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EDITORIAL POLICY

The Journal of Property Law and Contemporary Issues welcomes articles, case notes, comments, statute and book reviews in the field of Property Law. Submissions on contemporary issues are also welcome for consideration by the Editorial Board.

Contributors should kindly note the following requirements:

1. Articles should be submitted to the Editorial Board via **ccwigwe@gmail.com** or **claribel.longjohn@ust.edu.ng**

2. Hard copies of articles may be sent to:
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3. Submitted articles must be in British English and must not have been published or submitted for publishing elsewhere.

4. Contributors should comply with the Nigerian Association of Law Teachers' Uniform Citation Guides (NALTUCS).

5. Articles submitted must not *exceed 20 pages*.

6. Articles must be typed using Times New Roman font size 12 and double spaced on one side of A4 paper.

7. Articles should be submitted with an Abstract of not more than 200 words.

EDITORIAL NOTE

The Journal of Property Law and Contemporary Issues publishes creative and innovative research; it is the legal showcase for new ideas, changing attitudes, and shifting emphasis in Nigerian law.

Nigeria's difficult, juridical questions demand an approach that oversteps the limits of traditional legal training and scholarship. This journal, therefore, presents a unique approach to answering these complex, multifarious societal issues.

The articles in this issue are designed to have the widest appeal to those interested in law—practitioners, students, teachers; judges, or administrators—and to provide an opportunity for them to keep abreast of new ideas and the progress of legal reform.

The Attorney General and Lord Chancellor of England, Francis Bacon, once said: Some books are to be tasted; others to be swallowed; and some few to be chewed and digested. Dear readers, you will enjoy "chewing and digesting" this publication; it is, indeed, a stimulating read.

Dr. C. C. Wigwe
(Associate Professor)
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MINING IN NIGERIA AND ITS IMPLICATION ON THE RIGHTS OF A CHILD

by

Igbayiloye Oluwatosin Busayo*
Adimula Abiola Ruth**

Abstract

Presently, the mining sector of the economy is the major focus of the government of Nigeria for foreign exchange, to generate revenue for the economy as well as for employment opportunities. Due to the fall in global price of oil which affected the economy drastically, the government took steps to revamp the mining industry in the country to attract foreign investors. The major focus of the government is economic development and the impact of mining activities on human rights of individuals, the society especially that of the mining communities is undermined. Women and children are the most vulnerable in this circumstance. This paper seeks to examine the consequence of mining activities on the rights of children. It analyses the rights of children in the light of the laws in Nigeria and international norms. It states that mining activities impact negatively on the rights of a child and argues that mining not carried out in a sustainable manner causes harm and impediment on children. It consequently inhibits their rights from being realized. Hence, it suggests that government should ensure that the rights of children be adequately protected in the process of mining.

Keywords; *mining, children, human rights, communities*

Introduction

Mining is an avenue for foreign exchange and to generate employment opportunities. Nigeria is a nation with abundance of natural resources; a collection of at least 34 known mineral assets. The vast reserves of solid minerals in Nigeria includes but is not limited to, precious metals, stones and industrial minerals. The country was a major exporter of tin, columbite and coal in the early 1970s. However, activities in this sector turn out to be lessened considerably when crude oil production began to take the central point, and became a major source of foreign exchange for the country.[1] The

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[1] Nigerian Mining Sector Brief 2014, KPMG Nigeria

fall in oil prices, which also resulted in economy downturn, prompted the government to make moves for the diversification of the economy to exploration of solid minerals that will boom the economy. The national policy on solid minerals is aimed at a private sector led development of the vast solid mineral resources of Nigeria, with government creating the enabling environment through the provision of basic infrastructure and amenities to the mine fields. As much as mining creates benefits, it also comes with its challenges. Extraction of resources poses serious threats to the people and also the environment. Women and children are usually vulnerable in such situation. The activities of mining not done in a sustainable manner prevents the rights of children from being realized.

In the light of the background, this paper is divided into five sections including the introduction. The second part gives an overview of mining of solid minerals in Nigeria, the policies and regulatory framework including the responsibilities of mining companies towards the protection of the rights of the child. The third section identifies who a child is and his/her rights and protection under international and Nigerian laws while the fourth section highlights the implication of mining activities on the right of a child. Suggestions and conclusion are raised and stated in the last section.

Mining Developments in Nigeria

Mining involves the process of extraction of natural stones or minerals such as coal, ores, crude petroleum and natural gas from the earth. Mining activities in Nigeria have been going on for some time before the colonial era till today. According to history, records show that organised exploration activities in Nigeria was embarked on between 1903 and 1904, when mineral surveys of the Southern and Northern Protectorates respectively were carried out by the Secretary of State for Colonies.[2] By the 1940s, the country had become a major producer of tin, columbite, and coal.[3] Prior to the commercial production of oil in the late 1950's, agricultural production and the utilization and trade of the solid minerals that were known at the time, including coal, tin, columbite and gold, sustained Nigeria's economy.[4]During the 60s and 70s

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<https://www.kpmg.com/NG/en/IssuesAndInsights/ArticlesPublications/Documents/Nigerian%20Mining%20Sector%20Brief_v1.pdf> accessed 16 September, 2016

[2] O. C. Azubike, 'Use Of Mercury In Artisanal And Small-Scale Gold Mining In Nigeria', <https://economicconfidential.com/2015/05/reviving-comatose-mining-industries/> accessed 17 November 2016; <http://www.richbongroup.com/quarry-and-granite-processing> accessed 16 September2016

[3] <https://economicconfidential.com/2015/05/reviving-comatose-mining-industries/ accessed 17 November 2016

[4] http://www.richbongroup.com/quarry-and-granite-processing accessed on 2016

the principal foreign investors in the mining industry departed Nigeria, allowing the industry to fall from large and medium scale mining to small-scale and artisanal mining.[5] Production dropped due to factors such as the World War II, absence of funds by the Nigeria Mining Corporation, discovery of petroleum in 1956.[6] With the decline in income generated from oil production and global oil prices, the government began to consider diversification of the economy. In 1994, Government sought a private sector-led economic revival programme as regards solid minerals, agriculture and manufacturing as a means of diversifying the economy.[7] As regards that of solid minerals, the creation of a Ministry of Solid Minerals Development was suggested, and the Head of State, Gen. Sani Abacha, declared its creation in his 1995 Annual Budget Speech. In 1999, the Federal Minerals and Mining Act was created, which was followed by a drive for the privatization of the then majority state-owned mines.[8] When democracy gained prominence in 1999, the need to diversify the revenue base of the country became paramount.[9] Obasanjo who was the president at that time, worked tirelessly in putting in place a mechanism for diversification of the country's revenue and as far as the mining sector is concerned. [10] In the same year, a new National Policy on solid minerals was framed and approved with an enabling legislation directed at providing necessary incentives to investors.[11]In 2008, the Minister of Solid Minerals Development (now referred to as Mines and Steel Development) prioritized the development of seven solid minerals with strategic relevance to Nigeria's economy since they are available in large quantities enough to sustain mining operations for the long term. These minerals are coal, barytes, bitumen, gold, iron ore, lead/zinc, and limestone.[12] These resources are potential opportunities for national development. The current administration led by President Muhammadu Buhari, highlighted the mining sectors as one of the particular ones that his administration will focus on due to the enormous potential impact these sectors could have on the nation's economic

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[5] Erin https://www.google.com/search?q=history+of+mining+in+Nigeria&client=firefox-b&biw=1366&bih=657&noj=1&ei=_YAtWPOOJImVgAbd-4WoDA&start=20&sa=N&gfe_rd=cr accessed on 17 November 2016

[6] O. C. Azubike, no 2 above

[7] Richbon Group Nigeria https://richbongroupng.wordpress.com/2016/01/05/history-of-mining-and-quarrying-in-nigeria/ Accessed on 2 August 2016

[8] No 7 above

[9] KPMG no 1 above; Facts of the Nigerian Mining Sector https://newsofnigeria.com/facts-of-the-nigerian-mining-sector/ accessed 2 August 2016

[10] No 9 above

[11] Alfred Oluropo Filani, "The Prospects Of Solid Minerals Industry In Nigeria" International Journal of Education and Research Vol. 2 No. 7 July 2014

[12] <www.kwm.com/en/uk/knowledge/insights/the-mining-sector-in-nigeria-20151201> accessed 2 August 2016

growth. This is in terms of providing massive employment opportunities, investments, industrialisation, social development and in the long run a better standard of living.[13]

Overview of Policy, Institutional and Legal Frameworks on Mineral Resources in Nigeria

a. Laws and Policies

The Nigerian Constitution[14]

In the 1999 Constitution, the Second Schedule, Part1 item 39 of the Exclusive Legislative List, 'mines and minerals, including oil fields, oil mining, geological surveys and natural gas' are firmly under the control of the Federal Government.

The Nigerian Minerals and Mining Act of 2007

The Nigerian Minerals and Mining Act 2007[15] ("the Act") was passed into law on March, 2007 to repeal the Minerals and Mining Act 1999[16]. The Act is the principal legislation that regulates the mining sector in Nigeria and it regulates all aspects of the exploration and exploitation of solid minerals in Nigeria. It vests the control, regulation and ownership of all mineral resources in the Federal Government of Nigeria.

The National Minerals and Metals Policy (2008)[17]

This policy is a tool, developed by the MMA, for establishing the new direction of development of the sector by the government. The Policy has led to the restructuring of the Ministry of Mines and Steel Development to enhance performance and regulate the sector adequately by establishing four new technical units which includes; the Mining Cadatre Office, Mines Inspectorate Department, Artisanal and Small-Scale Mining department and the Mines Environmental Compliance Department.

The Nigerian Minerals and Mining Regulations 2011

The Nigerian Minerals and Mining Regulations (the "Regulations") was issued by the Ministry. The objective of the Regulations is to establish a more

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[13] No 14 above

[14] The 1999 Constitution of the Federal Republic of Nigeria (as amended)

[15] Nigerian Minerals and Mining Act, 2007 (Act No. 20).

[16] No.34 of 1999 Cap. M.12 LFN 2004.

[17] The National Minerals and Metals Policy, 2008

coordinated and accountable solid minerals sector in the country and to stamp out the discretionary grant of mineral titles. The Regulations set out the rules, procedures and processes for the acquisition of mineral title thereby streamlining the procedures for granting licenses to investors (both local and foreign). Acquisition for mineral title may be obtained through any of the various mining titles which are granted by the Minister of Solid Minerals Development either through Priority application or Competitive Bidding.

The Guidelines on Mineral Titles Application 2014

The Guidelines on Mineral Titles Application (the "Guidelines") was issued by Nigeria Mining Cadastre Office (the "Cadastre Office") with its most recent update being in January 2014. The Cadastre Office was established in 2007 with the responsibility of administration and management of mineral titles in Nigeria in accordance with the MMA. It details the different types of mineral titles, the requirements for the application of these titles as well as a detailed outlook on the application procedure and fees.

Environmental Impact Assessment Act[18]

This Act stipulates that public or private project that is likely to have significant impact on the environment should not be undertaken until assessment has been carried out. Since mining affects the environment, investors are to carry out assessment based on this Act.

Other laws as regards mining of solid minerals in Nigeria include; National Environmental (Mining and Processing of Coal, Ores and Industrial Minerals) Regulations 2009[19], National Environmental (Base Metals, Iron and Steel Manufacturing/Recycling Industries Sector) Regulations, 2011[20], National Environmental (Quarrying and Blasting Operations) Regulations, 2013[21], Companies and Allied Matters Act, 2004, Land Use Act 1978, the Nigeria Extractive Industry Transparency Initiative Act[22], the Explosives Act and Explosives Regulations[23], Nuclear Safety and Radiation Protection Act[24],

[18] CAP E12 LFN 2004

[19] Federal Republic of Nigeria, No. 31 of 2009, Vol. 96, No. 63, Official Gazette (Abuja) dated 12th October, 2009.

[20] S.I. No.14, Gazette No. 41. Vol. 98 of 4th May, 2011

[21] S.I. No. 33, Gazette No. 97, Vol. 100 of 30th October, 2013.

[22] Cap N159 LFN 2004

[23] CAP E18 LFN 2004

[24] CAP N142 LFN 2004

Nigerian Investment Promotion Commission Act[25], Companies Income Tax Act (CITA)[26]

b. Institutional Framework

The Ministry of Mines and Steel Development (MMSD) was established in 1985 as a bold attempt by the Nigerian Government to spur the rapid and beneficial development of the country's solid mineral resources. This is an agency set up to unlock the economic potentials of the solid minerals sub-sector in Nigeria. In terms of administration of the mining industry, Ministry of Mines and Steel Development oversees the industry's administrative activities. The administration is carried out by Mines Inspectorate Department, Artisanal and Small Scale Mining Department, Mines, Environment and Compliance and Mining Cadastre office. The Ministry is charged with formulating policy; providing information and knowledge to enhance investment in the sector; regulating operations in the solid minerals sector; and generating appropriate revenue for the government. The Ministry of Mines & Steel is responsible for identifying the nation's solid minerals, advising government on the formulation and execution of laws and regulations guiding the various stages of prospecting, quarrying and mining; and handling sale and consumption of solid minerals in the country, through the issuance of Permits, Licenses, Leases and Collection of rents, Fees and Royalties.[27]

Responsibilities of Mining Companies towards Human Rights under International Law

Generally, companies impact negatively on human rights and contribute to child rights abuses through their activities. Various standards have been developed at the international level as guidelines on the human rights responsibilities of companies. They include the OECD Guidelines for Multinational Enterprises 1976 which was revised in 2000; the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy 1977, also revised in 2000; the United Nations Global Compact 2000, Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights. The most recent is the UN Guiding Principles on Business and Human Rights. It recognizes that companies should embark on "human rights due diligence" measures

[25] Nigerian Investment Promotion Commission Act 1995, CAP N117, LFN 2004

[26] Companies Income Tax Act 2011, CAP P8 LFN 2004

[27] Ministry of Mines and Steel Development- about MMSD

throughout their supply chain. Human rights due diligence includes assessing actual and potential human rights risks; mitigating those risks; ending abuses; and ensuring remedies for any abuses that do occur. Companies should also be fully transparent about these efforts. Human right due diligence is inclusive of the rights of children, and should specifically include abuses that flow from environmental harm caused by the companies, in line with the UN Guiding Principles.

A particular norm that also touches on companies responsibilities as regards children's rights is the Children's Rights and Business Principles developed based on the UN Business Guiding Principles. It provides the guidance for all businesses in achieving their responsibility to respect children's rights and be committed to supporting the human rights of children.

Who Is a Child?

A child is any human being below the age of eighteen (18) years[28]. Both the Child Rights Act (Nigeria) and the African Charter on the Rights and the Welfare of the Child describe a child as every human being below the age of 18 years.

International Instruments on the Rights of a Child

The Convention on the Rights of the Child (CRC) is the most comprehensive document on the rights of children. The Convention on the Rights of the Child stipulates that children should be protected from work that tends to be hazardous or harmful to the health or physical, mental development of a child. By virtue of Article 36 of the United Nations Convention on the Rights of the Child (CRC) that Nigeria is signatory to, state parties are saddled with the responsibility to protect the child against all forms of exploitation prejudicial to any aspect of the child's welfare. Article 19 CRC provides that:

> *States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.*
>
> *States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other*

[28] The Convention on the Rights of the Child, with a Preamble and 54 articles, was adopted by the U.N. General Assembly on November 20, 1989, and entered into force on September 2, 1990. G.A. Res. 44/25, annex, 44 U.N

persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention[29].

Universal Declaration of Human Rights 1948 (UDHR)[30]

Two articles of the Universal Declaration of Human Rights expressly refer to children. It states that all children are entitled to special care and assistance and that all children whether born in or out of wedlock should enjoy the same social protection.[31] Furthermore, it provides for children's right to education and deals with access and aims to education. It is expected that education is to be free in the elementary and fundamental stages while elementary education is to be compulsory.[32]

International Covenant on Civil and Political Rights 1966[33]

In relation to the right of children, it stipulates that "every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State."[34] It further prescribes that every child must be registered immediately after birth and have a name and that every child has the right to acquire a nationality.

International Labor Organization Convention No. 182

International Labor Organization Convention No. 182[35], which is binding on Nigeria, also prohibits the worst forms of child labor, inclusive of work in an unhealthy environment that exposes children to hazardous substances.[36]

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[29] Article 5, United Nations Convention on the Rights of the Child

[30] The Universal Declaration of Human Rights, with a Preamble and 30 articles, was adopted by the U.N. General Assembly on December 10, 1948. G.A. Res. 217 A (III), U.N. Doc. A/810 at 71 (Dec. 10, 1948).

[31] Article 25(2) UDHR

[32] Article 26 UDHR

[33] The International Covenant on Civil and Political Rights, with a Preamble and 53 articles, was adopted by the U.N. General Assembly on December 16, 1966, and entered into force on March 23, 1976. G.A. Res. 2200A (XXI), 21 U.N. GAOR, 21st Sess. Supp. (No. 16) at 52, U.N. Doc. A/6316 (Dec. 16, 1966), 999 U.N.T.S. 171.

[34] Article 24

[35] Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (Entry into force: 19 Nov 2000)

[36] Article 3 ILO No. 182

African Charter on the Rights and Welfare of the Child 1990

Most of the provisions of the African Charter on the Rights and Welfare of the Child[37] are modeled after those of the CRC. It lists the principles of non-discrimination and the best interests of the child and also provides that children have an inherent right to life as protected by law. The rights of Children under the charter includes a right to a name, association and peaceful assembly; privacy; education; rest and leisure.[38] It also provides for the protection of Children against all forms of economic exploitation and from performing work likely to be hazardous[39]; against all forms of torture, maltreatment, and abuse[40]; harmful social and cultural practices

Nigerian Laws on the Rights of a Child

Nigeria has ratified international instruments that asserts the rights of a child and also the protection of such rights. These instruments include; the Convention on the Rights of the Child, Universal Declaration of Human Rights 1948, International Labor Organization Convention No. 182, Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), International Covenant on Civil and Political Rights, the international Covenant on Economic, Social and Cultural Rights. In addition, it has also ratified regional instruments like; African Charter on the Rights and Welfare of the Child, African Charter on Human and People's Rights.

Nigeria has taken measures to protect the rights of a child both at the federal and state levels. The general framework which enshrines the protection of human rights in Nigeria is the 1999 Constitution where the Bill of Rights is elaborated in Chapter IV. In Chapter II of the 1999 Constitution, some principles are geared towards the protection of children. Section 17(3)(f) provides that state shall direct its policy towards ensuring that;

> *"Children, young persons and the aged are protected against any exploitation whatsoever, and against moral and material neglect".*

In 2003, Nigeria adopted the Child Rights Act to domesticate the Convention on the Rights of the Child. Federal level, it is only effective if State Assemblies also enact it. Under the Nigeria Child Rights Act, 2003, the ten basic rights of a child are: Right to life; Right to Identity; Right of Freedom of Association; Right to Freedom of Expression; Right to privacy; Right to Leisure

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[37] The African Charter on the Rights and Welfare of the Child, with a Preamble and 48 articles, was adopted on July 11, 1990, and entered into force on November 29, 1999. OAU Doc. CAB/LEG/24.9/49 (1990).

[38] Articles 6-12

[39] Article 15

[40] Article 16

and recreation; Right to education; Right to Health & Health Services; Right to protection against inhuman treatment and exploitation; Right from every form of discrimination. These rights are grouped into four (4) viz: Survival rights, Protection Rights, Development Rights and Participation Rights. The Act prohibits a child from every form of forced or exploitative labour, except to do light work for family on agricultural, horticultural or domestic basis.[41] It further states that: "No child shall be required, in any case to lift, carry or move anything so heavy as to be likely to adversely affect his physical, mental, spiritual or moral or social development[42] . . . No child shall be employed or work in an industrial undertaking...[43]. Penalty for contravention is Fifty Thousand Naira fine or imprisonment for 5 years or both.

The Anti-Trafficking Act 2003, as amended in 2005 (NAPTIP Act), seeks to protect children especially as victims of trafficking and other forms of exploitation.

The cumulative meaning of these provisions is that, state parties, parents and guardians are responsible to protect the child from all forms of abuse, including exploitative labour and dangerous exposure as in mining industries and to provide appropriate direction and guidance in a manner consistent with the evolving capacities of the child.

Institutional Framework

The Nigerian Human Rights Commission of Nigeria established by Decree N0. 2 of 1995 is mandated to promote, protect, monitor and investigate violation of human right and also receive and treat complaints from citizens as regards abuse of their rights. Another institution is the National Agency for the Prohibition of Trafficking in Persons and Other Related Matters (NAPTIP was established by the Trafficking in Person (Prohibition), Enforcement and Administration Act 2003. It was instituted to investigate and prosecute perpetrators. Also, the Nigerian Ministry of Women Affairs and Social Development promotes the development of women and children with equal rights and responsibilities. The mandate of the Ministry is to advise Government on gender and children issues, on issues affecting persons with disabilities and the aged, initiate policy guidelines and lead the process of gender equality and mainstreaming at both the national and international levels. Other institutions involved with the protection of the rights of the child include the Nigerian Police.

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[41] Section 28 CRA

[42] Section 28(c) CRA

[43] S. 28 (2) CRA

Despite the international and national laws including the institutions saddled with the responsibility to protect the child, the rights of the child is far from being realized.

The Impacts of Mining on the Rights of a Child

The availability and exploitation of natural resource wealth is being referred to as 'resource curse' which is a very known experience, does not automatically transform into total well-being of local inhabitants, owing to mishandling of revenues accruing from resources, alteration of the overall economy through variations in the currency rate and power asymmetries that are accentuated by resource development.[44] All these have negative consequences for sustainable development and various livelihoods.[45] Survival rights of many children in Nigeria has been violated by mining activities where children die of polluted food and water and many put in critical health condition. For example, not less than 28 children under the age of five were killed by drinking stream water polluted with lead in Nigeria's Niger state[46]. Illegal gold mining is the main cause of the tragedy that has left dozens more in critical conditions[47]. "The devastating impact of this outbreak is associated with new mining sites which were found to contain more leaded ores which are often brought home for crushing and processing"[48] Doctors found the victims had levels of lead in their blood that were 17 to 22 times higher than acceptable limits as established by the World Health Organization[49]. A farmer in one of the communities, narrating his plight, said he lost six children to the poison in quick succession- "'Four of my children fell sick at the same time and died one after the other. We never knew the death were as a result of the contaminated water resulting from the lead poisoning. They eventually gave up the ghost. Two others also died shortly after the four had died,"[50].

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[44] E Wilson & F Stammler (no 45 above) see also YO Omorogbe 'Aternative Regulation and Governance Reform in Resource-Rich Developing Countries of Africa' in B Barton, LK Barrera-Hernandez, AR Lucas & A Ronne (eds) *Regulating Energy and Natural Resources* Oxford (2006) 40

[45] D. K. Twerefou, 2009, 'Minerals Exploitation, Environmental Sustainability and Sustainable Development in EAC, SADC and ECOWAS Regions' cited in' Babagana Gutti, Mohammed M. Aji And Garba Magaji, 'Environmental Impact of Natural Resources Exploitation In Nigeria And The Way Forward' *Journal of Applied Technology in Environmental Sanitation*, 2 (2): 95-102.

[46] C. Jamasmie (May 2015) <http://www.mining.com/at-least-28-nigerian-children-killed-by-led-poisoning-from-illegal-gold-mining/> accessed November 28, 2016

[47] No 54 above

[48] No 54 above

[49] No 54 above

[50] Wole Mosadomi, 'Mining for Death', *Vanguard Newspaper* (May, 24 2015) <http://www.vanguardngr.com/2015/05/mining-for-death-in-niger-i-lost-six-children-to-lead-poisoning-farmer/> accessed November, 28 2016

The reason for this violation of the survival rights of the children can be attributed to the failure of the government, parents and guardians to discharge their responsibilities of protection on the affected children. In Zamfara State, the grinding of ore releases dust highly contaminated with lead. Children are exposed to the dust when they work in the processing, or when relatives return home covered in the dust, or when processing occurs at home[51]. Children are also exposed to the lead through water or food.[52] In 2015, Doctors without Borders organization treated children from a 2010 mass lead poisoning, that killed 400 children and left many paralyzed, blind and with learning disabilities because of a three-year delay in government funding for a cleanup[53]. About 2,688 of 5,451 people infected were cured. The organization have had most success in the worst-affected village of Bagega, where all but 189 of 1,426 people have had the lead leached from their bodies[54].

Children are more vulnerable to the impacts of large-scale mining than adults, particularly from birth through age 5, when they experience formative physical development. Exposure to chemical waste, for example, may be more serious for a child than an adult and may have lifelong impacts.[55] It is very important that children due to their vulnerability need considerable protection. Thus, the best interest of the child is to be considered in the light of mining activities. Human Rights Watch stated that; "Millions of children around the world suffer violations of their rights to health, food, water, and other rights because of problematic government responses or inaction to environmental degradation and climate change. Children from marginalized groups—such as children from indigenous communities—are often particularly affected".[56]

In Nigeria, small scale mines and quarries is typically artisanal and involves operations by families with the absence of proper regulations, tools, and safety measures to protect workers. Nigeria faces an enormous poverty problem that is similar to some African countries. This problem of poverty is compounded by a number of factors like high levels

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[51] M. Chouinard, Nigerian director for Doctors Without Borders, <http://www.wsj.com/articles/nigerian-children-dying-of-lead-poisoning-from-gold-mining-in-latest-outbreak-1431710930> accessed November 28, 2016

[52] No 59 above

[53] No 59 above

[54] No 59 above

[55]<https://www.unicef.org/csr/files/UNICEF_REPORT_ON_CHILD_RIGHTS_AND_THE_MINING_SECTOR_APRIL_27.pdf> accessed 16 November2016

[56]<https://www.hrw.org/news/2016/07/22/child-rights-and-environment-need-action> accessed 21 November 2016

of unemployment, low levels of education. The low level of development in Nigeria also led a large number of the unemployed to engage in illegal mining as a means of livelihood. There are pockets of Illegal mining activities in some of the regions of the country, with the attendant risks and community challenges. Because of the uncontrolled manner, the illegal miners operate, a lot of damage is done to the environment by haphazard pitting and trenching of the ground in many areas. This results in a kind of artificial bad land topography, which consequently renders the land impossible to cultivate for agricultural purposes.[57] Large volume of dust from the cement factories and mining operations in the Nigerian limestone quarries are discharged daily into the air. Similarly, a lot of air-borne particulate matters are generated by the numerous stone crushing industries in the country. When the air is laden with such dust, it causes health hazards for some people. For example, pollution studies around Sagamu and Ewekoro cement works in Ogun State have shown that several people are suffering from eye pain, and asthmatic attack due to the dust-laden air that prevails within a few kilometers radius of the factories.[58] Generally small scale miners are untrained and contribute hugely to environmental degradation, and poor quality operational techniques and the loss of minerals.[59]

According to Global Rights, in a rural community of Okobo in Kogi State, where mining operations take place the only stream water was polluted by the activities of the mining company ETA Zuma.[60] Their land was also taken over by the company. Thus, women and children have to travel long distances every day to fetch water. Furthermore, waste water from the mining pit is disposed into the communal water body, further polluting it thereby causing it unacceptable for both domestic and human consumption. The mining operations also affect the crops of the farmers who are mostly women.[61] This company extracts coal to generate power for the nation but at expense of the rights of those dwelling in such communities. This is in response to the 30% coal power generation policy declared by the government. The acquisition of land results in displacement and resettlement for the

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[57] Aigbedion, I and Iyayi, S. E, 'Environmental effect of mineral exploitation in Nigeria' *International Journal of Physical Sciences* (2007) Vol. 2 (2), p. 33-38

[58] No 67 above

[59] Miriam Anike Lawal, 'Constraints To Small Scale Mining In Nigeria: Policies And Strategies For Development'
<http://www.baraka.consulting/uploads/Constraints%20To%20Small%20Scale%20Mining%20In%20Nigeria%20Policies%20And%20Strategies%20Fo.pdf> accessed 20 October 2016

[60] <https://business-humanrights.org/en/nigeria-new-report-by-global-rights-exposes-the-negative-impacts-of-coal-mining-and-coal-power-generation-in-nigerian-communities> accessed 23 November 2016

[61] No 78 above

family. The consequence of the destruction of farm crops through mining activities of the company is loss of livelihood of parents leading to poverty which tells on the child.

Child labour is a common occurrence in these mines.[62] In 2013, Aljazeera reported that thousands of children are exploited by mine owners and gold dealers.[63] Child labourers are found in mines and quarries, producing gravel and granite. Such work puts children at risk of injury or death from exposure to dust, falling rocks and carrying heavy loads.[64] Very young children that follow their parents to work sites can be exposed to mining's dust and chemical hazards.[65]A factor that makes the practice of child labour so difficult to control is the remoteness of the mining sites.[66] The children involved in labour are children of school age. High rates of school dropouts is a common phenomena in these extractive communities.[67]

Another problem is violence in the mining communities. The report by the assessment of some mining communities revealed that crime, violence and insecurity was on the increase which was linked to the inflow of migrant workers.[68] These workers introduce drugs into the communities which they are not familiar to them. This combination drugs and young miners results in violence and consequently insecurity for women and children in particular. The issue concerning the issue of insecurity also raises alarm situation where robbers stole nuggets from miners, killed and dumped their bodies into the mine pits or take over the mine pit especially where a rich mineral is discovered.[69] Mining activities can steer up conflict by aggravating existing tensions over access to economic opportunities and natural resources, particularly land and water. Mining activity can also escalate conflict through

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[62] No 71 above

[63] **Child labour rampant in Nigerian mines, *Aljazeera News***
<http://www.aljazeera.com/news/africa/2013/10/child-labour-rampant-nigerian-mines-20131086554982259.html> accessed 22 November 2016

[64]< https://www.dol.gov/ilab/reports/child-labor/findings/2011TDA/nigeria.pdf> accessed 22 November 2016

[65] No 71 above

[66]<https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0ahUKEwiF8_yyjr_QAhWLAcAKHfwrBwEQFggcMAA&url=http%3A%2F%2Fwww.ilo.org%2Fipecinfo%2Fproduct%2Fdownload.do%3Ftype%3Ddocument%26id%3D25915&usg=AFQjCNGFfRqi2B09LbbuSpMCq6fVwKzTtg&cad=rja> accessed 22 November 2016

[67]<http://www.globalrights.org/ngn/wp-content/uploads/2016/08/Assessing_Community_Rights_Report.pdf> accessed 2 August 2016

[68]No 85 above

[69] No 85 above

displacement, perceptions of inadequate or unequal compensation, migration, procurement and recruitment, and company conduct if not managed well.[70]

Children, especially young children, are particularly vulnerable for reasons that include their hand-to-mouth activity and developing nervous systems. Exposure to lead can reduce IQ and cause behavioral problems. Acute exposure can result in blindness, certain types of paralysis, seizures, encephalopathy, and death.[71] The crisis continues despite the extraordinary work to date to treat the most severely affected children and to clean contaminated homes and village sites.[72]

These mining activities including those of the companies have direct and indirect impacts on the right of a child., right to life, education, good health, healthy environment, right to portable water, right to food and shelter.

Ignorance of the laws, and many people because of their low level of education do not know their environmental obligations under the Minerals and Mining Act, and that the adherence to best global practices in mining is a vital tool for the promotion of sustainable growth in the industry. These challenges have a great impact on the rights of a child. A researcher on Human Rights Watch, Jane Cohen, said, "We're losing a whole generation of kids".[73] This is likely to persist if the government does not respond well to these problems.

Conclusion and Recommendation

In the light of the challenges highlighted in this paper, mining activities not carried out in a sustainable manner impacts negatively on human rights and so much on the rights of children. Even though mining offers a variety of socio-economic benefits but its environmental costs, if not well handled can be huge in terms of land conversion and degradation, habitat alteration, water and air pollution.[74] These challenges creates an atmosphere that prevents the total development of a child. It is therefore recommended that government and also mining companies in Nigeria recognize children as vulnerable stakeholders and should take steps to avert abuse of their rights. Governments needs to also intensify efforts and ensure companies respect and protects human rights especially children's right in the course of their

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[70]UNICEF Extractive Pilot, Children's Rights and The Mining Sector, <https://www.unicef.org/csr/files/UNICEF_REPORT_ON_CHILD_RIGHTS_AND_THE_MINING_SECTOR_APRIL_27.pdf> accessed 22 November 2016

[71] No 71 above

[72] No 71 above

[73] She went to Zamfara and her group issued a report on the situation in the state.

[74]No 64 above

operations. It should diligently implement the laws and policies to alleviate the adverse effects of mining activities. Institutions should also be strengthened to protect the rights of a child.

Children's Rights Guiding Principles, UN Guiding Principles is a guide for companies for the protection of children's rights. Mining companies should take this as responsibility and introduce policies for the protection of children in their code of conduct. They should make sure that all international human rights as outlined in the international human rights norms including that of the child should be fulfilled and protected in the course of their activities. Government should equally recognise human rights and those of the children, implementing policies to ensure such.