpayment of royalty in a sense that any holder of a mineral right who disposes of a mineral after being notified to pay the royalty due; commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand currency points (UGX 2,000,000,000)⁷.

The miner enjoys the right to waive payment of royalties. Section 99 of the Mining Act 2003 empowers the Minister of Energy and Mineral development with approval of cabinet to waive part or all of the royalty. The law sets no conditions for such a waiver but rather gives a blanket authority which may be exploited to the detriment of the prospective beneficiaries of royalties. It should be noted that the Mining Bill has retained the waiver. The reason for the waiver is “if it is expedient to do so in the interests of the production of any such mineral”⁸.

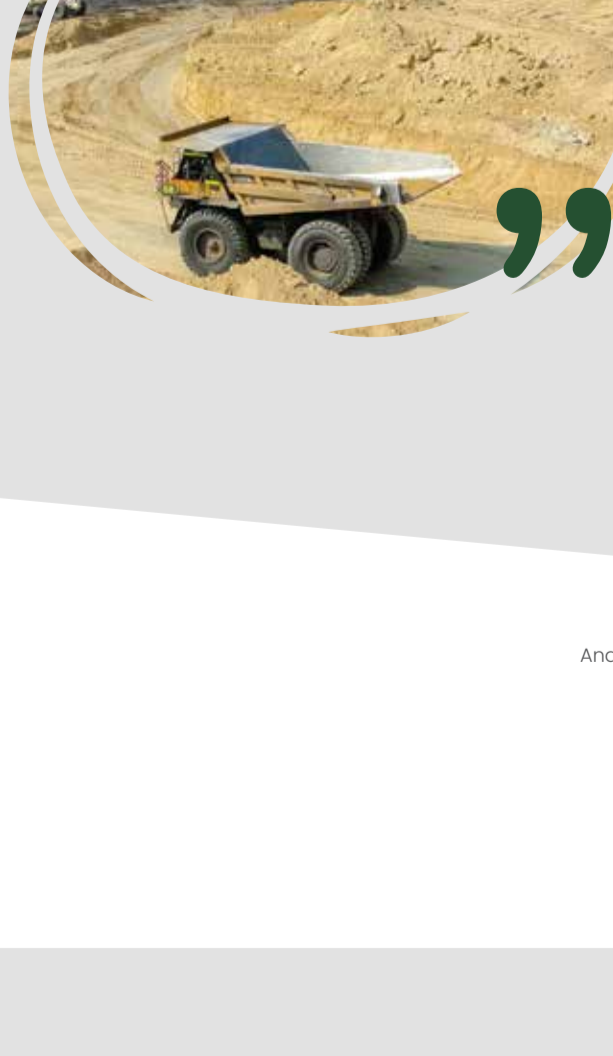
⁴ Section 88 of the Mining Act 2003
⁵ Ibid, Second schedule to the Act.
⁶ Section 103 of the Mining Act, 2003

⁷ Section 202 provides for failure to pay royalty on due date
⁸ Section 215, Mining and Minerals Bill, 2020.

2.2.1 African Mining Vision 2009

The Africa Mining Vision is a policy framework that was created by the African Union in 2009 to ensure that Africa utilizes its mineral resources strategically for broad-based, inclusive development. For royalty purposes, it establishes a progressive fiscal regime that can curb the loss of the continent’s mineral resources through tax evasion and avoidance and illicit financial flows. The vision document comprehensively addresses the challenges associated with harnessing Africa’s mineral resources for sustainable development, while striving to reflect global norms for the equitable governance of mineral sectors.

Because of the tendency of royalty payment to avoid tax, the Mining Bill provides that the Income Tax (Transfer Pricing) Regulations 2011 shall apply to companies seeking to pay less tax include expenses on equipment and items transferred from their subsidiaries to realize more deductible expenses. The company will then deduct this expense in calculation of its income. This practice reduces the amount of royalty payable to the host country. Incorporation of the Transfer Pricing Rules is therefore timely.



The Mining Act 2003 provides that royalty payment which remains unpaid becomes a civil debt due to government and can be recoverable by civil action⁹. The Bill has added that the civil action can be by summary procedure. However, civil action is so hectic and usually drags on for years, on average it takes three years to complete a civil suit, should either party appeal the decision of the court of first instance, it may take an additional three to five years to complete the appeal.

⁹ From aspiration to reality: Unpacking the Africa Mining Vision, /Oldam briefing paper, March 2017.

2.2 Regional and International Mechanisms for Transparency in the Mineral Sector

2.2.1 African Mining Vision 2009

The Africa Mining Vision is a policy framework that was created by the African Union in 2009 to ensure that Africa utilizes its mineral resources strategically for broad-based, inclusive development. For royalty purposes, it establishes a progressive fiscal regime that can curb the loss of the continent’s mineral resources through tax evasion and avoidance and illicit financial flows. The vision document comprehensively addresses the challenges associated with harnessing Africa’s mineral resources for sustainable development, while striving to reflect global norms for the equitable governance of mineral sectors.

The vision seeks to transform the continent’s mineral sectors in an inclusive, sustainable way. As such, its ambitions are consistent with other Pan-African development initiatives such as the African Union Agenda 2063 whose aim is to see that the extractive sectors plays an important role in domestic resource mobilization by capturing a greater share of resource rents¹⁰. Emphasis is placed on new contractual arrangements and legal instruments to facilitate increased participation by local communities, as well as new revenue derived from royalties, income tax and other taxes.

2.2.2 Extractive Industries Transparency Initiatives (EITI)

The Extractive Industries Transparency Initiative (EITI) is an international, multi-stakeholder initiative that promotes transparency and accountability in the oil, gas and mining sectors through the disclosure of government and company data in resource-rich countries. The EITI helps resource rich countries to strengthen efforts to ensure overall transparency in the sector, strengthen tax collection, improve the investment climate, build trust and create lasting value from petroleum and mineral resources to their citizens.

In August 2020, Uganda formally joined the Extractive Industries Transparency Initiative (EITI). This requires Government and IOCs/Mining companies to disclose all agreements and contracts. Under the EITI framework, companies publish information on their payments to Government and the latter publishes its receipts from the companies. In turn, this is expected to enhance openness, transparency and accountability and ensure that extractives revenues are utilized for the benefit of the citizens especially local communities.

3.0 Fiscal regimes Governing Collection of Royalties

Calculation of royalty mainly takes different types of royalty instruments, which vary in accordance with how risk is distributed between the company and the state.¹⁹ The first is the Profit-Based Royalty: This tax is calculated by multiplying the Royalty Rate by the Net Profits derived from the mineral. This instrument is most sensitive to mineral price fluctuations, but also slower to provide revenue to the state as there is no tax until an enterprise is profitable.

The second is the Gross Value-Based Royalty: This is calculated by multiplying the Royalty Rate by the gross market value of the mineral produced as calculated by a pre-determined entity. It's an ad valorem royalty based on the percentage of the value of production of a mining project. This royalty provides a steady revenue stream and is easy to administer, but it is not sensitive to price fluctuations.

The third instrument is the Net Value-Based Royalty. This tax, often in the form of a Net Smelter Return Royalty, allows deduction of certain production and selling costs, such as melting and refining. This instrument provides some sensitivity to fluctuations in mineral price, as the Net Smelter Return is calculated by subtracting applicable costs from Gross Market Value. As that value drops, so will the tax.

The fourth is a straight Unit-Based Royalty. Because of its fixed nature, this royalty is often thought to be most appropriate for industrial minerals and certain minerals sold in bulk, like coal. These unit- or value-based tax instruments charge a fixed price per pound, kilo, ton, or other unit of production.

Contrasted from the flat royalty where a mineral company pays a flat rate, there is the Sliding-Scale or step scale Royalty, where periods of high profitability for the company would result in increased royalty payments.²⁰ In Uganda royalty payment is based on the gross value of the minerals after the prevailing market price of minerals.²¹

¹⁹ Anonied at https://www.researchgate.net/publication/319186203/Fiscal_Regimes_Governing_Collection_of_Royalties, February 21, 2020

3.1 Assessment and Collection of Royalty

As discussed above, royalty on any mineral produced in Uganda is payable by a holder of the mineral right concerned within a period not exceeding thirty days after assessment by the Commissioner.²² A licensed mineral dealer must also pay royalty within thirty days after buying or coming into possession of the mineral concerned, except where royalty has already been paid on the mineral.²³

Assessment of royalty is done by the Directorate of Geological Surveys and Mines (DGSMS) and the collection is done by Uganda Revenue Authority. The assessment involves finding out the quantity and grade of the mineral and a royalty is applied based on the prevailing market rates. The value of a precious metal or a non-precious mineral is deemed to be the latest price on the London Metal Exchange or any other Metal Exchange or market as known to the Commissioner and in the absence of proof to the contrary, gold shall be deemed to be ninety-five per centum fine.²⁴

- The formula applicable is:
- Gross value** = amount of mineral X grade X dollar rate X value of mineral on the market
Royalty = royalty rate as shown in table 1 X gross value
- Where: **Gross value** – total value of mineral mined.
 Amount of mineral-amount of mineral assessed.
- Grade** – the percentage of purity in the ore/mineral if refined.
- Dollar rate** – exchange rate between the Uganda shilling and a dollar for that day.
- Value of mineral** – value of mineral on the international market.
- Royalty** – amount of royalty to be assessed.
- Rate** – rate as set out in the law.

²² INTERNATIONAL MINERAL ASSOCIATION EXPERTISE AND 1998 IBCS Landmark Regan September 17, 2008

²³ Section 59 (1) of the Mining Act and Section 17(1) of the Mining and Minerals Bill of 2018

²⁴ Regulation 43(2)(a) of the Mining and Minerals Bill, 2018 address transparency and accountability gaps in the mining sub-sector in Uganda? Monday, Feb 06, 2021. Blog post by [Mineral.Stacy Lucius](https://www.minerals.gov.ug/)

The following royalty rates apply to holders of mineral rights or mineral dealers:²⁵

(a) on precious metals;	five (5%) per centum of the gross value;
(b) on precious stones;	ten (10%) per centum of the gross value;
(c) on base metals and ores;	five (5%) per centum of the gross value;
(d) on graphite	five (5%) per centum of the gross value;
(e) on vermiculite;	Shs.10,000/= per tonne;
(f) on coal; including peat;	Shs.5,000/= per tonne;
(g) on kaolin, limestone, chalk or gypsum;	Shs.5,000/= per tonne;
(h) on marble, granite, sandstone and other dimension stones;	Shs.5,000/= per tonne;
(i) on pozzolanic materials;	Shs.1,000/= per tonne.
(j) on phosphates;	Shs.10,000/= per tonne.

The mining companies are supposed to submit monthly returns to the ministry. The returns show the minerals produced by the mining company-if any.

²⁵ Regulation 62, ibid.

²⁶ Schedule 3, ibid.

DGSMS complies verified production statistics upon which basis it assesses the mineral royalty due from every mineral right holder licensed to exploit and/or process minerals from their ore. These statistics are compiled on a monthly basis. The DGSMS then grants the mineral right holder(s) a Bank Payment Advice Form of the Uganda Revenue Authority (URA) whose mandate is to collect Non-Tax Revenues accruing from royalties. When the royalty is collected, URA retains a 80% share of the money collected for the Government and remits 20% to the Ministry of Energy and Mineral Development (MEMD) which maintains a record at the DGSMS of the royalty actually paid as evidenced by URA payment receipts. MEMD subsequently publishes the royalties due to each mining district in the print media and requests Accounting Officers of the different Local Governments to collect their share (17%) of the royalty collected from mineral exploitation in their respective districts through Ministry of Finance Planning and Economic Development. Owners or lawful occupiers of land subject to mineral rights are also notified to collect their share (3%) of the royalty due from the respective district.²⁷

The Commissioner cannot issue an export permit for the export of minerals except only where the royalty due on the minerals has been paid or payment secured by form of a bank guarantee.²⁸ The minerals can only be used locally only after the royalty due on the has been paid or secured in form of a bank guarantee.

Interviews with the Inspector of Mines, revealed that yields from royalties are low partly because mineral right holders do not file returns for assessment and therefore do not pay royalties. In one case the inspector of mines followed the miners from Moroto up to Jinja and discovered that the dealer had cheated Government over three hundred million Uganda shillings (UGX300,000,000/=). This situation reveals capacity constraints in the administration of royalties.

3.2 Challenges in collecting royalties

Government does not have the capacity to administer and collect even the declared royalty. For instance, the Office of the Auditor General's (OAG) report of 2019, indicated that the Ministry of Energy and Mineral Development collected UGX 10,503,398,902 in respect of mineral royalties. However, a review of reports from the Customs and Excise Department of Uganda Revenue Authority (URA) indicated that Government should have collected UGX 70,193,258,898 in royalties, using the applicable rate of 5% from gold, tantalum and tungsten.²⁹ There is need for provision of a clear legal, regulatory and institutional framework for proper administration and follow up of royalty payments by the different government agencies.

There is limited operational capacity in collection of royalties; the assessment is based on monthly and any other information obtained during field inspection yet there are not enough field inspections carried out to ascertain the mineral quantities produced.

There is no water tight system to ensure that that the holder of a mineral right submits authentic returns. However, the Bill has introduced the Mineral Protection force to among others counter smuggling of minerals and royalty evasion.³⁰

Local governments situated where the minerals originate are not given a role in inspecting, tracking and declaration of the extracted mineral. Yet the Ministry of Energy is under-staffed to make a thorough tracking and inspection of the extracted minerals. In most cases, it has been reported that investors have declared false amounts of gold and financial gains from transactions. These false declarations and/or under declarations deprive public tax revenues, mineral rents and royalties.

In Karamoja, the MEMD has not set up weigh bridges on the major routes where bulky and expensive minerals such as marble, gold, pozzolana, limestone and other metals are transported.

There is a lack of coordination between the various Government institutions, and a failure to share the collected data. As a result, the Ministry of Energy and Mineral Development cannot institute a proper verification mechanism.

Practice directives such as the Presidential directive scraping payment of royalties on gold in a bid to attract foreign direct investment into the sector minimize smuggling of precious metals undermining collection of royalties. This directive inadvertently undermined the royalty collection efforts considering that gold attracts 5% royalty hence reducing the amount of royalty that would be due to the communities.

³¹ Section 28 of Mining and Minerals Bill of 2021.

4.0 Access and Use of Royalties in Karamoja

Local Governments have devised an uncertain regime for sharing and distribution of royalties. The 3% royalty is being remitted to the grassroots communities. Akol Michael, Chairperson LC III Katikelle revealed that some sub counties such as Katikelle started receiving royalties in 2008. However, due to lack of weigh bridges, there is no uniform criteria of ascertaining the payable royalties. Sub counties also levy fees on trucks that transport minerals and the fees levied depend on a particular subcounty.³² The Mining Act, 2003 governs the administration of royalties in Uganda. However, there is no codified regulation on the distribution of royalties in the local governments/local communities.

By February 2019, it was only two sub counties Tapac and Katikelle, which were getting royalties in Moroto District through an association called Katikelle Action for Development (KAD). Other areas, had not received anything. It also emerged that a lack of land titles stifle people's ability to assert their right to access royalties.

It was established through data collection that the 3% royalties entrusted with Community trusts or community associations, is never distributed to the actual lawful occupiers and owners of land. Yet the land ownership system in the area entitles everyone the opportunity to benefit.³³ Much of the land in Karamoja is communally owned implying that every member of the community should benefit from the royalties accruing from mining operations thereon.

However, the clan system being predominant in Karamoja, in absence of formal structures (trusts or associations) clans take center stage. A participant revealed that "management of royalties is at the clan level". And when it comes to sharing, even if you are living on a piece of land that has minerals and you do not belong to that clan, you will not receive any royalties.³⁴ The foregoing shades some uneven ground and points out that in some instances, receipt of royalties is punctuated by social exclusion on grounds of clan and ethnicity.

Absence of a clear criteria for access and management of royalties is yet another challenge for members in communities in Karamoja. Interviewees questioned how the 3% share of local communities is managed. For example, whereas the interviewee was comfortable with developments made in Nabuyin and Singila where minerals were mined, it was revealed that the members of the communities did not know the basis of giving out the money to miners and youth groups on loan schemes. In a focus group discussion at Singila village, Katikelle Sub County, all participants revealed that the communal land system of land ownership as a hindrance to people receiving the royalties in person.

³² Interview with Akol Michael, on 27th February 2019 at Moroto Municipality

³³ Uganda Greener Peace, Director Strategic Development Issues

³⁴ Zachary Angilika, Vice Natural Resources Officer Moroto district

Communities blame district authorities for failure to sensitize them on royalties. The practice is that when district authorities receive royalties from the central government, the information is published on notice boards for the community to access and announcements are also made on radio to inform communities. However, this mode of communication is not accessible to everyone. To improve the dissemination of this information, it is recommended to engage/inform local council chairpersons and various groups such as the elderly, youth, women and other community-based associations in the area.

Most interviewees expressed the need for a quick disbursement of royalties to the communities. The Mining Act does not make a provision for time frames within which royalties at the community level should be dispersed. Policy documents require efficiency at all stages of mineral administration and management. Whereas royalty benefits must be remitted timely, it is clear that the central Government delays this process. On average, delays take up to three months but can take up to two years. The Mineral Policy, 2001 and Mineral Policy 2018 are underpinned by the principle of efficiency in the management of mineral resources and the revenues accruing therefrom. In line with policy principles and objectives, interviewees also expressed the need for royalties to be sent to local governments on a monthly basis.³⁵ In Tapac sub county, royalties are managed by community driven trusts (**Tapac Initiative for Community Development (TICODER)**).

By February 2019, the trust had awarded 15 students' scholarships, however, the sub county had spent two years without receiving royalties...³⁶

There should be a consistent model of benefiting communities such as setting up infrastructure and other special services like schools and health centers while benefiting in mind but that upon applying the generated money to put up some infrastructure, the communities migrate to other areas where minerals get discovered. For example, communities have left behind boreholes and moved to other places where minerals have been discovered. Models consistent with the nomadic patterns in Karamoja have the potential to minimize unequal distribution of resources and concentration of services in a few selected areas. In 2016, KAD used the royalties to construct latrines and planting of trees. Even though they understand that KAD applies the money to community projects such as conserving the environment, the participants said they are not regularly updated on the association activities.

Field interviews revealed that in some cases, royalty payments are used to advance education of the host communities. For example Moroto district paid ten million Uganda shillings to Moroto High school as tuition...³⁷ These are good measures that should be applied at the right time and right places, hence the need to develop a community revenue benefits scheme integrating key functions such as; maternal health care and village health centers among others.

³⁵ The official requested anonymity. Interview on February 2019 at Mt. Moroto Hotel, Moroto Municipality.

³⁶ Per Omyang Joseph, Deputy Chief Tapac Sub County

³⁷ Per Anon Source, Office of the Deputy CAO Moroto.

The distribution of royalties is still plagued with challenges, including the following:

- 3% royalty share out of the 17% is too little for the grassroots communities considering that they house the mining operations. This was echoed by a number of community representatives during field interviews.
- 3% royalty is never delivered to the exact communities where land owners are affected;
- The proposed royalty formula in the Mining and Minerals Bill 2021 is also viewed as too little to benefit the mineral host communities in Karamoja and host communities demand for a 60% share of the mineral royalty.
- influential members of some associations are full of interests that antagonize delivery of community services.
- Politicians also seek to influence management of community-based forums.

The creation of new district administrative units has led to an overlap where some mining communities were curved out and relocated to new districts not home to mining activities has left the relocated communities subsisting on a share of mineral royalties. For example Katikelle/Katikelle was part of Tapac which is a mining subcounty. Katikelle was parceled to another district which is not a mining area and as such Katikelle can longer qualify for a share of royalties used to receive royalties.

The scramble for minerals has led to formation of different association who compete for legitimacy to receive mineral royalties. Although there are conflicts between community groups, it would seem the most appropriate model for accessing royalties in Karamoja is for communities to first get organized in associations in order to miss out on royalties especially since most people do not own private lands.

The distribution of royalties is still plagued with challenges, including the following:

There is a clear responsibility for the Local Government to distribute the 3% of royalties promised to those living on the land (briefly identify the laws, etc.). However, this becomes more complex as further directives are made concerning this and the practice of actually allocating royalties and ensuring that communities receive them is not regular...

It remains unclear, therefore, how decisions are made concerning the allocation and objectives of the received royalty. Moreover, payments from year to year are erratic, and there has been no audit of the funds. For this reason, the report recommends that the Mining and Minerals Bill should dedicate sections/chapter to the management of mineral revenues.

The Mining and Minerals Bill 2021 and the Mining Act 2003 are silent on management of mineral revenues. A leaf should be borrowed from Chapter 8 of the Public Finance Management Act (PFMA, 2015) that regulates deposits, management, investment, and expenditure of petroleum revenue. The chapter among others provides for the Establishment of the Petroleum Fund, Collection and deposit of petroleum revenues into the Petroleum Fund, regular withdrawals from the Petroleum Fund, provides for transfer of oil revenues to the Consolidated, reporting and accountability and Parliament's oversight on the Petroleum Fund.

One of the key features relates to Withdrawals from the Petroleum Fund, which can only be made under authority granted by an Appropriation Act and a warrant of the Auditor General—(a) to the Consolidated Fund, to support the annual budget; and (b) to the Petroleum Revenue Investment Reserve, for investments. Based on this, we strongly recommend enacting a law regulating mineral revenue collection and application. Additionally, we recommend that the Uganda Revenue Authority disburse royalties directly to a proposed mineral development fund.

Local institutions receiving the funds lack proper accountability mechanisms and clarity on what these funds should be spent on. The need to streamline the distribution of royalties to communities is hence of paramount importance.

Mining does a lot of physical and social damage to communities hence it is important to allocate a specific sum of revenues accruing from royalties to use for projects that are explicitly designed for improving local economic development, and to compensate for the social and environmental costs of mining. This support should go beyond the 3% allocated through royalties, as significant social, economic and environmental impacts are felt by the local communities as a result of mining activities.

A good percentage of the royalties is withheld at the district level, and the money is intended to deliver services to the community. However, it is a common practice for district funds to be misappropriated due to a lack of audits, along with contract irregularities, inadequate tendering processes, unearned salaries, a failure to ensure the timely removal of former staff from the payroll which leads to payments of unearned salaries. Mineral wealth is non-regenerative and will not continue indefinitely. It is therefore important for district authorities to put in place mechanisms for proper financial accounting of mineral wealth.

Mineral wealth should be able to catalyze local economic development in communities affected by mining. While we lack extensive evidence, because of the difficulties in undertaking more empirical research, 98% of our interviews revealed a widespread view that the use of royalties' wealth at a community level lacks basic accountability and it leaves decision making in the hands of the local elites.

Uganda is signatory to the Extractive Industries Transparency Initiative (EITI). As a result, it's important to ensure that local authorities and stakeholders in areas where raw materials are obtained are aware of the standards highlighted in the EITI. Sensitizing and building individuals' and authorities' capacity on the EITI is crucial to ensure that transparency on mineral activities is maintained at the national level.

As a matter of good practice, there should be calls for regular disclosure of the revenues generated from the mining sector. Disclosure of contracts and licenses allows Citizens to quantify the net returns that the country receives from the exploration and extraction of natural resources.

The interviews reveal that people feel no perceptible benefit from the resources extracted from "their" land, despite the sharing of royalties between the central government and the mining communities. There is considerable evidence that the use of this money is undermined by various forms of political and elite capture. Information sharing could heal this gap.

In most cases communities are not able to access information on the royalties paid. Under clause 233 of the Bill the Directorate of Geological Survey and Mines is charged with the duty to compile annual report detailing the sales and mineral receipts of each mineral commodity and product, by type of mineral right license and permit. This provision once passed shall form a basis to request for such an annual report from the Minister and the Directorate.

Non-Governmental Organizations operating in Karamoja must implement initiatives aimed to improve citizen oversight and engagement in local politics as this will help build social accountability. Citizen engagement will encourage more inclusive and participatory democracy that enables local communities to inform and influence political process beyond only acting as watchdogs for service delivery.

Local Governments play a critical role in ensuring that benefits trickle down to the local communities. This has been emphasized in the Minerals and Mining Bill of 2020, where local governments' roles include:

- (a) Integrate mineral information generated by the Directorate on mineral deposits into their development plan and participate in the implementation of mining policies, laws and mineral related activities in collaboration with the Directorate
- (b) License and regulate artisanal exploitation of building substances in collaboration with the Directorate
- (c) Create awareness about mining activities within their areas of jurisdiction in collaboration with the Directorate
- (d) Facilitate dialogue between the local communities and mineral right holders
- (e) Participate in the resolution of disputes arising from mineral related operations in collaboration with the Directorate
- (f) Local authorities shall serve as facilitators, as far as is required, for reaching and complying with the community development agreements



Further engagement with local governments is required to ensure that they follow and implement these functions so that communities receive the real value of the benefits associated to mineral activities.

ANNEX 1

**TABLE SHOWING ROYALTIES GENERATED IN MOROTO DISTRICT 2019 –2020).
Data obtained from Ministry of Energy and Mineral Development.**

MONTHLY PRODUCTION FY2019/2020																	
Mineral	Licence	July	August	September	October	November	December	January	February	March	April	May	June	TOTAL	ROYALTY	District	
Limestone/Marble (mt)																	
Tororo Cement Limited	SML 4622	13749.1	16528.1	7376.61	5341.55	10918.19	570.96	4629	8594.4	10849.6	54248.3			132806	1,328,060,000	Moroto	
Tororo Cement Limited	ML0593	5829.46	7083.47	3161.41	2289.23	4679.23									336,675,000	Moroto	
Mechanised Agro(U) Ltd	ML00014														0	Moroto	
Mechanised Agro(U) Ltd	ML00015														0	Moroto	
Mechanised Agro(U) Ltd	LL1467														0	Moroto	
Mechanised Agro(U) Ltd	LL1468														0	Moroto	
Dao Marble Ltd	ML1291														0	Moroto	
Peter Lokwang	LL1260	38		34	27	27	20	22	21	17				168	1,680,000	Moroto	
Peter Lokwang	LL1261	40		32	28	28	20	22	20	18				168	1,680,000	Moroto	
Jinja Marble Products(U) Ltd	LL1171		150	155		170	165	170	160					970	9,700,000	Moroto	
Lomongin Zulhaq	LL1915		45	20	25									90	900,000	Moroto	
Sunbelt Mining Group Ltd	LL1916															Moroto	
Ndiwa Propetry Consultanst Ltd	LL1630	36	34	15			0							85	850,000	Moroto	
Ndiwa Propetry Consultanst Ltd	LL1631	34	36	15			0							85	850,000	Moroto	
Ndiwa Propetry Consultanst Ltd	LL1632	30	32											62	620,000	Moroto	
Grate Lakes Lime Ltd	LL1949	400	773	591	630	740	0.46							3134.46	31,344,460	Moroto	
Lomongin Zulhaq	LL1951	60	19	30										49	490,000	Moroto	
Lomongin Zulhaq	LL1967		48	20	20									40		Moroto	
Lomongin Zulhaq			70	25	25									50		Moroto	
TOTAL		19719.5	23807.02	11464.02	8415.78	16562.42	1021.122	6826.86	12479	15534.3	54248.3	0	0	171375	1,712,850,220		
Gold(mt)																	
Sky International Investments Ltd	LL1938	0	0	0	0	0	0	0	0	0	0	0	0	0	0	Abim	
Victoria Best Limited	LL1764	0	0	0	0	0	0	0	0	0	0	0	0	0	0	Amudat	
Benon Burora Kuteesa	LL2007	0	0	0	0	0	0	0	0	0	0	0	0	0	0	Kaabong	
BDI Mining Limited	LL1707	0	0	0	0	0	0	0	0	0	0	0	0	0	0	Nakapiripirit	
Remigius Kasibante	LL2006	0	0	0	0	0	0	0	0	0	0	0	0	0	0	Nakapiripirit	
TOTAL		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	

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