Human rights due diligence and mining risks in Nigeria

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Abstract
Human rights have historically concerned governments, and the welfare of citizens. However, private organisations, businesses large and small, and perhaps especially the world's great transnational organisations such as the mining sector are intrinsically involved in some of the human rights abuses in the business sector. The mining sector in Nigeria has contributed to the socio-economic development of the country at a great cost. The sector is bedevilled with human rights challenges, ranging from land rights issues to labour rights violations and environmental impacts on the host communities and other related adverse effects. This paper explores the concept of human rights due diligence (HRDD) within the context of mining activities in Nigeria, with the aim of identifying and addressing potential risks and impacts on human rights. The recommendations of the paper include the need for effective HRDD practices in order to avoid or mitigate adverse human rights impacts.

1 Introduction

Nigeria's rich mineral resources, including gold, tin, limestone, and lead, have long attracted both local and international interest. However, the country's mining sector has significant challenges, particularly concerning human rights violations and environmental degradation.[1] From forced displacement and child labour to unsafe working conditions and conflict-driven exploitation, the risks associated with mining operations in Nigeria highlight the urgent need for stronger accountability frameworks. In this context, Human Rights Due Diligence (HRDD) a process through which companies

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[1] O Ogunnowo, '*An Evaluation of Natural Resources Extraction and Host Communities' Reaction in Nigeria and South Africa 2005–2015*' (PhD thesis, North-West University South Africa 2022).

identify, prevent, mitigate, and account for how they address their impacts on human rights has emerged as a critical tool for ensuring responsible mining practices.[2] Despite Nigeria's existing legal and regulatory frameworks, enforcement remains weak, and many mining operations, especially artisanal and small-scale activities, continue to operate without proper regulation. This has led to widespread abuse particularly in rural communities where state presence is limited.[3] Aligning the Nigerian mining sector with international human rights standards such as the UN Guiding Principles on Business and Human Rights requires not only policy reform but also mainstreaming of HRDD into the general operations of the mining sector in Nigeria.

The paper is doctrinal using existing laws, books, case laws, internet sources and newspaper reports. The paper finds that the mining industry is rapidly growing but faces governance, regulatory and serious human right issues. This paper explores the intersection of human rights and mining in Nigeria, examines the current gaps in legal protections and enforcement, and evaluates how human rights due diligence can be effectively integrated into the sector to mitigate risks and promote sustainable development. The paper is divided into five sections including this introduction. Section two is an overview of the mining sector in Nigeria including peculiar human rights violations that are prevalent. Section three deals with the legal framework while section 4 unpacks the concept of HRDD as encapsulated in the United Nations Guiding Principles on Human rights and Business (UNGPS) and mainstreaming HRDD into the Nigerian Mining Sector. Section five concludes with useful recommendations for mitigating mining risks in Nigeria.

2 Overview of the mining industry in Nigeria

The mining industry in Nigeria is a key sector with the potential to significantly drive economic growth and diversification, though it

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[2] D Chimisso and SL Seck, 'Human Rights Due Diligence and Extractive Industries' in S Deva and D Birchall (eds), *Research Handbook on Human Rights and Business* (Edward Elgar Publishing 2020) 151–174.

[3] OJ Olujobi and OS Irumekhai, 'Strategies and Regulatory Measures for Combatting Illicit Mining Operations in Nigeria: A Comprehensive Legal Perspective' (2024) 88 *Resources Policy* 104459.

remains underdeveloped in comparison to other sectors like oil and gas.[4] Historically, the mining industry contributed substantially to Nigeria's GDP, particularly in the 1940s to 1970s, with minerals such as coal, tin, and columbite being major exports. However, with the discovery of oil in the 1970s, focus shifted away from mining, leading to a decline in its contribution to the economy. The Royal Niger Company recorded the earliest mining of tin ore in 1905, followed by gold mining in 1914 within the present day Niger and Kogi States. By the 1940s, Nigeria had emerged as a significant producer of tin, columbite, and coal. Tin production notably increased to 15,842 tonnes in 1943 from a minimal 1.36 tonnes in 1904.[5] Tin and columbite mining were concentrated primarily in Jos, located in present day Plateau State, but also extended to other areas including Jarawa Hills (also in Plateau State), Wamba in Nasarawa State, Kafanchan in Kaduna State, Ningi in Bauchi State, and Ririwe in present-day Kano State.[6] In recent years, the Nigerian government has been making concerted efforts to revive the mining sector as part of its diversification strategy under the Economic Recovery and Growth Plan (ERGP). The Ministry of Mines and Steel Development has also initiated reforms aimed at attracting local and foreign investments to the sector.

There are about 44 distinct types of mineral deposits comprising both precious and base metals. These mineral deposits are dispersed across numerous locations within all 36 states of the country and the Federal Capital Territory, Abuja.[7] Some of these valuable mineral deposits include clay, kaolin, gold, gypsum, iron ore, lead, zinc, phosphate, and tin. The Federal Government, through the Ministry

[4] O O David, OA Noah and SA Agbalajobi, 'An Empirical Analysis of the Contribution of Mining Sector to Economic Development in Nigeria' (2016) 19(1) *Khazar Journal of Humanities and Social Sciences* 88–106.

[5] S J Mallo, 'The Nigerian Mining Sector: An Overview' (2012) 7(1) *Contemporary Journal of Applied Sciences* 34–45.

[6] Nigeria Extractive Industries Transparency Initiative (NEITI), *A Survey of the Solid Minerals Landscape and Endowments in Nigeria* (January 2021) <https://neiti.gov.ng/cms/wp-content/uploads/2021/08/NEITI-OPS6-A-Survey-Solid-Minerals-Landscape-Endowments-in-Nigeria-310120.pdf? accessed 16 April 2025.

[7] Nigeria Extractive Industries Transparency Initiative (NEITI), *Nigeria's Mining Sector Governance Landscape and Prospects: A Diagnostic Report* (February 2023) <file:///C:/Users/Dell/Downloads/Mining%20Sector%20Report%2015022023_1676537407.pdf> accessed 15 April 2024

of Mines and Steel Development, has identified baryte, bitumen, coal, gold, iron ore, limestone, lead-zinc, and coal as Nigeria's strategic mineral deposits due to their significant economic importance.[8]

The mining industry in Nigeria is organized around three main types of operations Large-Scale Mining Operated by multinationals; this sector is underdeveloped but offers significant potential for investments. Small-Scale Mining Largely informal, small-scale mining is widespread, employing thousands in the country, particularly in gold mining. Artisanal Mining this is the most common form of mining, carried out by individuals or small groups using rudimentary tools. It accounts for a significant portion of the gold mining sector. Nigeria has a well-defined regulatory framework for the mining sector aimed at encouraging private sector participation.[9] Key regulatory bodies include Ministry of Mines and Steel Development which is responsible for formulating policies and providing oversight for mining activities, the Nigerian Mining Cadastre Office which handles the issuance of mining licenses and permits as well as the Nigerian Geological Survey Agency. This body provides geological data to facilitate mining investments.[10]

The Nigerian Minerals and Mining Act of 2007,[11] coupled with the National Minerals and Metals Policy, provides a legal framework for exploration, exploitation, and development of minerals. Despite its potential, the Nigerian mining industry faces several challenges including human rights violations. The connection between resource extraction and sustainable development in Africa has been a subject of ongoing debate. Conversely, critics emphasize the adverse socio-economic consequences experienced by marginalized and

[8] Strategic Minerals; Ministry of Mines and Steel Development.

[9] KPMG, *Nigerian Mining Sector* (KPMG Nigeria, 2020) <https://assets.kpmg.com/content/dam/kpmg/ng/pdf/advisory/ng-Nigerian-Mining-Sector.pdf? accessed 12 March, 2024.

[10] Nigeria: Mining 2021' (GTDT, 2021) <https://enradvisory.com/wp-content/uploads/2021/06/GTDT_2021_mining_Nigeria.pdf> accessed 12 March, 2024.

[11] The Nigerian Minerals and Mining Act 2007 LFN 2004.

impoverished communities as a result of the mining industry.[12] The mining sector in Nigeria is no exception, it has faced challenges because of regulatory legal issues, and human rights violations.[13] It is of paramount importance to address and interrogate human rights violation in mining operations because resolving human rights issues builds trust between mining companies, governments, and local communities.

Effective engagement and consultation with affected communities foster mutual understanding and collaboration in achieving sustainable development goals. Human rights violations often disproportionately impact marginalised and vulnerable groups, including indigenous communities and women. Addressing these violations promotes social justice and equity by ensuring that all individuals have equal access to benefits and protections. Addressing human rights violations is essential for upholding the fundamental rights and dignity of individuals, including the right to life, health, and livelihoods. Communities affected by mining have the right to live in a safe and healthy environment, free from harm caused by mining activities. HRDD aims to assess and identify potential human rights risks and impacts associated with mining in Nigeria.

3 Human rights violation in the mining industry

Mining, as an industry, has historically been associated with a range of human rights violations. These issues have spanned from the colonial era to the present, affecting communities, workers, and the environment in both developing and developed nations. The violations include labour exploitation, environmental degradation, displacement of indigenous peoples, and violence linked to resource extraction. The industry has largely been associated with artisanal and small-scale mining (ASM), which presents significant human

[12] FXD Tuokuu, JS Gruber, U Idemudia and J Kayira, 'Challenges and Opportunities of Environmental Policy Implementation: Empirical Evidence from Ghana's Gold Mining Sector' (2018) 59 *Resources Policy* 435 <https://doi.org/10.1016/j.resourpol.2018.08.014>.

[13] Mining in Nigeria: Challenges, Opportunities, and Prospects' (Mining Review, 2021) <https://www.miningreview.com/gold/mining-in-nigeria-challenges-opportunities-and-prospects? accessed 12 March 2025.

rights challenges such as:[14]

3.1 Labor rights violations in Nigeria's mining sector

One of the most pressing labour rights issues in Nigeria's mining sector, especially within ASM, is the widespread prevalence of unsafe working conditions. Thousands of miners operate in informal and often unregulated settings, using rudimentary tools and working in structurally unstable pits. These hazardous environments expose workers to significant risks, including mine collapses, respiratory illnesses from dust and chemical exposure, and physical injuries.[15] Artisanal miners typically lack access to personal protective equipment, medical care, and insurance coverage. In addition, poor lighting, lack of ventilation, and exposure to toxic substances such as mercury exacerbate the dangers they face daily. These unsafe conditions are not only a violation of basic labour rights but also contravene several national and international legal standards.

The Nigerian Minerals and Mining Act, 2007 in section 61[16] requires mining lease holders to ensure the safety of workers by adhering to prescribed health and environmental standards. It mandates the implementation of safety measures and the protection of workers' health. Child labour is a worrisome human rights concern in Nigeria's mining sector. In several states such as Zamfara, Niger, and Plateau states, young children are found working in mines. They are typically employed in the sorting, washing, and crushing of mineral ore, or sent into narrow mine shafts to retrieve materials. These tasks expose children to life-threatening risks, including tunnel collapses, respiratory diseases from dust inhalation, and lead poisoning[17] in section 59 Labour Act[18] prohibits the employment of children under

[14] FXD Tuokuu, JS Gruber, U Idemudia and J Kayira, 'Challenges and Opportunities of Environmental Policy Implementation: Empirical Evidence from Ghana's Gold Mining Sector' (2018) 59 *Resources Policy* 435 <https://doi.org/10.1016/j.resourpol.2018.08.014>.

[15] S Fowora, LITE-Africa, 'LITE-Africa Report Exposes Child Labour, Rights Abuses and Environmental Degradation in Nigeria's Mining Sector' (Nigerian Mining, 10 May 2023) <https://nigerianmining.com/lite-africa-report-exposes-child-labour-rights-abuses-and-environmental-degradation-in-nigerias-mining-sector/> accessed 13 May 2025.

[16] Nigerian Minerals and Mining Act 2007 s 61

[17] Fowora (n 15).

[18] Cap L1, LFN 2004 s 59.

the age of 15 in an industrial setting. The Child Rights Act 2003[19] section 28 prohibits the use of children in exploitative labour and in any employment that is injurious to the child's health, education, or development. International Labour Organization (ILO) Convention No. 138[20] and No. 182.[21] Nigeria has ratified both Conventions, which address minimum age for employment and the elimination of the worst forms of child labour, including mining. The minimum age being 12 years.

3.2 Environmental degradation and health hazard in Nigeria's mining sector

Environmental degradation is a major consequence of poorly regulated mining activities in Nigeria, particularly in artisanal and small-scale mining. The ecological footprint of mining operations includes soil erosion, deforestation, loss of biodiversity, water and air pollution, and, in extreme cases, toxic contamination. These have far-reaching consequences for human health and sustainable development.[22]

One of the most devastating environmental and public health disasters linked to mining in Nigeria occurred in Zamfara State in 2010, where artisanal gold mining exposed entire communities to dangerously high levels of lead. The processing of lead-rich gold ore inside residential compounds, without any safety precautions or knowledge of the ore's toxicity, led to severe lead poisoning. Over 400 children died, and thousands more suffered neurological damage, developmental delays, and other long-term health issues.[23] Also in a study carried out in Madaka Area of Niger State, the outcome of the metal pollution index revealed that groundwater

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[19] Child Rights Act s 28.

[20] ILO Convention No 138 concerning Minimum Age for Admission to Employment and Work (adopted 26 June 1973, entered into force 19 June 1976) ILO C138.

[21] ILO Convention No 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (adopted 17 June 1999, entered into force 19 November 2000) ILO C182.

[22] A A Tella and N D Danjibo, 'The Environmental Impact of Mining Activities in the Local Community: A Structural Equation Modelling Approach' (2024) 11(1) *International Journal of Social Work* 44.

[23] A Anka, 'Lead Poisoning in Zamfara State Nigeria: Effects on Environmental Health' in *Poisoning – Prevention, Diagnosis, Treatment and Poison Repurposing* (IntechOpen 2024).

system in the area are greatly polluted with iron and lead and moderately polluted with chromium, manganese, mercury and nickel while arsenic, cadmium, cobalt, copper and zinc were lightly polluted. The water quality index confirms that the water in the area is not good for domestic use.

The study has established that the mining activities domiciled in the area have constituted serious water quality problems which have resulted to environmental and health challenges in their host communities. Mining techniques and laws that guarantee adequate protection of the natural environment especially soil and water should be enforced in the area.[24] In section 119 the Nigerian Minerals and Mining Act, 2007 mandates mining companies to conduct an Environmental Impact Assessment (EIA) before commencing operations. It also mandates an Environmental Protection and Rehabilitation Programme to minimize adverse effects on the environment. Section 2 of the Environmental Impact Assessment Act, Cap E12 LFN 2004[25] mandates EIAs for all activities likely to significantly affect the environment, including mining. Any mining activity without EIA approval is unlawful.

3.3 Displacement of communities

Mining in Nigeria has, in many instances, led to the displacement of communities, land grabbing, and forced evictions. According to U.N. Office of the High Commissioner for Human Rights (OHCHR), internally displaced persons are:

> persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalised violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognised state border.[26]

[24] A N Amadi, A Musa, E E Ebieme, C I Unuevho, I M Ameh and U N Keke, 'Mining on Surface and Groundwater Quality in Madaka Area of Niger State Using Water Pollution Indices' (2016) 14(2) *Nigerian Mining J* 101–111a.

[25] Environmental Impact Assessment Act, Cap E12 LFN 2004.

[26] United Nations. (2004). United Nations Guiding Principles on Internal Displacement U.N. Office of the Commissioner for Human Rights, United Nations.

Internal displacement leads to loss of land resulting in economic decapitalisation.[27] Most rural households depend on land for survival, being displaced is tantamount to impoverishment, for example, by being unable to grow food.[28] This constitutes serious human rights breaches particularly the rights to housing, livelihood, and cultural identity. As reported in the Punch Newspaper as mining expands, displaced individuals find it difficult to gain employment within the sector, as the jobs often require technical skills or are reserved for specialised workers. Mining-induced displacement extends beyond mere physical relocation; it disrupts the deep cultural and social roots that communities have with their land. Many communities have occupied the same lands for generations, establishing family and community networks integral to their identity and resilience.

As noted by Habibu Abubakar Wushisi, Chairman of the Federation of Nigerian Mining Host Communities, a group that advocates for the rights of host communities in Nigerian mining industry, most of the displaced persons cannot go to their communities anymore, 'we see communities completely displaced. It affects our identity and social cohesion.'[29] He further stated that

> There are over 56,000 displaced persons in Nigeria due to mining, many of us can no longer visit our communities, where we see Chinese miners working under security protection, while we face banditry just next door.

The foregoing paints a picture of what obtains in mining communities. The local communities are neglected and displaced

[27] M M Cernea, 'The Risks and Reconstruction Model for Resettling Displaced Populations,' (1997a) 25(1) *World Development* 1569-1587.

[28] Robson Mandishekwa and Enard Mutenheri, 'Mining-Induced Displacement and Resettlement: An Analytical Review' (2020) 17(1) *Ghana Journal of Development Studies* 114–140 <https://www.ajol.info/index.php/gjds/article/view/195643> accessed 17 May 2025.

[29] Joy Baba Yesufu, 'Examining the Impact of Mining-Induced Displacement on Host Communities,' *Peoples Daily* (6 November 2023) <https://www.peoplesdailyng.com/examining-the-impact-of-mining-induced-displacement-on-host-communities/> accessed 17 May 2025.

without compensation as provided under section 107 of the Mining Act.

3.4 Conflicts and violence in Nigeria's mining sector

Another cause of displacement is violence in the mining areas. An estimated 80% of mining in the North West region is carried out illegally and on an artisanal basis by local populations. The mining of large untapped mineral deposits in the area, especially gold which has strategic importance and economic value is at the root of community violence.[30] Consequently in April 2019, government banned artisanal gold mining in Zamfara State and across the region, deploying soldiers to enforce the ban. The conflict had spread to Kaduna, Katsina, Kebbi, Plateau and Zamfara States.

In throwing light on the clandestine nature of mining in some parts of the country, Dr Chris Kwaja, a Senior Researcher at Modibbo Adama University of Technology in Yola, Nigeria told the ENACT organised crime project that illegal mining leads to violent local conflicts in two ways in the North West. First, those funding the mining fight over control of the mine fields. These 'sponsors' are protected by some state governments, and act as if they are above the law.[31]

3.5 Modern day slavery and labour exploitation

Illegal mining zones have also become sites of modern-day slavery and forced labour**,** particularly involving vulnerable groups such as children and women**.** Reports have emerged of women being trafficked into mining areas for sexual exploitation or coerced into labour. Children are forced to carry ore, work underground **or** separate minerals under hazardous conditions often without any pay or protection. Modern-day slavery (MDS) is a pressing issue

[30] Nigeria Suspends Mining in Zamfara State after Banditry Surges,' *Reuters* (2 April 2019) <https://www.reuters.com/article/us-nigeria-security-mining-idUSKCN1RE0V5> accessed 22 May 2025.

[31] Maurice Ogbonnaya, 'How Illegal Mining is Driving Local Conflicts in Nigeria' (ReliefWeb, 4 September 2020) <https://reliefweb.int/report/nigeria/how-illegal-mining-driving-local-conflicts-nigeria> accessed 17 May 2025.

that affects countless people.[32] Three key points in defining MDS have been identified: (i) the inclusion of actions such as coercion and other forms of abuse, (ii) the vulnerability of victims and their inability to leave the "service" due to a lack of viable options, and (iii) a continuous cycle of victimization that prevents them from improving their situation.[33] The extractive industry in Africa, including the mining sector, is particularly at risk of modern slavery, particularly in the forms of forced labour and child labour, and there is often underreporting of such crimes due to the complex nature of the issue.[34]

4 Legal frameworks

While Nigeria has a number of laws aimed at regulating land use, mining, and protecting community rights, enforcement has often been weak or inconsistent.

4.1 Minerals and Mining Act 2007

The Minerals and Mining Act (2007) is the primary law governing Nigeria's mining sector. The law regulates all aspects of the exploration and exploitation of solid minerals in Nigeria. It has a total of 164 sections. The Act repealed the Minerals and Mining Act, No. 34 of 1999. The Act governs ownership, licensing, environmental considerations, community development, and royalty payments in the solid minerals sector. Section 1 of the Act vests ownership of mineral resources in the government. The entire property in and control of all Mineral Resources in, under or upon any land in Nigeria, its contiguous continental shelf and all rivers, streams and water' courses throughout Nigeria, any area covered: by its territorial waters or constituency and the Exclusive Economic Zone is and shall be vested in the Government of the Federation for and on behalf of the people of Nigeria.

[32] O Oluwatobi, *An Examination of Modern Slavery in the Mining Industry: Case Study of Nigeria's Mining Sector* (August 2023) <https://doi.org/10.13140/RG.2.2.31797.86249> accessed 22 May 2025.

[33] P Dominika, 'Modern Day Slavery: Definition, Detection, and Identification' (2014) 48(3) *Psychiatria Polska* 567.

[34] J Koepke and R Hidron, *The Nexus of Illegal Gold Mining and Human Trafficking in Global Supply Chains* (Verité, July 2014).

In Sections 100–104 it is required that mining titleholders give owner or occupier notice and to obtain consent from landowners or pay compensation for disturbance or damage to land and property. **S**ection 116 mandates Community Development Agreement that will ensure the transfer of social and economic benefits to the community. Section 119 provides for Environmental Impact Assessments (EIA) before any mining activity begins, which should include community engagement and identification of potential displacements. Sections 107 and 108 acknowledge the rights of occupiers and land users, and provides for compensation and the assessment of compensation in the event of displacement. Restoration of river bank is provided for in section 128 which requires any person who, in the course of mining operations, unlawfully interferes with the bank of any watercourse to restore the bank to the condition in which it was immediately prior to interference

Pursuant to section 21 of the Mining Act the Mining Regulations are the subsidiary legislation issued under the Mining Act. The Regulations contain detailed provisions for the administration of mineral titles by the Mining Cadastre Office, including the procedure, duration and documentation required for the application of a small-scale mining lease and for the application for a permit to export minerals for commercial purposes. The Mining Act and the Mining Regulations are administered by the Ministry of Mines and Steel and the Mining Cadastre Office.[35]

4.2 Land Use Act[36]

The Land Use Act is essential to mining operations because it governs how land is accessed, used, and compensated for. **Section 1** vests all land in a state in the Governor, who holds it in trust for the people. Section 28 empowers the governor to revoke rights of occupancy for overriding public interest. Overriding public interest

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[35] A Adetuyi and N Williams, 'Understanding the Legal and Regulatory Considerations for Mining Solid Minerals in Nigeria' (Brooks & Knights Legal Consultants, 13 October 2020) https://brooksandknights.com/2020/10/13/understanding-the-legal-and-regulatory-considerations-for-mining-solid-minerals-in-nigeria/ accessed 22 May 2025.

[36] Cap L5, LFN 2004.

includes the requirement of the land by the Government of the State or by a Local Government in the State and the requirement of the land for mining purposes or oil pipelines or for any purpose connected therewith. Section 29 of the Act provides that the holder and the occupier shall be entitled to compensation under the appropriate provisions of the Minerals and Mining Act or the Petroleum Act or any legislation replacing the same.

4.3 The Constitution of the federal republic of Nigeria, 1999 (As Amended)

Section 44(3) provides the entire property in and control of all minerals, mineral oils and natural gas in, under or upon any land in Nigeria... shall vest in the Government of the Federation and shall be managed in such manner as may be prescribed by the National Assembly. Section 44 (1) prohibits the compulsory acquisition of property without prompt payment of compensation. In section 33 under which right to life is protected, environmental degradation and unsafe mining practices may threaten this right for instance lead poisoning, water contamination. Section 20 which is under chapter 2 (Fundamental Objectives and Directive Principles of State Policy.) It is provided that the State shall protect and improve the environment and safeguard the water, air and land, forest and wild life of Nigeria while it is not justiciable. Section 20 places a clear obligation on the State to protect and improve the environment and safeguard the water, air and land…'

4.4 International Covenant on Economic, Social and Cultural Rights (ICESCR)

The International Covenant on Economic, Social and Cultural Rights (ICESCR**)**, adopted by the United Nations General Assembly in 1966 and entering into force in 1978, stands alongside the International Covenant on Civil and Political Rights (ICCPR**)** as a fundamental component of the International Bill of Human Rights, the Covenant is comprised of thirty-one articles organized into six parts. At its foundation, article 1 affirms the right of all peoples to self-determination, which includes the liberty to determine their economic, social, and cultural development and to manage their own natural resources.

The most substantive part of the Covenant is found in Part III where the primary socio-economic rights are laid out. These include the right to work[37], the right to fair and just working conditions[38] the right to form and join trade unions [39] and the right to social security.[40] The Covenant also protects the right to family life[41] and outlines the right to an adequate standard of living[42], which specifically includes access to food, clothing, and housing. Other protected rights include the right to health.[43] The ICESCR provides a comprehensive framework for the protection of economic, social, and cultural rights, with particular emphasis on the conditions necessary for a life of dignity and freedom. Its recognition of collective rights, such as self-determination, aligns with individual entitlements, such as housing and employment rights.

4.5 African Charter on Human and Peoples' Rights[44]

The African Charter on Human and Peoples' Rights (ACHPR) was ratified by Nigeria and domesticated through the African Charter (Ratification and Enforcement) Act[45], which guarantees the rights of individuals to property, development, and protection from exploitation.[46] Article 14 guarantees the right to property. This protects communities from being displaced without adequate compensation or consultation. Article 24 provides; all peoples shall have the right to a general satisfactory environment favourable to their development. This section guards against pollution of water sources, destruction of farmland, and toxic waste from mining. Article 22 enshrines that all peoples shall have the right to their economic, social and cultural development. This guarantees that

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[37] art 6
[38] art 7
[39] art 8
[40] art 9
[41] art 10
[42] art 11
[43] art 12
[44] OAU Doc CAB/Leg/67/3/Rev 5.
[45] African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, Cap A9, Laws of the Federation of Nigeria 2004.
[46] African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) (1981) 21 ILM 58; ratified and domesticated in Nigeria by the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, Cap A9, Laws of the Federation of Nigeria 2004.

local communities benefit economically from mining on their land. Article 16 guarantees right to health of all Africans. It states that every individual shall have the right to enjoy the best attainable state of physical and mental health. There are occupational health hazards from dust and chemical, especially in artisanal mining, which violate this right.

In the case of *Social and Economic Rights Action Centre (SERAC) and Another v Nigeria,*[47] the Ogoni people of Nigeria filed a complaint alleging serious violations of their rights due to oil exploration activities by the Nigerian government in conjunction with Shell Petroleum Development Company. The government failed to prevent pollution, allowed destruction of farmland and water sources, and did not consult or compensate the Ogoni people. This landmark decision by the African Commission on Human and Peoples' Rights found the Nigerian government liable for failing to regulate oil companies whose actions violated articles 16, 21, and 24 of the Charter. Though related to oil, the principles apply equally to mining and establish that states must prevent rights abuses by corporations.

4.5 United nations guiding principles on business and human rights (UNGPS)

In June 2011, the UN Human Rights Council unanimously accepted the Guiding Principles on Business and Human Rights, by Professor John Ruggie, the former Special Representative of the UN Secretary-General for Business and Human Rights. Before Ruggie's appointment in 2005, governments, businesses, and civil society had no solid source of information on preventing and responding to business-related human rights violations. The UNGPs have impacted the development of certain local human rights legislation, even though they are considered international soft law and do not impose direct legal duties on enterprises.[48]

[47] Communication No. 155/96 (2001) African Commission on Human and Peoples' Rights.
[48] D Krebs, 'Environmental due diligence obligations in home state law with regard to transnational value chains' in B Kreß and F Peña-Lévano (eds), *Corporate Liability for Transboundary Environmental Harm* (Nomos 2023) 245.

The UNGPS have 3 main pillars. The first pillar is the responsibility to protect which builds on existing legal obligations and requires states to prevent, investigate, redress, and punish human rights abuses by private actors. It comprises Foundational Principles (Guiding Principles 1-2), general state regulatory and policy functions (Guiding Principle 3), the state-business nexus (Guiding Principles 4-6), and supporting business respect for human rights in conflict-affected areas (Guiding Principle 7). It also includes provisions on ensuring policy coherence (Guiding Principles 8-9-10).[49]

The second pillar is the Corporate Responsibility to Respect Human Rights, which entails avoiding infringing on the rights of others and addressing adverse impacts with which a business is involved. It comprises (Guiding Principles 11-15), Operational Principles, Human Rights Due Diligence (HRDD) (Guiding Principles 16-21), and Remediation (Guiding Principles 22-24).

The third pillar is the need for greater access by victims to effective remedies, both judicial and non-judicial. It has the following principles: Foundational Principles (Guiding Principle 25) and Operational Principles (Guiding Principles 26-31). These three pillars are encapsulated in 31 Principles, each with explanatory commentary.[50] The UNGPS are relevant to mining because just like any other sector, mining operations can abuse the human rights of their employees, and other stakeholders in the supply chain. [51]

5 Human rights due diligence

According to its definition, due diligence "is the amount of caution, activity, or assiduity that would be reasonably expected of and typically exercised by a reasonable and prudent person in the given circumstances; it is determined by the specific facts of each case

[49]United Nations Guiding Principles on Business and Human Rights 2011 UN Doc HR/PUB/11/04.
[50] J Ruggie, C Rees and R Davis, 'Ten Years After: From UN Guiding Principles to Multi-Fiduciary Obligations' 6(2) *Bus & Hum Rts J* (2021) 179.
[51] G Ghirardi, 'Understanding and Managing the Financial Sector's Responsibilities in Terms of Human Rights: The UniCredit Experience' (2012) 106 *Notizie di Politeia* 67.

rather than by any particular standard."[52] The Interpretive Guide to the UNGPs provided by the Office of the High Commissioner for Human Rights (OHCHR) defines HRDD as 'an ongoing management process that a reasonable and prudent enterprise needs to undertake, in light of its circumstances to meet its responsibility to respect human rights.[53] In the context of the UNGPS, HRDD comprises an ongoing management process that a reasonable and prudent enterprise needs to undertake.[54] Principle 17 stipulates that corporate organisations must do human rights due diligence to detect, avoid, mitigate, and account for how they resolve their detrimental impacts on human rights.[55]

This is achieved by assessing both possible and actual effects on human rights, considering the results and acting upon them, keeping an eye on reactions, and outlining the necessary actions to address the consequences.[56] The concept of HRDD suggests that due diligence on human rights should encompass any negative impact on human rights that the company may cause or contribute to via its operations, or that may be directly related to its goods or services through its commercial affiliations.[57] The scale of the business, the potential impact on human rights, the nature and location of the business's operations, and other factors all affect how complicated the due diligence procedure can be.[58] It should also be continuous, noting that as a company's activities and operational environment change over time, so too may risks and human rights impacts. (HRDD) has become a common currency widely embraced among stakeholders operating in the Business and Human Rights (BHR) field. According to the UNGPs, HRDD will be the main instrument used by companies to detect, stop, lessen, and account for any

[52]B. Garner 2004. *Black's Law Dictionary* (8th edn, West Group, 1990).

[53] OHCHR, The Corporate Responsibility to Respect Human Rights: An Interpretive Guide, UN Doc. HR/PUB/12/02 (2012) 4.

[54] ibid

[55] United Nations Document E/CN.4/2005/87. April 2005 United Nations Guiding Principles 17.

[56] J Martin, J. Business and Human Rights: What's the Board Got to Do With 1t? (2013) *U. Ill. l. Rev.*, 959.

[57] J Bonnitcha and R McCorquodale, 'The Concept of "Due Diligence" in the UN Guiding Principles on Business and Human Rights' (2017) 28 *Eur. J Int'l L* 899.

[58] United Nations Development Programme. Human Rights Due Diligence. An Interpretative Guide https://www.undp.org/sites/g/files/zskgke326/files/2022 21.pdf.

negative effects that their operations may have on universally acknowledged human rights.[59]

5.1 The importance of human rights due diligence in mining operations

The need for human rights due diligence (HRDD) in ethical business practices is becoming more widely acknowledged, especially in high-risk industries like mining. Mining activities are frequently connected to a variety of human rights abuses, such as internal displacement, child labour, environmental damage, land confiscation, and war funding, particularly in poor nations. HRDD lowers legal, social, and financial risks by assisting mining firms and host governments in identifying, preventing, mitigating, and accounting for the human rights implications of their operations. Incorporating HRDD into corporate practices not only helps businesses respect human rights but also fosters a more ethical and sustainable approach to doing business, creating benefits for both companies and society at large.[60] HRDD is increasingly recognised as a critical component of responsible business conduct, particularly in high-risk sectors such as mining. The importance of HRDD includes:

5.1.1 Prevention of human rights abuses

Mining projects frequently intersect with vulnerable communities, indigenous populations, and fragile ecosystems. Without adequate safeguards, mining can result in forced evictions, unsafe working conditions, pollution of water sources, and destruction of livelihoods. HRDD requires companies to conduct impact assessments before operations begin, consult with affected communities, and ensure that risks to rights like housing, health, water, and a clean environment are minimised.[61] This is in line with instruments like the UNGPs**.**

[59] S Ramasastry and F Wettstein, 'Beyond Human Rights Due Diligence: What Else Do We Need?' (2023) 8(2) *Bus & Hum Rts J* 133.
[60] B Fasterling, 'Human Rights Due Diligence as Risk Management: Social Risk versus Human Rights Risk' (2017) 2(2) *Bus & Hum Rts J* 225.
[61] O Gaisie, *Intersection between Ecological Destruction and Human Rights: Study of Illegal Mining Activities in Ghana* (2024).

5.1.2 Legal and regulatory compliance

HRDD strengthens compliance with both domestic laws (e.g. Nigeria's Environmental Impact Assessment Act, Land Use Act) and international obligations (e.g. ICCPR, ICESCR, ACHPR).[62] As laws evolve to impose mandatory due diligence requirements such as the EU Corporate Sustainability Due Diligence Directive[63] mining companies that fail to integrate human rights safeguards face increased litigation, penalties, and loss of operating licenses.

5.1.3 Conflict prevention and peacebuilding

HRDD helps identify root causes of tension, and respects land rights especially for indigenous and host communities.[64] In regions like Zamfara and the Niger states, illegal mining and resource mismanagement have fuelled violent conflict and criminal activity. HRDD helps to reduces grievances and builds trust with local populations.

5.1.4 Reputational and investment risk management

International investors and buyers increasingly demand ethical sourcing of minerals. Mining companies that cannot demonstrate HRDD face divestment, exclusion from global supply chains**,** and damage to their reputation. HRDD allows companies to manage stakeholder expectations[65] and align with Environmental, Social, and Governance (ESG) standards**.**

5.1.5 Access to remedy and accountability

A core part of HRDD is ensuring access to **grievance mechanisms** and effective remedies for affected individuals. This not only improves corporate accountability but also reflects a commitment to

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[62] N Inoue, *Business and Human Rights in Africa: Which Stakeholders and Actions Are Necessary in Rural Places Furthest Away from the Assumption of the United Nations Guiding Principles* (PhD thesis, Tokyo University of Foreign Studies).

[63] Directive (EU) 2024/825 of the European Parliament and of the Council of 24 April 2024 on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937 [2024] OJ L 246/1.

[64] O Abe, 'Towards a Human Rights-Based Approach to Energy Transition in Africa' (2025) 10(1) *Bus & Hum Rts J* 11.

[65] D Chimisso and S L Seck, 'Human Rights Due Diligence and Extractive Industries' in Surya Deva and David Birchall (eds), *Research Handbook on Human Rights and Business* (Edward Elgar Publishing 2020) 151.

justice and fairness.[66] Especially where the state is unable or unwilling to protect rights. Mining holds significant economic promise but poses serious social risks, embedding HRDD into mining operations is essential for balancing profit with protection.

5.2 Mainstreaming HRDD in the mining sector

Identifying and assessing human rights impacts in mining operations requires understanding of the specific risks posed by mining activities and a proactive engagement with affected communities and workers. By incorporating human rights due diligence (HRDD) into their operations, mining companies can mitigate risks, promote responsible business practices. Mainstreaming HRDD in the mining sector involves embedding human rights risk assessments, mitigation, and accountability mechanisms into every stage of mining operations and governance. HRDD must go beyond compliance. It should be a continuous process aimed at improving working conditions and strengthening human rights throughout the different stages of the mining business. Rather than treating it as a one-off exercise, companies need to embed HRDD as a core part of their operations to drive lasting change for workers and communities.[67] Mainstreaming HRDD into the mining business includes.

5.2.1 Legal and policy integration

It is important for government to enact laws requiring mining companies to conduct and publicly report on HRDD, similar to the EU Corporate Sustainability Due Diligence Directive.[68] HRDD should be a prerequisite for obtaining exploration or mining licenses,

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[66] J Saloranta, 'Collective and Collaborative Worker-Driven Mechanisms? A Mission (Im)Possible to Enhance Access to Remedy in Relation to Human Rights Due Diligence?' (2023) 34(2) *Eur Bus L Rev*.

[67] M Karadana, 'Mined Minerals and Metals: Integrating HRDD is Key to a Just Transition' (Ethical Trading Initiative Blog, 10 April 2025) https://www.ethicaltrade.org/insights/blog/mined-minerals-and-metals-integrating-hrdd-key-to-just-transition accessed 23 May 2025.

[68] On 25 July 2024, the Directive on corporate sustainability due diligence (Directive 2024/1760) entered into force. The aim of this Directive is to foster sustainable and responsible corporate behaviour in companies' operations and across their global value chains. The new rules will ensure that companies in scope identify and address adverse human rights and environmental impacts of their actions inside and outside Europe. Corporate sustainability due diligence - European Commission.

with periodic compliance reviews. There are a growing number of legislative requirements for companies to report and demonstrate action to tackle human rights abuses. The UK Modern Slavery Act 2015[69] in section 54 has a legal requirement for companies to consider their due diligence systems as the basis for annual statements that set out steps they are taking to prevent, mitigate and act on risks of modern slavery in their supply chains.

5.2.2 Implementation by the mining sector

Mining companies must adopt human rights policies aligned with the UN Guiding Principles on Business and Human Rights. Companies should conduct regular human rights impact assessments (HRIAs) across their value chains, including subcontractors and artisanal miners. Check human rights record latest reports; check discriminatory laws and practices. HRDD findings must influence decision-making in procurement, community relations, security arrangements, and site management. It is important to identify which working practices drive human rights abuses. Such as recruitment practices, purchasing practices, pay systems, agency working. Consultation with others to identify ways of reducing risks of rights abuses and preventing rights violations in of paramount importance.[70]

5.2.3 Stakeholder engagement and participation

It is important to engage with key stakeholders in assessing, mitigating and monitoring risks. Such stakeholders like NGOs, Trade Unions, Workers, and local communities. They should assess influence and leverage, and actively engage with most relevant stakeholders that can help to improve working conditions and respect workers' rights, prevent negative impacts, repair damage or compensate for negative impacts. Furthermore, engaging host communities in meaningful, inclusive dialogue before, during, and after project implementation helps protect the host community. Protecting human rights defenders and ensuring their freedom of

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[69] Modern Slavery Act 2015, c 30.

[70] M Karadana, 'Mined Minerals and Metals: Integrating HRDD is Key to a Just Transition' (Ethical Trading Initiative Blog, 10 April 2025) https://www.ethicaltrade.org/insights/blog/mined-minerals-and-metals-integrating-hrdd-key-to-just-transition accessed 23 May 2025.

expression without fear of retaliation is key to mainstreaming HRDD by mining companies. .[71]

5.2.4 Grievance mechanisms and access to remedy

Mining companies should set up independent, culturally appropriate, and accessible grievance systems at mining sites and establish clear procedures for restitution, compensation, and remediation when harm occurs. Assess company decision-making systems, accountability and responsibility for human rights issues - especially at senior levels. It is important to establish board and executive governance indicators for tackling human rights as well as establish Key Performance Indicators (KPIs) at corporate and workplace levels for reviewing and acting on human rights due diligence.

5.2.5 Capacity building and training

Providing HRDD training to management, staff, and contractors on identifying and mitigating human rights risks as well as support training and capacity building on worker-management communication. The training should also include strengthening the capabilities of regulatory agencies to monitor, enforce, and support HRDD practices. Empowering local populations with knowledge of their rights and how to engage with HRDD frameworks.[72]

5.2.6 Transparency and reporting

Mining companies should put in place a system that report publicly on corporate policies, strategies and actions to manage, mitigate and prevent risks of human rights violations. There should be credible evidence of steps taken where risks are found and provide yearly evidence. An accountability systems in languages understood in the community must be communicated. It is important to communicate with staff and others where risks or incidence of human rights violations have been found, and actions taken.[73]

[71] ibid
[72] ibid
[73] ibid

6 Conclusion

Mining activities in Nigeria, particularly in artisanal and small-scale operations, are with serious human rights risks. These include forced displacement, child labour, environmental degradation, and conflict-driven exploitation. Despite existing legal and regulatory frameworks such as the Nigerian Minerals and Mining Act, enforcement remains weak, and corporate accountability is almost non-existent. HRDD provides a critical framework for identifying, preventing, mitigating, and accounting for human rights impacts within the mining sector. It is imperative therefore for the mining sector to embrace and mainstream HRDD. It is recommended that legislative reforms be made to make HRDD mandatory for businesses including the mining industry. This will ensure that companies in the mining sector assess and address human rights risks in their operations and supply chains. This also will ensure that HRDD is integrated into mining practices through collaborative efforts involving the government, corporations, civil society, and affected communities. It is also recommended that mining companies engage local communities and ensure access to remedy for rights violations. Grievance mechanisms should be accessible and transparent. Capacity training and continuous creation of awareness should be targeted at companies.

There should be targeted efforts to build awareness among companies, regulators, and local communities on the importance of HRDD and how it can be implemented. Banks and other financial institutions and investors should require HRDD as a prerequisite for funding mining projects. This will help companies align mining practices to human rights standards and responsible business conduct.