

Taking
**Mineral
Royalties**

to Communities in

Karamoja

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1. INTRODUCTION.

The Discovery of minerals always generates hope for a new era, and a better livelihood for host communities. With the sustainable exploitation of mineral resources, national governments expect 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 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 is 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 which destabilizes communities, rising insecurity and crime, environmental degradation and pollution, displacement of local communities from their land as miners embark on the acquisition of acreage, which also raises challenges of unfair and inadequate compensation for acquisition of surface rights and/or land and inadequate 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



reach countries in Africa are faced with challenges in the administration and management of mineral revenues, such as corruption, lack of accountability and 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.

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, and 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 benefitting its people and local governments due to a number of reasons including the inadequate institutional and regulatory framework which enables non-compliance by mining companies.

For example, cases have been reported of law enforcement agencies impounding loaded trucks in the process of running away from payment of royalties/taxes. 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 some logistical challenges.

The recent launch of the aerial survey to map out areas in the Karamoja region that may hold substantial deposits of gold, copper and other lucrative minerals is a sign that concerns over payment of royalties if not regulated to finality, the likely discoverable additional mineral wealth may never benefit the local Karamojong.



The Uganda Cabinet has approved the Mining and Mineral Bill 2020, whose purpose is to reform and strengthen the legal, regulatory and institutional frameworks to cater for among others; mineral traceability, mineral certification, value addition, mineral revenue management and the formalization of Artisanal and small-scale miners.

One of the important issues for 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. This article 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. Striking a reasonable balance between the two often competing demands, is partly what this report sets out to achieve.

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



1.1 Why pay royalties?

Royalties have three main advantages. First, since they are charged on the value of the mineral extracted, they are well suited as a charge for compensating the resource owner for the loss of wealth as a result of extraction.

Second, royalties are useful in influencing the timing and riskiness of payments to the government. Royalties are a more reliable revenue source than profit-based taxes, as some revenue will be 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.

Third, royalties are relatively easy to administer because usually the only information required is the sales volume of the mineral 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). 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 in a similar manner as wages and other costs, and so should be expensed when calculating taxable profits.

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

2. National and International Regimes Governing Royalties

2.1 The Legal Frame Work

A mineral royalty is defined as a right to a share of income from mineral production. According to Wikipedia, a royalty is a payment made by one party (the licensee or franchisee) to another that owns a particular asset (the licensor or franchisor), for the right to on-going use of that asset. 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 Uganda, it can be somewhat confusing whether communities are entitled to mineral royalties as of right. But an ordinary and plain meaning of Article 244 is that minerals 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 minerals, 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 state.

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 Government. 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 is not only a denial of the right to protection from deprivation of property guaranteed under Article 26 of the Constitution, but also falls short of appreciating that the formula, basis for calculating mineral royalties is at variance with factors to consider when compensating for lost or damaged property.

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 (DGSM) 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 prescribed. The royalties are shared among the Government, Local Governments and owners or lawful



The Legal Frame Work

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%. 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.

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 be deductible for purposes of assessing taxable income. 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 Mineral and Mining Bill 2020 has introduced additional conditions: where the mineral right holder does not pay the royalties payable within forty-five days, the Minister 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).

The minister 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”.

The language used above indicates that the waiver may be intended to boost development and production of specific minerals. Such a tax incentive/waiver may attract an investor compared to a host government levying that tax and spending so much to set up the investment promoting actions such as infrastructure set up etc.

However, the law must ensure that such tax incentives are carefully designed to achieve their policy objective effectively and efficiently. This can include delivering socially beneficial outcomes including training, employment, and supplier linkages to local communities. Care and caution are needed because studies show that “...incentives provided for specific firms create market distortions by providing some firms a competitive advantage over others, and by encouraging rent-seeking activities. Tax incentives offered to politically connected firms have suppressed effective competition and the potential for job creation

The Mining Act 2003 provides that royalty payable which remains unpaid becomes a civil debt due to government and can be recoverable by civil action. 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.

Because of the tendency for mineral right holders to avoid tax, the Mining Bill provides that the Income Tax (Transfer Pricing) Regulations, 2011 shall apply to mining transactions. Transfer pricing normally occurs where 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 Legal Frame Work



2.2 Regional and International Mechanisms for Transparency in the Mineral Sector

2.2.2 Extractive Industries Transparency Initiative (EITI)

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 play an important role in domestic resource mobilization by capturing a greater share of resource rents. 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.



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.

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 smelting 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. In Uganda royalty payment is based on the gross value of the minerals based on the prevailing market price of minerals.

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. 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.

Assessment of royalty is done by the Directorate of Geological Surveys and Mines (DGSM) 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 basing 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 ; 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.

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

(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.

DGSM compiles verified production statistics upon which basis it makes an assessment of 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 DGSM 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 an 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 DGSM 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.

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. 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 because mineral right holders don't file returns for assessment and therefore don't 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 mining 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. 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, for example the assessment is based on monthly returns submitted by the holder of the mineral right concerned and any other information obtained during field inspection yet there are not as enough field inspections done to ascertain the mineral quantities produced. There is not a water tight system to ensure that that the holder of a mineral right submit authentic returns.

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 understaffed to make a through 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 deprive public tax revenues, mineral rents and royalties,

The Ministry of Energy and Mineral Development (MEMD), relies on declarations from the mining companies in form of monthly production returns, which are not independently verified. There is high risk of under reporting of mineral production volumes. There is limited and at times no permanent presence of Government Mines' Inspectors to confirm production figures declared which creates a potential risk of under declaration of production by mining entities.

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

The presidential directive of 2017 instructing gold miners to stop paying royalties on refined gold also undermines revenue collection efforts. Under the Mining act 2003, gold attracts 5% royalty.



4. Access and use of Royalties in Karamoja

Field interviews were conducted in Tapac sub county and Rupa sub county in Moroto district. Among the participants included; district technical officials, non-governmental organizations, mining associations and sub county leadership. The aim of the interviews was twofold: To find out whether communities/owners or lawful occupiers of land access royalties. Secondary to find out whether any paid royalties are being used to advance house incomes and livelihoods.

The 3% royalty is being remitted to the grassroot communities. Akol Michael, Chairperson LC III Katikekile revealed that some sub counties such as Katikekile 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 . An interview with the inspector of Mines Mr. Gerald Eneku (The Inspector of Mines for Karamoja region) revealed that when companies pay royalties; 10% is given to the district, 7% goes to the sub county, 3% is given to communities and the rest of the money stays in central government.

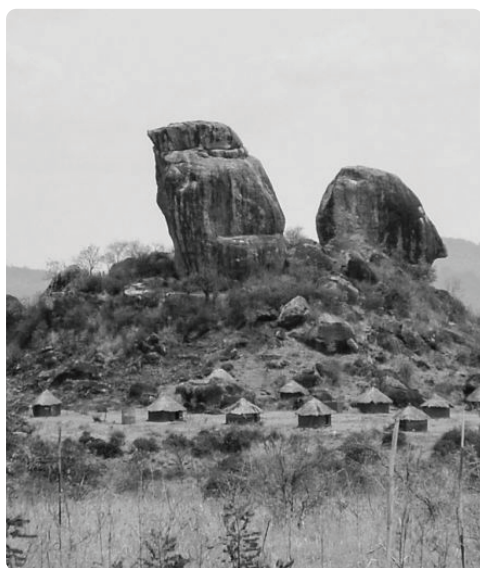
By February 2019, it was only two sub counties Tapac and Katikekile, which were getting royalties in Moroto district through an association called Katikekile Action for Development (KAD). Other areas, had not received anything. It also emerged that lack of land titles stifles people's ability to assert a right to access royalties. To this extent use of community trusts lead 3% royalties not getting delivered to the exact communities where land owners are affected. Yet the land ownership system in the area gives everyone the opportunity to benefit . However, another participant revealed that "management of royalties is at the clan level, and when it comes to sharing, even if you are found in a piece of land that has minerals and you don't belong to that clan, you will not share any royalties." 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. But the general feeling is that the area where mining takes place is communally owned, so the received royalties through an association is the best form. The clan system being predominant in Karamoja, in absence of formal structures (trusts or associations) clans take center stage. Where there is a structure, the clan is replaced however, in sharing, the clan is more powerful.

There ought to be a clear criterion of enabling community members to access royalties. 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, the interviewer questioned the basis of giving out the money to miners and youth groups on loan schemes. In a focused group discussion at Singila village, Katikekile Sub County, all participants revealed that despite registering in KAD Association, none of the members ever received the money in person.

They attribute the communal land system of land ownership as hindrance to people cashing on the royalties in person. This is also spread across areas in Rupa Sub county where people with separate parcels of land were identified.

On access to information regarding royalties: Communities blame district authorities for failure to sensitize them on royalties. The practice is that when district authorities receive any monies from the central government, the information is published on the notice boards for the community to access whereas announcements are also made on radio to inform communities. This mode however commendable, may not be sufficient to enhance deeper dissemination of this information, it would be prudent to engage/inform local council chairpersons, and various gender groups such as the elderly, the youth, women and other community-based associations in the area.

Whereas royalty benefits must be remitted timely, it is clear that the central Government delays to send royalties, sometimes taking up to two years of waiting but on average delays are up to three months. In most cases it takes over three months. The general feeling was that royalties should be sent to local governments on a monthly basis "...In Tapac sub county, royalties are managed by community driven trusts. Tapac Initiative for Community Development (TICODEP). By February 2019, the trust had awarded 15 students' scholarships, however, the subcounty had spent two years without receiving royalties..."



There should be a consistent model of benefiting communities from the biting poverty so that royalties benefit communities by way of setting up infrastructure and other special services like schools and health centers; 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. 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. The district has also applied some of the money to advance education. For example, Moroto district was paid ten million Uganda shillings which it used to pay Moroto High school as tuition..." 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.

The distribution is still plagued with challenges, such as;

- i. 3% royalties do not get delivered to the exact communities where land owners are affected;
- ii. Influential members of some associations are full of interests that antagonize delivery of community services.
- iii. Politicians also seek to influence management of community-based forums.

The creation of new administrative units led to an overlap. Some communities were relocated to new districts not home to mining activities. For example, Katikekile used to receive royalties but this was stopped because Tapac a mining area was parceled from Katikekile, KAD stopped receiving 3% royalties. DAO Marble Company Limited used to operate in an area situated between Rupa and Katikekile sub county. This generated a border conflict and or misunderstanding over royalties.

There is scramble for access to royalties among communities, SOGDEK a community group that represents small scale miners in Kosiroi and TICODEP. SOGDEK insists that Mining issues cannot be handled by TICODEP which is for elites only when the chairperson is a doctor. They also complain that in spite of that, they are the community housing mining activities, who must receive the royalties.

It would seem the main model of accessing royalties in Karamoja is for communities to first get organized in associations in order not to miss out on royalties especially since most people do not own private lands.

While it was not within the scope of investigation, we noticed a tendency of sub county leaders, district officials and local communities relying so much on corporate social responsibility from mining companies. Spending on corporate social initiatives is good, but over reliance can sprout a tendency where mining companies use social funding to consolidate power and influence local policies. As Garvin et al 2009, and Manteaw 2008 have said, "in a void of effective public investment and community development, we should not expect or rely on mining companies to be efficient and impartial development agencies"

The field responses were unanimous in recommending that;

- i) Companies should allow communities to have access to their information on royalty payments made to governments.
- ii) Royalties need to be given out immediately companies make payments to Government.
- iii) Percentages allocated to communities should be increased, the 3% is very little to change someone's livelihood
- iv) Mechanisms need to be established for proper and prompt accountability in royalties remitted to districts, sub counties and local communities.
- v) Communities need to be organized to access benefits and also adequately sensitized about the mineral royalties.
- vi) The sub counties should have a revenue official to help in planning allocation of the generated royalties, however they haven't got one.
- vii) Government should come up with mechanisms that can curb "brief case investors" speculating companies who extract minerals and run away without declaring, nor paying any royalties.

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	0	Abim
Victoria Best Limited	LL1764	0	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	0	Kaabong
BDI Mining Limited	LL1707	0	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	0	Nakapiripirit
TOTAL		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	



5.0 Conclusions and Recommendations

It remains unclear, therefore, how decisions are made concerning the allocation and objectives of the received royalty. Moreover, payments from year to year appear erratic, and there have been no separate budget and auditing of the funds. It is for this reason that the Mining and Minerals Bill should dedicate sections/chapter to management of mineral revenues as is Chapter eight of the Public Finance and Accountability Act dedicated to oil revenues

This decentralization of mining revenue is legislated as compensation for mining-affected communities; it is not a dividend or admission that citizens in mining areas have economic rights to mineral deposits (as is the case in some parts of South Africa).

Increasing transparency or access to information. Uganda is signatory to the Extractive Industries Transparency Initiative, under this front, it's important to include and expand the Extractive Industries Transparency Initiative (EITI) downwards to the local level where the raw materials are obtained. Expanding the ideals of the EITI down to the local levels is an important development that requires further support, although the impact of this alone is uncertain, and success may depend on how transparency is developed at the national level.

The local institutions receiving the funds lack proper accountability mechanisms and clarity on what these funds should be spent on. The need for Streamlining of distribution of royalties to communities is hence of paramount importance. The case of Ghana is of particular interest. It is held up as an example for other countries to consider, or emulate. This is because it is one of the few countries in Africa to have developed and upheld policies for redistributing a proportion of its mining wealth directly to communities; a similar system exists in Sierra Leone.

As a matter of fact, Transparency reduces corruption. Transparency is the right to information while openness is the right to participation” and openness helps involve grassroots stakeholders in decision-making process. 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. This social accountability should lead to citizen engagement, as opposed to just NGO empowerment, and also on the ideal of deliberative democracy that enables local communities to inform and influence political process beyond only acting as watchdogs for service delivery.

5.0 Conclusions and Recommendations Continuation...

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. Besides, the largest social, economic and environmental impact is felt by the local communities, hence should receive the highest percentage of the royalty or increase the percentage to enable them address the associated challenges.

A good percentage of the royalties is withheld at the district level, and the money is supposed to deliver on services to the community. However, it is common place for district funds to get into; misappropriation of revenue; a lack of proper audits of accounts of revenue collectors; an absence of receipts, invoices and expenditure documents; contract irregularities, inadequate tendering processes; payments being made for no work, and unearned salaries; and a failure to ensure the timely deletion of names of former staff from the payroll which leads to payments of unearned salaries.

Mineral wealth is non-regenerative and won't survive for a definite life time. 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.

Specifically encode a law regulating mineral revenue collection and application. The Mining and Mineral Bill 2020 the Mining Act 2003 are silent on management of mineral revenues.

A leaf should be borrowed from Chapter eight of the Public Finance Management Act (PFMA, 2015) that regulates deposit, management, investment, and expenditure of petroleum revenue. The chapter among others provides for; Establishment of the Petroleum Fund, Collection and deposit of petroleum revenues into the Petroleum Fund, regulates 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.

Only the best profiled companies and genuine companies must engage in mineral activity. To this end, Government must end the use of anonymous companies and directors. Some of these have been known to hide identity when there is something wrong. Such anonymous companies are usually linked to corruption and mismanagement in the extractive sector. Closing this channel for evasion of payment of levies can help ensure that mineral revenues are traced and well managed. It helps prevent tax evasion and ensures that governments are getting the revenue they are owed. Governments get the highest value for their extractive contracts and enhances revenue collection. It also enhances public disclosure of the beneficial ownership information of all companies. This ensures that only the best-qualified companies undertake exploration and production of resources and protects against corruption and conflict of interests.

Access to Information and Participation. 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.

Capacity building of officials involved in the management of royalties should be enhanced.

Uganda Revenue Authority to disburse royalties directly to the proposed mineral development fund
Flexible royalty rates i.e., can be varied according to situation, trends etc. vis a vis fixed royalty rate.
Other efficient and competitive collection methods may be considered, such as cash bids to attract the highest bidder.

Local Governments must have a big role to play 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) Facilitating 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

It is to the local governments to follow and implement these functions to the later.

