HUMAN RIGHT RISKS IN ARTISANAL MINING

Presented at WEED Seminar on Conflicts and Human Rights Violation in Mining and Trade with Raw Materials

Berlin

Date: 25th March, 2019
### Estimate number of people

<table>
<thead>
<tr>
<th>Country</th>
<th>Estimated ASM &gt;100,000 worker numbers (Pact, 2008)</th>
</tr>
</thead>
<tbody>
<tr>
<td>DRC</td>
<td>2,000,000</td>
</tr>
<tr>
<td>Tanzania</td>
<td>1,500,000</td>
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<tr>
<td>Zimbabwe</td>
<td>500,000</td>
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<tr>
<td>Ethiopia</td>
<td>500,000</td>
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<tr>
<td>Nigeria</td>
<td>500,000</td>
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<tr>
<td>Niger</td>
<td>450,000</td>
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<tr>
<td>CAR</td>
<td>400,000</td>
</tr>
<tr>
<td>Eritrea</td>
<td>400,000</td>
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<tr>
<td>Mali</td>
<td>400,000</td>
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<tr>
<td>Sierra Leone</td>
<td>300,000</td>
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<tr>
<td>Ghana</td>
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<tr>
<td>Burkina Faso</td>
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<tr>
<td>Mozambique</td>
<td>200,000</td>
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<tr>
<td>Sudan</td>
<td>200,000</td>
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<tr>
<td>Angola</td>
<td>150,000</td>
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<tr>
<td>Uganda</td>
<td>150,000</td>
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<tr>
<td>Liberia</td>
<td>100,000</td>
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<tr>
<td>Guinea</td>
<td>100,000</td>
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<tr>
<td>Chad</td>
<td>100,000</td>
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<tr>
<td>Madagascar</td>
<td>100,000</td>
</tr>
<tr>
<td>Cote d’Ivoire</td>
<td>100,000</td>
</tr>
<tr>
<td>Kenya</td>
<td>100,000</td>
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</tbody>
</table>
Numbers and meaning

- 9 million artisanal and small-scale miners are engaged in ASM activities and over 54 million people depend on it, (Karen Hayes, 2009)
- Buxton, A., 2013, “estimates of artisanal and small-scale miners vary from 20 to 30 million
- ASM employs 10 times more people than does the LSM
- 15-20 percent of the DRC cobalt is produced by ASM.
Why is ASM gaining prominence

- Poverty and unemployment due to poor state performance in Africa.
- Abundance of abandoned mines and tailing dams
- Occurrence of small and isolated deposits of minerals in the proximity
- Poor regulations
- Availability of market
- Cheap to perform/ Modest demand on capital expenditure
ASM Global categorisation

– **Formal versus informal ASM** (usually a development practitioner construct)
  - **Formal** implies ASM practised within legal boundaries and according to certain norms.
  - **Informal** is usually used for ASM which is practised strictly outside the law but on which is conferred a certain level of legitimacy or acceptance because it is an important livelihood for poor communities

– **Legal versus illegal versus extra-legal ASM**
  - **Legal** – ASM that is practiced within documented law
  - **Illegal** – ASM that is practiced outside the law
  - **Extra-legal** – ASM that is practiced outside the prevailing law, but the regulator or government authorities allow it for expediency
Legal Classification

– This is a relative classification usually with what appear to be “arbitrary” boundaries set in the law, concerning size and type of operation; sometimes distinguishing between *artisanal mining* and *small-scale mining*, based on:

  • *Capital applied*, i.e. level of investment
  • *Methods of production*, usually reflected in level of mechanisation permitted
  • *Production capacity* sometimes in terms of throughput, output or number of workers
ASM and Social issues

• The majority of ASM caught in poverty
• Poor income, and link to low productivity and poor investment opportunities,
• Illicit trade and link to conflict
• High criminality
• Cultural rights—artisanal invade cemeteries etc....
Environmental problems

- Land degradation (veld fires destroys pastures for livestock and wild animals,
- Diversion of streams and conversion into mine sites,
- Uncovered pits,
- Deforestation and loss of bio-diversity, and possible extinction of certain species—trees
- Destruction of farmlands
- Contamination of waterways by mineral processing
- Reduction arable land
- Lowering the groundwater table through dewatering of mine pits,
- Hazardous abandoned sites close to communities - breeding grounds for mosquitoes, residual mercury and cyanide
Human rights: Women and ASM

- Women are often involved in processing and waste disposal, exposing them to harmful chemicals, with severe consequences for family well-being and health, including during pregnancy (Buxton, A., 2013).
- Women make less money than men for similar tasks (Eftimie, et al., 2012:9).
- Women provide supportive services—food, sex to the miners, which expose them to potential abuse, exploitation and disease.
- The sector is known for crime, domestic violence and rape, and small girls are forced into prostitution.
- Women who work in mines are often required to abandon or compromise their traditional role in agricultural production and family care, which has the knock-on effect of increasing the vulnerability of children.
Human rights: Children and ASM

• Presence of women in ASM is linked to the presence of children in mine
• Poor school system push Children to find what do do—ASM is one option.
• Poverty push children find work in the mines.
• ASM is one of the worst forms of child labour (widespread and severe hazards that risk death, injury and disease (ILO, 2005).
• School dropouts and teen pregnancies, prostitution, drunkenness
• Children work in difficult conditions—they live and work in conditions of slavery
• Forced labour—work long hours
• Violence by state and private security
• Rape and forced prostitution
• Work without protective cloths and appropriate equipment
• Sickenss cholera et la dysenterie.
• Work in all activities --extraction cleaning and transport)
ASM and Economic Issues

- Lack of knowledge of the value of their product is regularly a problem for artisanal miners (Pact, 2010).
- ASM trading chains are extremely complex and sometime illegal. The sector is seen as disorganised and chaotic (Buxton, A., 2013).
- Trading houses seek to maximise their profit margins and impose various buying prices to artisanal and small-scale miners.
- ASM activities are rarely taxed, meaning huge revenue losses to the government and country from key natural resources (Buxton, A., 2013).
- ASM sector and governments are caught in negative circles of cause and effect. A poverty trap results from a denial of choices and opportunities whilst living in a marginal and vulnerable environment.
- Overprice of basic commodities.
- Reduction in agriculture productivity.
- Decline in output and food security.
- Financing of armed groups.
Breaking The poverty Trap

These are the interventions to break the ASM poverty trap:

- Large numbers of miners chasing limited resources
  - Alternative livelihoods
  - Regulation

- Low income & lack of investment opportunities
  - Financial assistance
  - Technical assistance
  - Alternative livelihoods

- Inadequate & inappropriate technology
  - Financial assistance
  - Technical assistance
  - Alternative livelihoods
  - EIA & EMP strategies

- Low productivity
  - Rehabilitation
  - Alternative livelihoods

- Environmental degradation
  - Technical assistance
  - Alternative livelihoods
ASM Triangle of Transformation

This is about transforming ASM sector through formalisation while acknowledging that minerals are wasting asset and therefore needs to be transformed into more sustainable forms of capital for alternative sustainable livelihoods.

Informal ASM

<table>
<thead>
<tr>
<th>Formalisation</th>
<th>Legal, viable, safer, environmentally responsible</th>
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<tbody>
<tr>
<td>Transition through education, access to finance markets etc.</td>
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Alternative Livelihoods

<table>
<thead>
<tr>
<th>Transition through education access to finance &amp; markets etc.</th>
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Formal ASM
ASM Value Chain, Development & Support

- EXPLORATION
  - Deposit ID & evaluation

- MINING
  - Ore Extraction

- PROCESSING
  - Ore Processing

- BENEFICIATION & VALUE ADDING
  - Refining/Finished product

- MARKETING
  - Market Access

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- LEGAL
  - Compliance

- ENVIRONMENT
  - Reduce impacts

- HEALTH
  - Protect health

- SAFETY
  - Safer

- SOCIAL
  - Better lives
Recommendations

• Introducing preferential rights, which give local companies preference in the granting of licences, but which also give them strong negotiating powers to enter into third-party agreements. The third party shall be equally bound by the conditions governing the licence, which supersedes the third party’s country agreements or laws;

• Passing strong legislation on the safety of vulnerable populations, especially women and children; and,

• Formalising artisanal mining and legislating for the creation of small enterprises, such as cooperatives or companies, which can be properly managed.
Recommendations

• Promote small-scale mining of small deposits in a sustainable manner while safeguarding social, environmental, safety and health concerns
• Give mining rights to local communities—they are more likely to look after their environment better
• Enforce rehabilitation or charge a rehabilitation fee
• Passing strong legislation on the safety of vulnerable populations, especially women and children; and,