

Situational Analysis of Conflict in the Development Minerals Sector

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Acknowledgements: The study team was led by Africa Centre for Energy and Mineral Policy (ACEMP) under coordination of Ms. Hope Kyarisiima the project country coordinator for Uganda. Special thanks go to Lacina Pakoun, UNDP technical specialist. Special thanks also go to the District Natural Resource Officers and other Local Government Officials who willingly provided information and access to different development minerals mining sites in their jurisdictions.

This study is published as part of the publication series: Development Minerals in Africa, the Caribbean and the Pacific

About the ACP-EU Development Minerals Programme: The ACP-EU Development Minerals Programme is an initiative of African, Caribbean Pacific (ACP) Group of States, coordinated by the ACP Secretariat, financed by the European Commission and United Nations Development Programme (UNDP) and implemented by UNDP. This €13.1 million capacity building program aims to build the profile and improve the management of Development Minerals in Africa, the Caribbean and the Pacific. The sector includes the mining of industrial minerals, construction materials, dimension stones and semi-precious stones.

Cover photo: A 2018 picture portraying three distinct land use activities i.e. agriculture, sand mining and fish farming on communal land in Bushenyi District. Competing land use between mining and other economic activities is one of the leading causes of conflict in the Development Minerals sector in Uganda.

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Acronyms

ACEMP	Africa Centre for Energy and Mineral Policy
ACP	African, Caribbean and Pacific (ACP) Group of States
CAO	Chief Administrative Officers
DGSM	Directorate of Geological Survey and Mines
EU	European Union
GHM	Grievance Handling
KCCA	Kampala Capital City Authority
MEMD	Ministry of Energy and Mineral Development
MGLSD	Ministry of Gender Labour and Social Development
MMPU	Mining and Minerals Policy of Uganda
MOH	Ministry of Health
MWE	Ministry of Water and Environment
NEMA	National Environment Management Authority
OPM	Office of the Prime Minister
OWC	Operation Wealth Creation
UNDP	United Nations Development Programme
UPF	Uganda Police Forces
URA	Uganda Revenue Authority
USMID	Uganda Support to Municipal Infrastructure Development

1. Introduction

The ACP-EU Development Minerals Programme is a three-year, €13.1 million capacity building program that aims to build the profile and improve the management of Development Minerals (industrial minerals; construction materials; dimension stones; and semi-precious stones). The program is an initiative of the African, Caribbean and Pacific (ACP) Group of States, financed by the European Union and the United Nations Development Programme (UNDP), and implemented by UNDP. In Uganda, UNDP is implementing the project in collaboration with the Ministry of Energy and Mineral Development (MEMD).

The project involves building capacity in 40 ACP countries, with more extensive support provided to six focus countries: Cameroon (Central Africa); Guinea-Conakry (West Africa); Uganda (East Africa); Zambia (Southern Africa); Jamaica (Caribbean); and Fiji (Pacific) to: (i) Enhance employment and incomes, including employment and incomes of women; (ii) Improve the policy and regulatory environment; (iii) Minimize environmental impacts on communities; (iv) Address individual and community rights and preventing conflict; (v) Ensure decent working conditions and (vi) Facilitate South-South cooperation and cross-country learning.

In Uganda, the project seeks to strengthen the capacity of key stakeholders such as the small-scale private sector, associations, chambers, public institutions, civil society and others to enhance the management of mining operations through observing national and international Health, Safety and Environment (HSE) Standards in the sustainable management of Development Minerals.

Africa Centre for Energy and Mineral Policy (ACEMP) was thus tasked to undertake analysis and develop knowledge products for the Development Minerals sector in Uganda including carrying out a situation analysis of conflict in the Development Minerals sector. ACEMP reviewed relevant documents with specific attention to the current conflict situation of the Development Minerals sector, existing stakeholder grievance handling mechanisms and capacity gaps therein and recommendations for reduction of conflicts in the Development Minerals sector.

ACEMP further undertook a capacity assessment, with the aim of identifying emergent capacity needs and suggesting practical solutions to address them, including conducting capacity building of Geological Survey and Mines (DGSM) staff and representatives of ASMs in the Development Minerals sector on Conflict Sensitive Mining and Grievance Handling. The capacity gaps were grouped into the following:

- i) Institutional framework capacity gaps;
- ii) Artisanal and Small-scale Miners capacity gaps; and
- iii) Stakeholder capacity needs and barriers to utilization of regulatory framework and responsible best practice provisions for effective management of conflict in the Development Minerals sector in Uganda.

2. Background and Scope

Conducting a situation analysis of conflict in the Development Minerals sector involved carrying out a conflict analysis of the Development Minerals sector, identifying grievance handling mechanisms in the sector and other related sectors, identifying capacity gaps so as to inform capacity building for stakeholders regarding conflict management and grievance handling mechanisms relevant to the Ugandan context. This included diagnosis of existing judicial, non-judicial and traditional conflict management and grievance handling mechanisms that are applicable as well as proposals for efficient handling of sector related conflicts within existing frameworks; legal framework regulating the extraction and business of Development Minerals; the key actors' relationships in the Development Minerals value chain; their operating context in terms of grievance handling and conflict sensitivity; key challenges and capacity gaps.

A feasibility study was also carried out to identify the possibilities of having early warning systems and grievance handling mechanisms from other institutions benchmarked. This analysis was made focusing on the kind of activities and the value chain involved in the Development Minerals sector. A market segment ranking chart was utilised to address one of the very important considerations in the feasibility- the buy in. This information helped to propose actionable measures in enhancing the capacity of key actors in improving conflict management in the Development Minerals sector, as well as some proposals on how the existing regulatory framework can be strengthened to support the sustainable development of the sector.

The geographical scope of this investigation covered the Districts of Kampala, Wakiso, Kalungu, Bushenyi, Kasese, Mukono, Buikwe, Jinja, Gulu, Moroto and Tororo. At District level, efforts were made to meet the respective Chief Administrative Officers (CAO) due to the central role currently played in the licensing process of the mining sector and future anticipated roles in overall governance of the Development Minerals sector under the new policy and legal framework. Most of the existing Grievance Handling Mechanisms (GHM) at the Local Government level are headed by the office of the CAO.

Also interviewed were the District Natural Resources Officers, District Environment Officers, Community Development Officers and artisanal and small scale miners. At national level efforts, were made to interact with the Uganda Support to Municipal Infrastructure Development (USMID) Program hosted by the Ministry of Lands, Housing and Urban Development, Kampala Capital City Authority (KCCA), Office of the Prime Minister (OPM), and the European Union (EU) delegation to Uganda particularly on how they support conflict management.

Twenty (20) target Development Minerals mining sites covering the extraction, processing and trade of stone aggregates, sand, clay, dimension stones, limestone and murram were sampled as shown in Table 1 below.

Table 1: Mineral Commodities, Study Districts and Mining Sites visited

District	Mining Site	Mineral Commodity
Buikwe	Nagonga, Namulesa, Nakatabya	Sand, Stone aggregates
Bushenyi	Bulamba 1, Mpaama	Stone aggregates, sand
Gulu	Laroo, Bardege	Stone aggregates
Jinja	Walukuba, Nabukosi	Stone aggregates and sand
Kalungu	Lweera, Mwota/Lukaya	Sand
Kasese	Kabukero, Kiyenje, Nyamwaba	Stone aggregate, murram
Moroto	Rupa	Marble
Mukono	Kasenge, Mbalala, Kijo-Kasokoso	Stone, Sand
Tororo	Akolodong, Osukuru	Sand, Limestone
Wakiso	Kasanje	Clay

Source: Field data.

3. Approach and Methodology

Qualitative and quantitative approaches of data collection were used. These included:

- a) **Desktop review of relevant literature and legal frameworks.** This study started with a review and analysis of available information on ASM activities in the Development Minerals sector in Uganda and the existing policy, legal and regulatory framework. Considering the limited literature on Development Minerals in Uganda, the analysis relied heavily on the recently concluded UNDP Baseline Assessment of Development Minerals in Uganda reports. Media reports, parliamentary reports and other reports by Civil Society Organizations were also consulted. Literature on conflict and Development Minerals was significantly limited. The only available reports were biased towards land and mining related conflicts, with less focus on Development Minerals. Relevant relations were made to inform the situational analysis.
- b) **Stakeholder identification and study site selection.** This phase involved identifying the active Development Minerals stakeholders basing on the available literature, specifically the UNDP Baseline Assessment of Development Minerals in Uganda reports. The stakeholders identified through purposive sampling included:
 - Existing ASM Associations
 - Active ASM mining sites
 - Leads from Local Government Officials, especially District Natural and Environmental resource personnel.
 - Host Communities in mining areas
 - Development Partners
- c) **Data collection.** Acquisition of primary data involved interacting with respondents during field visits between 23rd January and 15th February 2019. These interactions were through Focus Group Discussions (FGDs) and Key Informant Interviews. Fieldwork commenced with identifications of the informants and consultations with the District Authorities, the mining communities, Local Council leaderships, ASM association leaders where available, the local people and miners involved in the mining activities at the sites visited. Further grassroots consultations were made subsequently by the research teams with specific stakeholders, especially at the selected ASM sites. This involved:
 - Interviewing ASM association leaders, mine site chairpersons, and landlords in the active mining areas;
 - FGDs with ASMs in the respective districts
 - Informant or expert interviews with purposively sampled stakeholder representatives, including CAOs, Natural Resources Officers, Commercial Officers and representatives from the Ministry of Energy and Mineral Development, among others.

In total 10 FGDs were conducted using semi structured questionnaires with fair representation of men and women. Individual Key Informant Interviews were conducted using semi-structured

questionnaires. The interviews achieved fair representations of gender and age and broadly provided a deeper insight and analysis into the Development Minerals sector in Uganda.

- d) **Site visits/observation.** The researchers conducted site visits with a view of assessing the physical evidence of conflict and grievance handling mechanisms. During the visits, observation was used hand in hand with in-depth interviews. Pictures were also taken on site.
- e) **Report compilation.** All the information collected has been put together to constitute this report. The qualitative data from interviews was transcribed, organized into sub-themes and presented as a narrative. The report therefore has the introduction chapter, with a methodology and approach, a general overview of the Development Minerals sector, the conflict analysis of the Development Minerals sector, grievance handling mechanisms, feasibility analysis of the frameworks the study came across and recommendations in relation to capacity building for the reduction of conflicts in the Development Minerals sector. The researchers only considered information that was relevant for answering the research questions. Pictures and any other evidence from the observation have been presented in the report as well.

4. An Overview of the Development Minerals Sector in Uganda

a) Geographical Location, Scale and Commodity Types

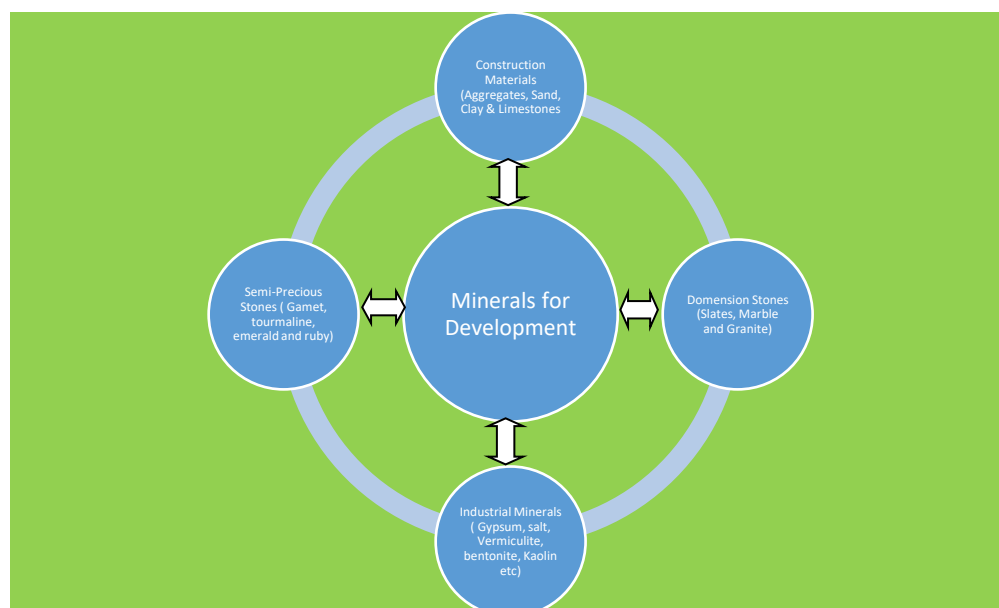
Development Minerals constitute the oldest historically mined commodities in Uganda. In the ancient Bunyoro Kitara Kingdom, pottery using clay can be traced as far back as the 13th century with the 'Banyabindi' people who would move around the empire in search of clay for pottery, a skill that is said to have originated from their ancestors¹. To date, Development Minerals are recognised in the Mining and Minerals Policy for Uganda (MMPU), an indication that they have attracted a lot of importance and value to the various stakeholders. Efforts have also been made by National Environment Management Authority (NEMA) in tracking the performance standards of individuals and companies, while Parliament, as early as 2016, had started engaging with actors in the Development Minerals sector to, among many reasons, reduce on the conflicts therein.²

The Artisanal and Small scale Mining (ASM) formalisation policy directives in the new MMPU of 2018, spells out the need to undertake strategic initiatives such as: lending schemes, protection of the miners, easing of transactional costs and business processes as well as overall country leveraging of the ASM sector for Sustainable Development. The prominence of the mining sector in Uganda's Vision 2040 and the National Development Plan (NDP-II) cannot be overemphasised. The new policy framework lays out a clear foundation for the regulation of the Development Minerals sector by among others highlighting its strategic importance in the country's drive to industrialisation, value addition and infrastructure development- all very critical to achieving middle income status.

Development Minerals have been traditionally used across Uganda as building and construction materials and more recently as industrial minerals in factories. They can be categorised as;

¹Benard Kaahwa "Uganda's pottery culture". The Daily Monitor, Accessed February 20th 2019 <https://www.monitor.co.ug/artsculture/Reviews/Uganda-s-pottery-culture/691232-2623324-pvklnt/index.html>.

² See: <https://nema.go.ug/media/effects-sand-mining-lwera-uganda>
<https://www.monitor.co.ug/News/National/Cabinet-puts-sand-stones-murum-under-minerals-new-mining-policy/688334-4552040-fa7xv5/index.html>
https://www.scribd.com/document/333728368/Report-of-the-Parliamentary-Committee-on-Natural-Resources-on-sand-mining-in-Uganda#fullscreen&from_embed



A description of the major development minerals in Uganda is given in Table 2 below:

Table 2: Major Development Minerals in Uganda

Commodity	Description
Clays	Most Ugandan clays are of sedimentary origin and well-suited to moulding and production of ceramics such as bricks, pots, culverts and floor and wall tiles. Many clays assessed in Central Uganda are “fire clays” suitable for production of refractory (high temperature resistant) bricks. ASM extraction of ball clays takes place in and adjacent to streams, rivers and wetlands, particularly in close proximity to urban centres. Other common clays include bentonite which is used for medical purposes, cosmetics and drilling; and kaolin which is used in the ceramics industry and in pharmaceuticals.
Sand	Sand occurs similarly and often adjacent to clay deposits in and on the margins of wetlands throughout the country as well as on lake shores, with extraction most intensive along Lake Victoria south and east of Kampala.
Stone aggregates	Stone aggregates are stones that are crashed within specified size ranges in order to meet the requirements of the construction sector, mainly for use with cement and sand in the production of concrete. ASM extraction favours slightly softer, weathered rock, whereas large-scale extraction, which uses more sophisticated technology, favours harder rock such as granitoids. ASM extraction of rock for use in stone aggregates in Uganda is primarily of quartzite, slate quartzite, sandstone, phyllite, pozzolanic ash and to a lesser extent granodiorite, granite and gneiss.
Dimension stones	Dimension stones refer to slabs or blocks produced from natural stones that meet basic dimension requirements (length, width, thickness, shape) and suitable for use as rough or cut tiles, countertops, table tops and similar applications. In the case of

	ASM, the majority of dimension stones in Uganda are produced at stone aggregate sites, with only a tiny fraction of sites dedicated solely to dimension stones. Only a small percentage of ASM produced dimension stones are cut into tiles – most are sold 'rough'.
Pozzolan Ash	A type of volcanic ash, pozzolan ash (pozzolana) produces a strong, chemical resistant cement and reduces requirements for costlier limestone. Exploited deposits are found on the western and to a much lesser degree, eastern flanks of the Great Rift Valley in Kabarole and Rubirizi Districts, respectively, as well as in Kapchorwa on the slopes of Mount Elgon in Eastern Uganda.
Gypsum	Gypsum is a relatively soft sedimentary rock that is in high demand, mainly as it comprises about 5% of cement. The only known deposit occurs at Kibuku in Western Uganda (Bundibugyo District), where 300-400 tonnes per annum (tpa) were previously produced by artisanal miners and sold to Hima Cement Ltd.
Salt	Salt deposits are located in Western Uganda at Lake Katwe and Lake Kasenyi in degazetted areas within Queen Elizabeth National Park in Kasese District, and at Kibiro in Hoima District. All current production is at an ASM level.
Semi-precious gemstones	Semi-precious gemstones (e.g. opals, labradorite) have been reported to occur in the Karamoja Sub-region where geologic conditions are conducive to such occurrences.
Agro-minerals	Agro-minerals are rocks with potential to provide essential nutrients or favourably amend chemical or physical conditions of soil. Deposits occur in Eastern Uganda (phosphates at Sukulu and Bukusu and vermiculite at Namekhara) while potassium enriched volcanic rocks occur throughout Western Uganda (Kabale, Kabarole Districts) and under-explored occurrences of diatomite and zeolites are found in the north.

Source: *Market Study and Value Chain Analysis of Selected Development Minerals in Uganda (2017)*

The largest production of Development Minerals in Uganda is carried out by ASMs, accounting for an estimated USD 350 million in 2015 or 83% of national production of clay bricks, sand, stone aggregate, dimension stones, kaolin, salt and pozzolana. The sector is estimated to directly employ approximately 390,000 Ugandans, with women constituting 44% of the workforce³. The revenues generated from these development minerals remains internalised in local economies and plays a significant role in sub-national development and ultimately contributes to the Net National Product (NNP).

³UNDP (2018). Baseline Assessment and Value Chain Analysis of Development Minerals in Uganda.

b) Policy, Legal and Institutional Framework

Until 2018, the mining sector had been governed by the 2001 Mineral Policy of Uganda which had become obsolete and lacked the legal clout to address new and emerging issues in the mining sector. Up until 2005, the general perception was that Development Minerals be ring-fenced for domestic users. The closest the 2005 Constitutional Review Act came to regulating the Development Minerals sector was to delegate to Parliament powers to regulate the commercial exploitation of aggregates, sand, clay and murrum, yet this was not followed through the requisite statutory amendments in the process creating a regulatory lacuna in the governance of Development Minerals.

Under Article 244 (5) of the Constitution of the Republic of Uganda 1995, the definition of "mineral" *did not include clay, murrum, sand or any stone commonly used for building or similar purposes*. While the intention of the framers of this constitutional provision appear to have been to protect and ring-fence 'domestic' exploitation of these minerals or substances from regulation with the exclusion of 'commercial' exploitation of the same, the intention seems to have been ousted with exclusion of Development Minerals from the definition of minerals and in so doing, ousted the regulatory functions of DGSM over the sector.

However by 2012, with the increased demand for Development Minerals particularly aggregates for the construction of roads and strategic infrastructure such as power dams and a pile of legal cases over rocks and surface rights, there was a growing acceptance by both policy makers and political actors, the private sector and development partners that Development Minerals which had in the 2005 Constitutional Review been expunged from their identity as minerals need to be re-introduced, recognised, regulated and gazetted as minerals to enable the country tap into the missed opportunities this sector presented.

The strategic importance of Development Minerals to Uganda's massive infrastructure vision and economic value to the sustainable development of the country's economy was at this time too visible to be ignored. It was also envisaged that regulation of Development Minerals would save the Ugandan government billions of Uganda shillings in compensation to land owners, reduce mounting cases in courts of laws and conflicts surrounding ownership of rocks and aggregates across the country as well as reign in rampant speculation in the sector. These views were galvanised by recent reports⁴ that Development Minerals have the potential to contribute as much as 5% to Uganda's GDP. It was also evident that commercial exploitation of these materials could not transform into additional revenues for Government given that there was no legal basis for levying taxes and other fees on their extraction.

While the old Mining Policy of 2001 recognised the need to regularise and improve Artisanal and Small-scale Mining⁵, nothing was done to operationalise this policy direction in the Mining Act 2003.

⁴UNDP (2018). Baseline Assessment and Value Chain Analysis of Development Minerals in Uganda.

⁵ The Mining Policy, 2001: Objective iii.

The Act does not recognise ASM and until 2018, all artisanal miners in Uganda were treated as illegal save for a few small-scale miners that had managed to acquire Location Licenses in accordance with the provisions of the Mining Act, 2003 and Mining Regulations of 2004. This legal vacuum therefore enabled all the ASMs as well as large scale miners engaged in the mining and production of Development Minerals to operate illegally and remain under the radar of responsible government agencies such as Ministry of Energy and Mineral Development, Ministry of Finance and Uganda Revenue Authority.

The new MMPU 2018 however seeks to rectify some of these anomalies. Among its objectives, it seeks to organize, formalise, legislate and monitor operations of artisanal and small scale miners involved in both High Value and Development Minerals.

5. Conflict Analysis on Development Minerals Sector

Conflict has existed among different communities in Uganda for as long as people were in social structures. The manifestation of conflict for natural resources among groups is not a new occurrence amongst Development Minerals sector actors and communities in Uganda. Most small-scale mining operations in Africa exhibit conflict because mining is an economic asset and more so takes place on valued property- the land resource, thus property issues arise in the context of land use⁶.

Despite the economic contribution of mining to Uganda, the sector faces many challenges that are not limited to persistent structural barriers such as, conflict over land-use and access; poor access to financial services; lack of market information and technology; pricing challenges; conflict between mining and other economic sectors such as agriculture; exclusion of certain demographic groups; poor productivity; unsafe working conditions; uncontrolled migration and many others⁷.

The need for conflict sensitivity⁸ in the Development Minerals sector is embedded in the need to harness the economic potential of Development Minerals to contribute to the socio-economic development and transformation of Uganda⁹. The above is combined with a largely unregulated, conflict prone¹⁰ and non-accounted for contribution of the Development Minerals and ASM sector to GDP.

In the last 10 years, there has been a trajectory increase in the number of mining licences issued by the DGSM. Majority of these companies have turned out to be rent-seekers that circumvent legal process and have the backing of politically influential individuals. Some of these companies are involved in the mining of Development Minerals such as marble, limestone, sand and aggregates. These companies have been found liable to abuse of human rights, such as overseeing dangerous working conditions and long hours of labour without rest or compensating their workers¹¹.

The Baseline Assessment of Development Minerals in Uganda Volume 2018 executed by ACP-EU and UNDP observed the following types of conflicts in the Development Minerals sector:

⁶Barreto, M. S. (2018). *Understanding the Economic Contribution of Small -Scale Mining in East Africa*. Somerset: Pact UK.

⁷Nabbasa, H. (2016). Artisanal and small-scale gold mining and food security: An ecological perspective. *Africa Journal of Public Affairs*, 144-155.

⁸A conflict sensitive approach involves gaining a sound understanding of the two-way interaction activities and context and acting to minimise negative impacts and maximise positive impacts of intervention on conflict.

⁹ See Mining and Mineral Policy for Uganda (2018)

¹⁰ Ibid; p.15

¹¹ HRW (2014), “How can we survive here?” The impact of mining on human rights in Karamoja, Uganda’ <https://www.hrw.org/report/2014/02/03/how-can-we-survive-here/impact-mining-human-rights-karamoja-uganda>

5.1. Common Conflicts in Development Minerals in Uganda

a) Intra-Development Minerals Mining Site Related Conflicts

- i) **Miners to Miners:** Intra-site conflict often takes place in the form of petty theft between miners, particularly at night. The more vulnerable (young, working alone or not yet established) are at the highest risk of being subject to this kind of theft. Whilst informal organizational structures, such as the '**site leader**' are sometimes asked to intervene, victims often do not take any action because of fear of repercussions from perpetrators.
- ii) **Resource Boundary Related Conflicts:** Certain types of conflicts are more prevalent in certain commodities. For example, conflicts over resources and specific boundaries are common at salt sites, where separate pans operate in very close proximity and share vital resources such as irrigation trenches.
- iii) **Social Conflict Related Conflicts:** General social discord around mining communities has also been recorded as a potential source of conflict. Resource boomers and miners tend to come from all walks of life with different social and cultural backgrounds and in some cases lead to an increase in petty theft of food and livestock.
- iv) **Mining Communities and Local Authority Related Conflicts:** Some conflicts were reported between miners and local authorities, particularly in cases where miners were working without proper permits. In Tororo District for example, conflicts arose between miners and the local authorities over the issue of mine waste pollution, which caused adverse environmental impacts in the surrounding area.
- v) **Miners Vs Buyers:** A commonly reported conflict was between miners and buyers, where buyers load up trucks and take away mineral commodities without paying for them. This nature of conflict was reported in the Districts of Moroto in the Karamoja region over marble and limestone Development minerals, as well as Kasese, Bushenyi and Gulu Districts over stone aggregates .
- vi) **Miners and Mining Communities -Vs – Development Minerals Mining Host Landowners:** Some conflicts were reported between miners and landowners, where volatile rent prices which increases or decreases according to how much each miner produces caused discontent among tenants.

b) Resource Ownership Related Conflicts in Development Minerals.

- i) **Conflicts Related to Sand Mining in Lake Victoria:** Increased demand for construction and building materials has put pressure on the mining of sand in Uganda. Uganda's rich water bodies are endowed with rich quality sand with different granular components suitable for the booming construction and building industry in Uganda.
- ii) **Cross-Border Conflicts over Sand Mining in the Karamoja Region:** A weak policy and regulatory framework over sand mining in Ugandan rivers and lakes has led to an increase in unregulated sand mining of these critical natural resources. In the Karamoja region, conflicts

over sand mining in Amudat District by Kween sand miners and truck loaders have intensified in the last five years.

c) Stones and Aggregate Resource Ownership Related Conflicts

Similar to sand mining, there has been an increase in conflicts associated with resource ownership, compensation and access rights registered in the last five (5) years. Some of these conflicts have resulted in civil suits before the High Court of Uganda involving claims amounting to billions of Ugandan shillings. These cases involve both nationals and foreign companies contracted by the Ugandan Government to construct strategic roads such as the 90 Kilometre Moroto- Nakapiripirit Road in the Karamoja Region and the 600 MW Karuma Power Project in Northern Uganda along Karuma Falls on the River Nile.

Another Resource ownership conflict that is of significant importance is the compensation of landowners along the newly completed Entebbe-Kampala Express road, Uganda's international airport access road.

This analysis profiles these three cases to highlight the cost of resource ownership conflicts caused by the lack of adequate policy and regulatory framework for the regulation of Development Minerals and their impacts on development.

The ASM sector to which the Development Minerals sector largely falls in Uganda is characterised by tensions because of many different stakeholders with overlapping mandates¹². In addition to the Ministry of Energy and Mineral Development (MEMD), other key stakeholders include NEMA and Ministry of Water and Environment (MWE); Ministry of Gender, Labour, and Social Development; Ministry of Health; Uganda Revenue Authority; Uganda Police Forces; Operation Wealth Creation (OWC) and many others. Many of these institutions have decentralized offices at district and sub-county government levels. However an analysis of the overlapping mandates creates inadequate coordination, forum shopping and ultimately conflicts among the different government actors.

5.2. Judicial Means of Handling Conflict

Judicial means of resolving conflicts refers to decisions made by judges through hearing and determination of cases or complaints lodged by parties. The Courts are created or established by article 129 of the Constitution of Uganda 1995. It vests judicial power of Uganda in the Courts of Judicature which include the Supreme Court, the Court of Appeal, the High Court and subordinate Courts as Parliament may by law establish. The subordinate courts include the Magistrates Court and other Local Council Courts. They also include arbitration Courts.

¹² UKaid, Pact and Alliance for Responsible Mining, (2018) Economic Contributions of Artisanal and Small-Scale Mining in Uganda: Gold and Clay.

The Courts hear and determine matters of both criminal and civil nature. The Mining Act 2003 creates both rights which are enjoyed by mineral right holders and at the same time creates criminal offences. For instance there are rights created under sections 4, 23, 31, 49 and 60 of the Mining Act and also create offences under sections 89, 94, 115, 116, 117. The Courts may also receive complaints from persons aggrieved by decisions of Ministers against their complaint. This is dealt with as a matter of judicial review of Ministers' decisions. It should be lodged within 45 days from the receipt of such decision.

Below we highlight a few cases of conflict in the Development Minerals sector where Government and construction companies are accused of exploiting rocks on individuals' land without compensation. One common issue in all these cases are the enormous compensation claims that the victims are demanding for. Lawyers have exploited the legal vacuum around the complex valuation of Development Minerals in the context of whether or not they can be regarded as minerals especially before the new MMPU 2018 came into force. In one case, a Chief Government Valuer was interdicted for valuing a rock at 500 billion Shillings (133 million dollars). One of the Lead Counsels in a Land Commission of Inquiry where the interdicted Valuer appeared made the following statement:

This new frontier started with you.....Before this, nobody had even ever gone to value and assess compensation of rocks in the land...I want to know what possessed you, what gave you the idea that these things (rocks) were compensatable? Do you appreciate that without you, there would be no law suits against government of Uganda, there would be no massive monetary claims against the government of Uganda. There would be no danger that in future we would not be able to do projects because with your single act you have made projects too expensive for the people of Uganda to keep doing¹³.

Other cases are summarised in the text boxes below:

¹³ The Observer (2018): Government Valuer Pinned Over 500 billion rock compensation claims. <https://www.observer.ug/news/headlines/57893-gov-t-valuer-pinned-over-shs-132m-rock-compensation-claim>

CASE STUDY I: Welt Mechinen Engineering Ltd vs. China Road & Bridge Corporation & others. High Court Civil suit No. 16 of 2014.

This was a dispute over resource ownership and rights over Kamusalaba Rock in Moroto acquired by a Chinese Construction Company, China Road & Bridge Corporation to construct a 90 Kilometre Road from Moroto to Nakapiripirit town on one side; and Welt Mechinen Engineering on the other hand, and a private Ugandan company. Inter alia, some of the issues before Court were, whether the Sub-County Local Leadership had powers to sale the disputed rock to the Chinese Company and whether DGSM had powers to issue a Location License to Welt Mechinen over an existing Exploration License and in regard to Article 244 (5) of the Constitution of the Republic of Uganda. This unresolved case is currently on appeal

CASE STUDY II: In 2018, nine people petitioned the Mukono High Court challenging government's acquisition and subsequent donation of their land to a Chinese Company, China International Water and Electric Corperation, to construct the Isimba Hydro Power Dam without prompt and fair compensation thereby infringing on their right to own property. The petitioners further demanded for payment of 202 billion shillings (54 million dollars) from Government and the Chinese Company as the adequate compensation for the 27.852 acres in Nakalooke Village, Kayunga District. The litigants accused the Government and the Chinese of compulsorily and forcefully entering their land and excavating rocks that were used for the construction of the power dam without compensation.

CASE STUDY III: Etot Paul Peter and Others Vs Attorney General & Sino Hydro Cooperation Limited HCCS No. 252 of 2015 filed in the Land Division of the High Court. The brief facts of this case are that in 2012, the Government of Uganda under MEMD compulsorily acquired land around Karuma to pave way for the construction of Karuma power dam. The Plaintiff's family land in Oyam District was part of the land parcelled out by Government and handed over to the Chinese construction company. The plaintiff further argued that the land included a rock which the Chinese company proceeded to extract and use to construct the power dam without adequate compensation for the same. Citing the constitutional provisions of Article 244(5), the family lawyer argued that the stones and rocks were minerals and therefore Government should have compensated the family for the unlawful use of its rocks and for this breach seeks compensation to the tune of 22 Billion Shillings (5.8 million dollars).

CASE STUDY IV: Another big infrastructure related conflict was registered on the Kampala Entebbe Expressway in 2016. It was reported that for 3 years UNRA found it difficult to negotiate with the owner of the rock to reach an agreeable compensation rate in the process delaying the project and costing Government colossal sums of money. On the other hand the rock owner demanded 48 billion shillings (12.8 million dollars) in compensation.

It should be noted that several Development Minerals related conflicts and cases remain unresolved due to the incapacities of the largely poor Development Mineral project host communities and their inability to access costly services of legal counsel in Uganda to pursue their cases.

5.3. Non Judicial Means of Handling Conflicts

Non judicial means involve administrative ways of resolving conflict in the Development Minerals sector. The Mining Act 2003 provides for means of handling disputes in various ways. The process involves institutions, authorities and or persons who are mandated to resolve conflicts in Development Minerals sector. They include:

(a) Commissioner

The Commissioner in this context means the Commissioner for the Geological Survey and Mines Department appointed under the Mining Act (s. 13 thereof). The commissioner under this Act has powers and mandate to resolve disputes or conflicts. Any person aggrieved may lodge a complaint with the commissioner stating the nature of the complaint. The commissioner or any authorized person has the mandate to inquire into the dispute or conflict with the involvement of the parties and resolve the matter.

The Commissioner is also obliged to ensure that the provisions of the Act are complied with. Throughout the Act, the Commissioner has powers to determine disputes and conflicts in various stages of compliance with the mining laws and regulations see. Ss. 63, 65 (2), 68, 89 of the Mining Act 2003.

(b) Administrative Review by the Minister

The Minister under the Act is understood to mean the Minister responsible for mineral development. This means that conflicts can be resolved by the Minister of Energy and Mineral Development. This arises where a decision has been made by the Commissioner or any authorized officer and a party is dissatisfied with that decision. The Act gives an opportunity to the said person to request the Minister in writing for an administrative review. This request must however be done within 30 days from the receipt of the decision. The Minister may set aside, confirm or vary the decision complained of. (See s. 118 of the Act).

(c) Arbitrations

The Mining Act under section 82 recognizes arbitration processes as one of the means of resolving conflict. This is particularly where conflicts arise when the holder of mineral rights fails to pay compensation when demanded or when the owner of the land is dissatisfied with any compensation. Such dispute will be determined by arbitration.

(d) Natural Resource Parliamentary Committees

Parliament is mandated under art.90 of the Constitution of the Republic of Uganda to appoint committees to help it discharge its duties or functions. Consequently, The Parliamentary Natural Resource Committee was established to handle issues involving natural resources. This Committee is open to the public to lodge complaints regarding natural resources. Complaints involving Development Minerals especially sand and aggregates have been lodged to this Committee and recommendations have been made some of which have resolved conflicts.

(e) National Environment Management Authority

NEMA is established under the National Environmental Act Cap 153. The Authority is the principle agent of Uganda for the management of the environment (see. Ss.4 & 5). The functions of NEMA in summary include issuing environmental permits, licenses and pollution abatement notice, ensuring compliance with environmental impact assessments and conducting investigations into environment issues.

It is important to note that the Mining Act does not operate in isolation of other laws. Where any Act or otherwise is regulated by any written law other than the Mining Act, nothing shall be construed as authorizing the holder of a mineral right to do any act, otherwise than in accordance with that written law. (See s. 11 of the Mining Act)

NEMA receives complaints some of which involve Development Minerals, investigates and makes decisions. In one way or the other, MEMA is involved in conflict resolution. In the process, they conduct mediation, arbitration, community dialogue or a combination of these mechanisms to resolve disputes.

(f) Human Rights Commission

The Human Rights Commission is established under Art. 51 of the 1995 Constitution with its functions among others, to investigate a complaint made by any person involving violation of human rights, question any person and make recommendations. Most often, conflict arises out of

violations of human rights in the Development Minerals sector. The Commission sometimes uses mediation in resolution of conflicts.

(g) The Land Tribunals

The Constitution under Art. 243 vested the authority on Parliament to provide for the establishment of Land Tribunals. As a result, the Land Act established Land Tribunals with its major function of determining disputes relating to the grant, lease, repossession, transfer or acquisition of land by individuals, the Uganda Land Commission or other authority with the responsibility relating to land. It also has the duty to determine disputes relating to the amount of compensation to be paid for land acquired.

(h) Traditional Means of Handling Conflict or Disputes

Traditional mechanisms are seen as an alternative means of conflict resolution. This is always dependent on the customs and practices of particular groups of persons. The Constitution of the Republic of Uganda under Art. 2 (2) recognizes Custom as long as it is not inconsistent with the Constitution.

Traditional or customary mechanism of conflict resolution manifests itself in clan heads or leaders and family as a unit. Most people in Uganda belong to a clan with specific customary practices. These practices involve dispute resolution mechanisms. When a dispute arises in a family which is the first unit of administration, the matter is first handled by the family head or leader available. The matter may be resolved at that stage but if it fails then it is referred to the clan head.

It should be noted that some communities go beyond the clan head. They have an overall traditional leader who is a King, Chief or whatever name designated by that group. The King/Chief also has his administrative structures which most times have a dispute resolution function

Generally, non-judicial means of handling conflicts are more utilised by ASMs in the Development Minerals sector because they are not costly and tend to deliver justice quicker because of the involvement of different players from the community level to the District Local Government level. Particularly, the traditional means discussed under (h) above are very effective at the local level because there are clear lines of authority as well as collective responsibility.

However, there is an emerging trend of aggrieved persons resorting to judicial means especially where the conflict involves land compensation and hence potentially huge sums of money. In many cases, street smart lawyers offer aggrieved parties pro-bono services with the understanding that they will retain a fair share of the pay out if the case is won. This enables the aggrieved parties to endure lengthy court processes which would otherwise have been too expensive for them.

6. Field Experiences on Conflicts in the Development Minerals Sector

The field experiences from the sites visited were not very different from the above contextual issues. Conflicts in Development Minerals can be categorised under Geographic, Economic, Environmental, Social and Technological.

Below is a description of conflicts, key actors and drivers in the Development Minerals sector in Uganda.

(a) Geographic Conflicts

Boundary marks have caused conflict between Bukulula Sub-county and Lukaya Town Council. Land on which minerals occur is usually heavily contested because of its increased value. The contested land in question is of interest to an investor hence both parties want to claim ownership.

(b) Social Conflicts

- i) **Displacement to pave way for mining.** Many times, companies have been given an upper hand over communities. Land previously occupied by communities has been given to companies. In the Lwera wetland in Kalungu District, companies and individuals have acquired licenses, resettled mining communities and driven away ASMs from the area many of whom entirely depended on mining as a source of income.

Land is a critical resource for indigenous communities. Environmental and social impacts of mining activities often affect their livelihoods and traditional ways of life, motivating them to react and protect themselves. Local livelihoods may be adversely impacted by changes in the quality and quantity of water, industry encroachment on grazing areas, and the erosion of traditional, cultural practices and social relations as a result of displacement and in-migration. Customary rights to land may be pitted against mining rights based on new legal regimes. These impacts are often conflict drivers or triggers that can transform grievances into violent conflict, especially in the absence of legitimate and trusted alternatives for adjudicating conflicting claims.

The controversy on the ground is whether or not the land is gazetted as government land. In the event that it is government land, what does the law say? Government land is supposed to be accessible to all. However, in the recent past, people have acquired licenses over gazetted land. One key finding was that conflicts were significantly lower in areas where mining takes place on public land. For example, because salt lakes are on public land, the magnitude of conflict is low.

- ii) **Non-people centred development projects.** There is a growing occurrence of some influential figures in Government obtaining supply contracts of Development Minerals to infrastructural projects. For example, in Butagaya Sub-County- Jinja District, a Member of Parliament and former Government Minister acquired a rock that is located in the middle of a number of developments including a school, health facility, mosque and trading centre. His attempt to commence blasting and extraction of the rock has

caused a rift with the community who are demanding that he resettles them and their facilities before commencing the work.

- iii) **Lack of participation or representation of local communities.** There is a growing expectation that communities located in proximity to mining operations be included as formal participants in project governance, decision-making and community development plans. In some cases communities demand the right to determine whether or not the project will actually proceed (free, prior and informed consent). The absence of such a participatory relationship can result from many factors implicating companies, national and local government and sometimes communities. Contextual factors can also contribute in significant ways, leading to rising tensions and directly triggering conflict.
- iv) **Unfulfilled Company Corporate Social Responsibility (CSR) agendas.** Many companies simply have their CSR plans in text and never implement them. Communities are on the other hand getting peanuts from minerals mined on their land. They are given less paying jobs such as loading particularly because many companies come in with their own labour. No effort is made by companies to harness and build relationships with communities. Companies have not invested in community engagement, participatory processes, training, and community development plans to build constructive relationships with host communities and to maintain a social license to operate. Conflict can arise in the absence of such programs and in the event that they are poorly designed or poorly implemented. While CSR practices have contributed to progress in company-community relations, given the high degree of complexity involved in successfully applying such practices, there are many pathways leading to unintended consequences and failure. There are also cases where companies set up infrastructural projects in communities but do not allow the communities to enjoy the benefits of such facilities. In Moroto, a mining company has constructed an access road to a marble quarry but does not permit the community to use it.
- v) **Lack of credible and transparent institutions and corruption.** Lack of credible institutions at the national and local levels of government provides fertile ground for local conflict due to corruption, lack of transparency and accountability, leading to distrust of public authorities and negative association of miners with government officials which was evident at the artisanal site in Kalungu District. In Gulu District, ASMs voiced their distrust towards Local Government Programs because of previous cases of corruption.
- vi) **Dishonest transporters and middlemen.** Dishonest buyers often drive away leaving behind nothing but empty promises of payment but never return. This causes friction between site owners and hired labour who demand for their pay all the same.

(c) Economic Conflicts

- i) **Unfair Compensation.** Mineral rich areas are prone to conflicts arising from inadequate or unfair compensation. Uganda's Mining Act provides that for one to fully acquire mineral rights, they have to compensate the bonafide owners of the land. In Rupa Sub-county- Moroto District, there are several conflicts arising out of what communities perceive as unfair compensation. In one particular case, a company compensated a community to vacate an area where the company intends to set up a quarry. The compensation, which was given to the community leaders to distribute was not enough and some of the dissatisfied community members rejected it and resolved not to vacate the land.
- ii) **Mechanization and technological advancement.** Locals have been deprived of sources of income. Investors are using dredgers, graders, loaders and many other machines which do not need a lot of manpower. This denies communities employment in the sector causing discontent and hostility towards the companies.
- iii) **Revenue distribution.** There is a government policy that does not necessitate Town Councils to remit revenue to the District. For this reason, money earned from sand mining in Kalungu District benefits the Town Council solely. However, on the other hand, the District remits 65% of its revenues to sub counties while sub counties remit 35% of their revenues to the District. The Town Councils are autonomous. Because of this, there is conflict between District Councillors and Town Council officials over remittance of funds to the District. Community-company conflict and inter-community conflict can result from uneven distribution of benefits and impacts among communities depending on their location relative to the mine and sometimes pre-existing political boundaries.
- iv) **Poverty & Marginalization.** Poverty is a potential trigger of conflict when acting as a catalyst for a) a sense of deprivation relative to perceptions of resource wealth and uneven distribution of risks and benefits, b) in-migration and return-migration around mining operations and c) local artisanal and small-scale mining in close proximity to industrial mining operations.
- v) **Royalty sharing** between miners and local government where the miners feel they are being exorbitantly charged by the District Local Government and yet the District feels the miners are under declaring their production.
- vi) **Unfair competition.** This conflict was recorded at the Laroo site in Gulu District where transporters of road construction companies divert stone aggregates from the company quarry and sell them in the open market at a cheaper price, in some cases half the regular rates. This forces the ASMs to lower their prices as well or risk not making any money at all.
- vii) **Disagreements with Tax Collection Tender Holders.** In some districts, the Local Governments have outsourced the role of revenue collection from mining activities to a third party or tenderer who is given targets of how much to remit to the district

periodically. In some cases, the Tenderers hike fees on transporters and mining groups in order to hit their targets which often causes conflict.

(d) Environmental Conflicts

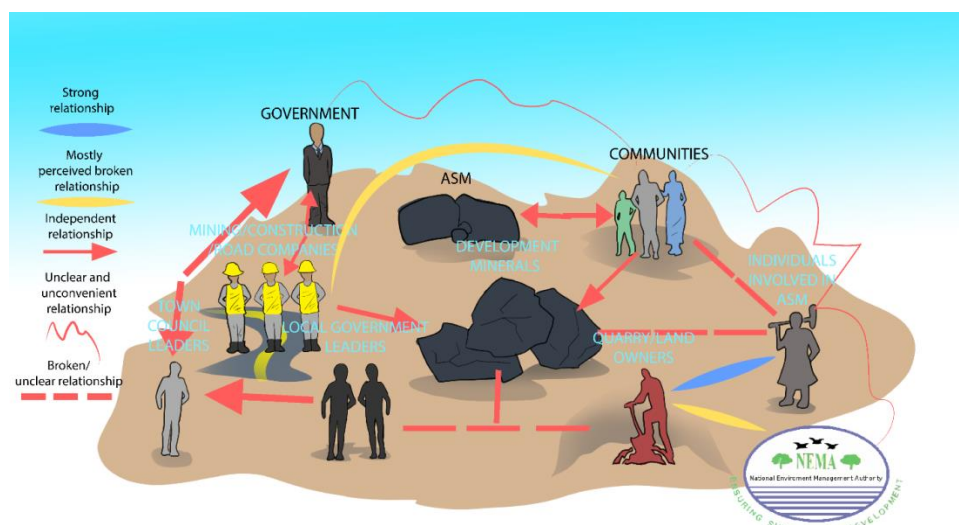
- i) **Pollution and Environment issues.** In Osukuru Sub-County, Tororo District, there is ongoing conflict between the local ASMs who are mining and processing limestone and the surrounding communities. The mining takes place on the Sukulu hills while processing takes place in the lowlands among homesteads. Processing limestone gives off a lot of dust and this affects the community and puts their health at risk.

In another case, a secondary school is involved in a conflict with Tororo Cement in Tororo District over dust that is emitted by its factory located near the school. This particular case is complicated by the fact that the area where the conflict is occurring was designated as an industrial zone by the District. Therefore, the factory takes priority over the school. The District Authorities instead asked the Tororo Cement Management to grow trees around the factory perimeter to trap the dust particles and install precipitators to suck the dust. There are reports however that the precipitators consume a lot of electricity and are hence switched off at night by the factory Management.

7. Mapping Major Conflict Actors

The major actors directly involved in Development Minerals conflicts from the different districts included the miners, communities, loaders, transporters, middlemen, road construction companies, local governments, NEMA, mining companies, cultural institutions, religious institutions and their leaders, formal and informal governance structures (i.e. elders forums and local governance associations), civil society actors, entertainment groups (e.g. musicians) who engage in awareness-raising actions, schools, hospitals and other institutions which own land and the media. Others are the Office of the Prime minister, Government institutions managing public land resources, land governance structures (e.g. district land boards, land tribunals, the Uganda Land Commission, etc.), members of the Justice, Law and Order Sector, Security agencies, the Minerals Protection Unit of the Uganda Police Force, Members of Parliament and politicians at different levels, The Uganda Human Rights Commission, District Local Governments and sub-county governments, Local Councils (LCs) from the village level (LCI) to the district level (LCV) and Resident District Commissioners (RDCs).

These relationships are illustrated below:



The Development Minerals sector has different actors that the field research interacted with as shown above. The sector has various relationships among the actors for instance, communities and ASM groups/ associations have interdependent relationships with less tension because in areas like Kalungu, Jinja and Gulu Districts, the community is involved in ASM activities. In other areas, there is a bad relationship because of inadequate fulfilment of community expectations like jobs and more engagement with some individual ASM operators. Local Government leaders and quarry land owners were also found to have a shaky relationship. The miners and Local Government have a bad relationship because the miners identify the Local Government with taxation and unfair policies as well weak delivery of public services to mining areas.

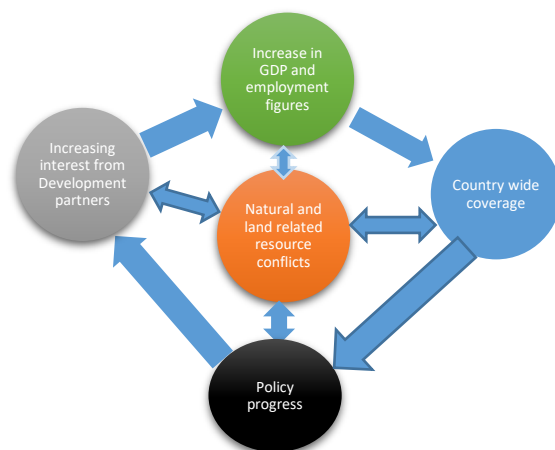
8. SWOT Analysis of the Development Minerals Sector in Uganda

The assignment consisted of undertaking a thorough diagnosis using SWOT analysis to highlight the key strengths, weaknesses, opportunities and threats for the industry by analysing publicly available information and the field experiences in the various areas (see Table 1 in Introduction) with various stakeholders¹⁴ that will single out the most prominent mechanisms which can be used to address and or resolve sector related issues.

The situational analysis of the Development Minerals in Uganda identified the following trends:

- (a) That development minerals are increasingly becoming a major economic activity with promising increase in GDP and employment figures;
- (b) They are spread in almost every part of the country despite the study areas;
- (c) There is progress in policy formulation and increasing Government interest accompanied by Development partners who are funding initiatives in the sector¹⁵.
- (d) Despite the above; Development Minerals are interwoven in land and other natural resource related conflicts, thus they influence or are influenced by the other trend factors considered for this analysis.

Development Minerals key trends' relationship with conflict



¹⁴ ASM associations, mine site chairpersons, and landlords in the active mining areas, ASM miners in the respective districts, CAOs, Natural Resources Officers, Commercial Officers and representatives from the Ministry of Energy and Mineral Development, host communities in mining areas and Development Partners

¹⁵ See: http://www.ugandainvest.go.ug/uia/images/Download_Center/SECTOR_PROFILE/Mining_Sector_Profile.pdf
<https://tradingeconomics.com/uganda/gdp-from-mining>

N. Pavan Kumar and Indresh Rathore (2015) The Need of Mining Industry – A SWOT analysis., International Research Journal of Earth Sciences Vol. 3(8), 32-36, August 2015.

Discussions and literature on the above internal and external trends led to the realizations below:

Strengths: The Development Minerals sector has various actors in its value chain who have interest in its economic potential that could invest in handling grievances after thorough analysis. The sector is widely spread in the country with a strong populace, implying the sector can win buy in from the different actors and customs when it comes to grievance handling. Development Minerals sector activities are also influenced by many other frameworks on land, local government, culture and the related ministry where grievance handling already exists with possibility for replication in many other geographical locations to make its relations along the value chain better. There are partners like UNDP, World Bank that have trained and established guidelines for grievance handling which can be customized for the Development Minerals sector. Some of these were identified during the analysis and recommendations were also provided. The other strength identified in the value chain of the Development Minerals is the private sector engagement that is driven by the profit motive. Given that poor grievance handling can be a costly undertaking, the assumption is the private sector would be willing to invest in a proper Grievance Handling Mechanism to guard against future losses and costly court processes.

Weaknesses: The lack of organization of Development Minerals sector actors to efficiently harness opportunities along their value chain was found to be a significant weakness. This manifests through inadequate formalization and undefined communication channels about grievances. Internally the situational analysis realized intrigue and deceit in the relationships between the actors for instance among competitors and administration authorities. Corruption and other vices of poor governance were found to be causing conflict or escalating some of them among the relationship matrix in the Development Minerals sector. Transparency and honesty-a key factor in causing conflict or escalating it was also found as an internal weakness among some of the actors met during the analysis of Development Minerals sector. Inadequate capacities on handling grievances were realized during the analysis given the way individuals handled prevailing conflicts among themselves and authorities and the impact these had on their activities.

Opportunities: Capacity development in grievance handling is a key opportunity that the Development Minerals sector can pursue. The areas for improving capacity are numerous first because conflict and grievances in the sector are not perceived by the different actors, secondly there are development partners like UNDP willing to increase awareness of conflict in the sector so as to decrease its magnitude. The sector can also pursue replication and customization of grievance handling mechanisms that were identified with other actors like KCCA, the World Bank and other global standards. The sector actors could also grab the opportunity to prepare for formalization with common and shared grievance mechanisms in advance before the full scale movement by government and its institutions.

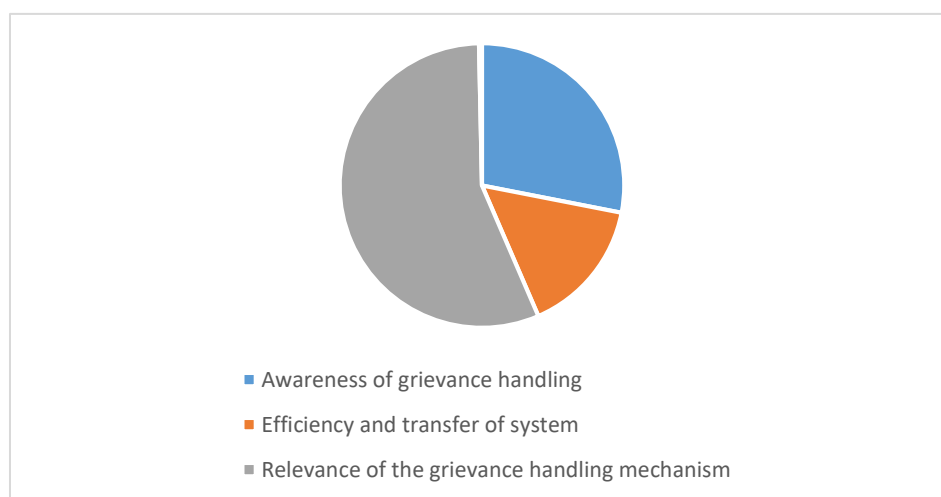
Threats: The Development Minerals sector has a clear financial threat; this is threat towards the low levels of investment in the sector by the different actors. The analysis realized that most of the activities found were at small scale with rudimentary tools and techniques which is synonymous with resultant conflicts emerging from different rights regimes. The analysis also noted the other threat as the changes in the legal regime with the new policy; in this miners met expressed ignorance of the formalization processes and inadequate knowledge on Development Minerals being classified as minerals in the policy accompanied by fear that this could lead to loss of income. The other threat realized was with the increasing interests of non-Ugandans and bigger companies (construction, building) that leads to conflict that significantly impact the small scale miners. Other actors like authorities have a threat of losing revenue from the different actors and the different value chain processes-this results into conflict among the authorities, miners, and land owners that negatively affects the growth of the sector.

9. Existing Grievance Handling Mechanisms in the Study Areas

The study team visited the districts of Kasese, Mukono, Kalungu, Bushenyi, Gulu, Buikwe, Moroto, Wakiso, Tororo and Jinja. In the districts visited, district officials including the CAO, District Environment Officer, Natural Resources Officer, Town Clerk-where applicable were also visited.

In the districts and different sites, a total of 355 participants were met. Out of these 99 were aware of the grievance handling procedures, while 201 ascertained they were relevant for development of the sector and only 55 found what was on ground efficient as indicated in figure 1 below.

Figure 1: Responses towards grievance handling mechanisms



Source: Field data (2019)

In Kalungu-the study team was informed that there is no established grievance handling mechanism in place for Development Minerals. Grievances in the district are handled by the Community Development Office. Conflict between miners and buyers at ASM sites are reported to the LC1 after which they are taken to police. However, many times buyers are not from the same area where minerals are mined. For this reason, it is hard to follow up on such cases. Many times, police also want to be paid to be able to follow up on such cases. The lengthy processes usually make miners give up on cases and sometimes not even report.

In Gulu District, the study team was informed that the Ministry of Local Government had instructed District Administrations to put in place Grievance Handling Mechanisms. As a result, the district had initiated plans to set up the mechanism under the office of the Principal Human Resource Officer (PHRO). The duty of the PHRO will be to receive grievances and channel them to the right office. With this, cases will easily be followed up.

The above system if well managed is partially transferable to the Development Minerals Sector. However, the mechanism lacks a bottom-top approach which works best with Development

Minerals particularly because the most affected persons as well as the minerals are in the communities which are managed by the Local Council leaders.

In **Kasese** District, there is a grievance handling committee for the Energy sector particularly to handle potential conflicts in hydro power projects. These committees are set up as a World Bank requirement for each new project for contractors to efficiently respond to conflicts arising out of construction works. However, when construction is completed, the committees cease to exist. In Kasese alone, 10 different committees have been set up by 10 power companies over time. The composition of the committee is as follows:

- Community Member
- Representative from the Health Sector at Local Government.
- Local Council
- A representative from the Ministry of Water and Environment

Other than the Energy sector committees, the research team came across several other structures at the district level which, among many other terms of reference, manage grievances. These committees are described below alongside a brief description of their roles and modus operandi.

Committee	Roles
District Technical Disaster Management Committees.	Hosted and chaired by the CAO. The DNRO is the Secretary. It handles floods, diseases and others emergencies.
The District Energy Committee	Started as a pilot for renewable energy in 2012 chaired by the CAOs office. Ceased to be functional as and when projects are accomplished.
The District Natural Resources Forum	Members include politicians, private sector players in conservation including Churches, NGOs and others.
The District Environment Committee	Has challenges of funding. It is facilitated by the developer/investor to assess their applications. Application fees are paid to NEMA not the District hence it has funding and sustainability issues.
District Physical Planning Committee	Section 9 of the Physical Planning Act 2010 of KCCA gives this committee mandate to receive and review applications from people who want to carry out development in the district. The committee also advises, approves and rejects proposals for development plans. In Kalungu District, issues relating to sand mining are handled by this Committee.

Beyond the Local Government level, the research team encountered other GHMs that can serve as benchmarks for a Development Minerals sector specific GHM. These are discussed below.

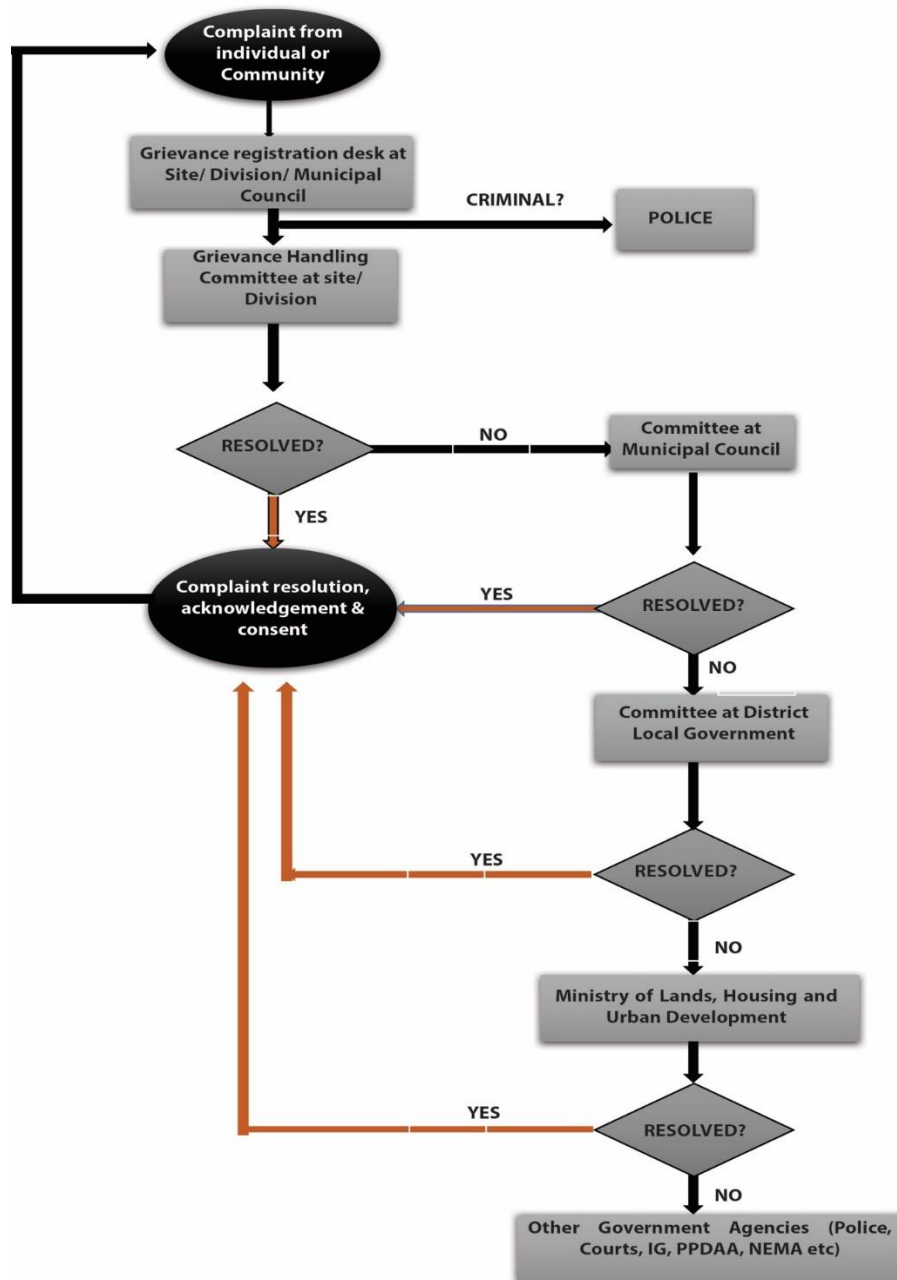
a) GHMs under USMID

The World Bank 6-year Uganda Support to Municipal Infrastructure Development (USMID) project to expand urban infrastructure, and enhance the capacity of 14 municipal local governments to generate own source revenues, improve urban planning, and strengthen financial management, procurement, environmental and social systems.

The 14 municipalities are geographically spread across the country and include: Arua, Gulu, Lira (Northern Uganda); Soroti, Moroto, Mbale, Tororo, Jinja (Eastern Uganda); Entebbe, Masaka (Central); Mbarara, Kabale, Fort Portal and Hoima (Western Uganda).

The project came up with a Grievance Handling Mechanism that starts from community level through the municipal council to the district level which then gets back to the committee at Municipal council level. The mechanism continues to the District local government committee then to the Ministry of Lands, Housing and Urban Development and other government agencies.

To note the mechanism has many checks and balances on the progress of issues that have been reported. The illustration is shown below.



b) The Kampala Capital City Authority GHM

The KCCA GHM outlines a 5 step process to managing grievances starting with reporting at the Community Development Office where the CDO or division Environment Officer can preside over the grievance and offer redress. If a remedy cannot be found at this stage, the grievance is escalated to a grievance committee which is mandated to meet several times over the same complaint until redress is achieved. This redress mechanism provides a predictable, transparent and credible process to all parties resulting in outcomes that are seen as fair, effective and lasting. The mechanism is often used in land cases, compensation and other related grievances. It also emphasises community consultations, building capacities of staff and community leaders.

There are some complaints about this GHM regarding weak documentation and resolution of grievances which creates a time lag and delays justice for complainants. The committee also has too much authority and uses its discretion to decide which unresolved cases are forwarded to a higher authority.

Other GHMs were also noted to be present in the various legal and institutional structures. For instance sections 6.3.8 and 6.3.9 of the new Minerals and Mining Policy 2018 lay out strategies to address conflict issues in the mining sector.

There was evidence of GHMs localised to particular ASM sites, for example the community development office in Moroto was utilised to address grievances. In Gulu, the groups were found with rules and measures like suspension of individuals from the site if one has not paid a debt or fought at the site. In Bushenyi, the issues were found to be handled locally, if they failed then they are referred to Local council 1 and in case of failure the issues are referred to the Police.

The Ministry of Local Government has Local Council courts where affected people can make their complaints. The chain of custody is from the village, to the sub-county and if still not resolved, forwarded to the Chief Magistrate. The system has been mostly successful with only a few cases going to the Chief Magistrate. This also stems from the fact that the cases that go to the magistrate require time and money which the affected person might not have.

Below is an example of another locally established Trust which among other things is an effective GHM.

The Rupa Community Development Trust (RUCODET)

Rupa Community Development Trust (RUCODET) was established in November 2017 by the community of Rupa Sub-County - Moroto District as an avenue through which mining investors and the resource rich host communities the owners of the land could respectfully engage each other to negotiate their respective interests. Prior to the establishment of this initiative, several investors would come to the area and engage with a few elites within the communities who would illegally sell off communal land without due process. This had resulted into conflicts between the communities and the largely mining company investors.

The Trust which holds all the Rupa communal land on behalf of the communities is composed of 13 representatives from the 7 parishes of Rupa sub-county. All negotiations between mining investors are conducted by the Trust on behalf of the community and all disputes arising from such negotiations are addressed through the Trust guided by the council of elders who are at all times briefed and consulted on all negotiations and engagements with external investors.

The study team established that the majority of the Matheniko in Rupa Sub-County have faith in the Trust to represent their interests which gives it the clout to manage conflicts within the area. Already, the Trust has successfully managed to negotiate with an investor favourable compensation terms for a piece of land in the community where the investor plans to set up a marble mining site. This is an indication that community-grown grievance handling mechanisms can be effective in some communities where Development Minerals are located.

Challenges of Grievance Handling Mechanisms at the sub-national level

The challenges in the GHMs discussed above include the following:

- Uncoordinated efforts of the mechanisms which results into forum shopping i.e. they can be easily manipulated by the parties involved.
- Poor governance structures that can easily be compromised by the parties.
- For the case of the actors in Development Minerals there is inadequate capacity in handling grievances, inadequate resources to effectively execute duties.
- In some instances as noted in the cases the parties do not trust the mechanisms in place and feel they have little to offer.
- At the District level, there is a challenge of inadequate funding.
- Most structures at the District level are housed in the office of the CAO and the membership is similar which raises an issue of duplication. The CAO may also be overwhelmed.
- The Mechanisms are issue-specific or sector-specific and hence are limited in scope
- When referrals are made to the Police, the cases are left exposed to rampant corruption and manipulation.

10. *National Level Early Warning Systems in Uganda*

Early Warning Systems (EWS) encompass four separate but interlinked elements: knowledge of the risks; monitoring, analysis and forecasting of the hazards; communication or dissemination of alerts and warnings; and local capabilities to respond to the warnings received.

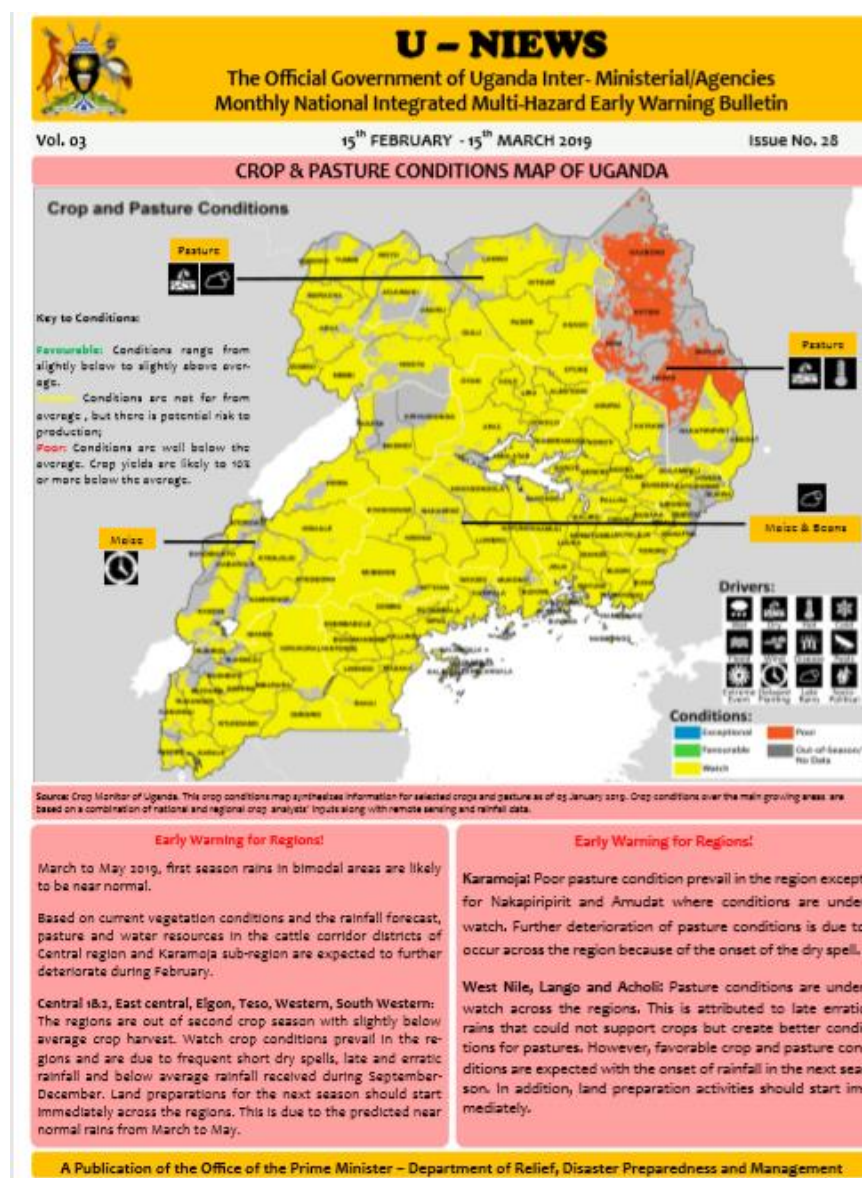
Traditionally, EWS have generally been developed for disasters and natural hazards to minimise the extent of devastation to affected communities. They are equipped with essential infrastructure and capabilities for detecting, modelling and predicting natural hazard through integrating information and data from various sources and sectors and providing warnings. The study conducted an analysis of the two major existing EWS at the national level.

i) National Emergency Coordination and Operations Centre (NECOC)

In Uganda, the Office of the Prime Minister's Department for Disaster Preparedness and Management established the National Emergency Coordination and Operations Centre (NECOC) in October 2014, with the support of UNDP. NECOC is a 24 hour, 7- days a week central facility for early warning dissemination and coordination of emergency and crisis response and recovery action. The NECOC is established under the National Policy for Disaster Preparedness and Management of Uganda (NPDPM) with the purpose of contributing towards the functionality and characteristics that make creation of an integrated and multi-sectoral system approach to planning, preparedness

and management of disasters that is fundamental to sustained productivity and socio-economic growth of the country.

In its mandate, this EWS indicates that it also focuses on conflict issues but generally its operations are largely in response to disasters. A review of its bulletin for the period February to March 2019 shown below reveals that it covers a wide range of topics including crops and pasture conditions, climate and weather, rainfall patterns, food security, soil conditions, hazards warnings for diseases like Ebola, disasters and refugee status in the country. The bulletin gives advisory notes in each case but makes no mention of conflicts.



Source: Office of the Prime Minister

(ii) **Conflict Early Warning and Early Response Unit (CEWERU)**

The CEWERU was established in 2003 under the auspices of the Conflict Early Warning mechanism of IGAD with tasks to collect, process and communicate early warning information to appropriate authorities for effective response to emerging or existing pastoral conflicts in the Karamoja Region.

It has since expanded its area of coverage to cover areas bordering with Karamoja and South Sudan. It has also expanded thematically to include other conflict areas like land, natural resources, environment, uneven distribution of resources and others. It is hosted by the Ministry of Internal Affairs.

The CEWERU Program pilot kicked off under the funding of the Intergovernmental Authority on Development (IGAD) and was implemented in Karamoja where it was dealing with pastoral conflicts, until the year 2012 when the pilot closed.

The Government of Uganda then held a review of the Program and took it on, extending their reach to other regions and other sources of conflict for example land and ethnic conflicts. This is evidence of its potential to be tailor made for the Development Minerals sector.

The program is currently operating in Karamoja, Teso, Acholi, West Nile and Busoga. CEWERU was also implemented in the Rwenzori ethnic clashes which occurred in the 2014.

It operates by creating District Peace Committees which where resources permit are extended to sub-counties. These committees are headed by the RDC, who is deputized by the LC V. They also include the DISO, DPC, Military Division Commanders of the UPDF, religious leaders, cultural leaders, youth leaders, women leaders, the elderly and representatives of persons that have a stake within communities.

In Karamoja, the program worked with Saferworld- an international NGO with a bias towards natural resource conflict, when it was still under IGAD funding but currently works with Mercy Corps (another international NGO) which aside from implementation of conflict resolution, carries out training of the peace committees. So far, they have worked collaboratively but challenges in funding have caused delays in implementation.

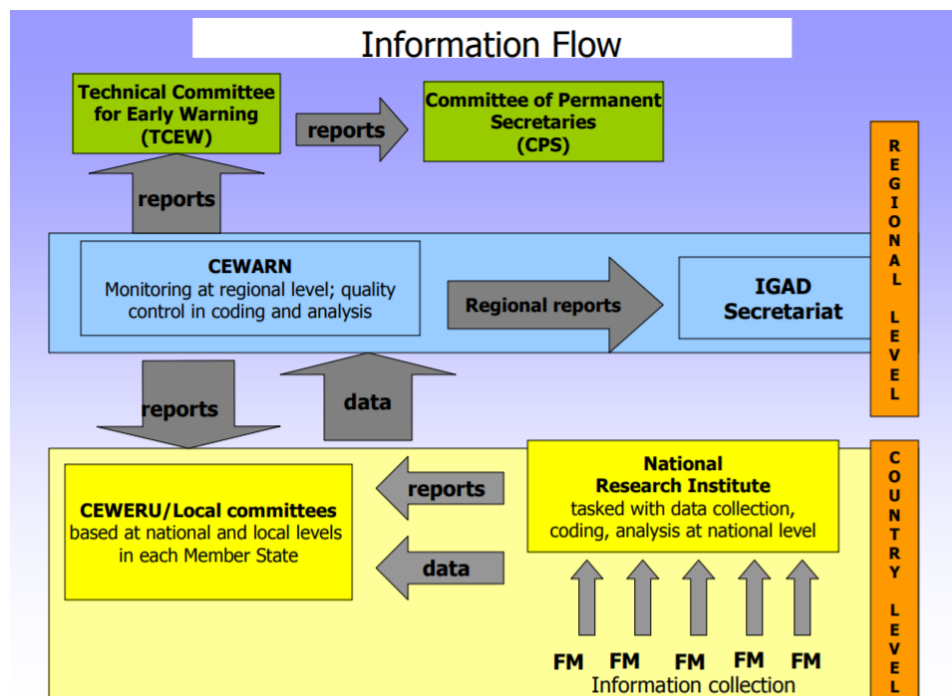
CEWERU works through:

- Collection of information by field monitors based in the areas of reporting
- Analysis and verification of information collected using a softwareProgram - the CEWARN Reporter.
- Formulation of best, worst and most likely case scenarios and response options.
- Communication of recommendations on policy and response options to prevent/mitigate conflicts to decision-makers at the national level through the National Early Warning and Response Units (CEWERUs).
- Promote the exchange of information and collaboration through regional structures like the Committee of Permanent Secretaries (CPS) and Technical Committee on Early Warning (TCEW).
- Creation of linkages and sharing information with other regional and international organizations dealing with early warning and response

Each CEWERU consists of a steering committee, focal point, and local committees. The steering committee includes security personnel, Members of Parliament (MPs), and civil society representatives. The role of the steering committee is to collect, review, and analyse information on EWER, liaise with grassroots civil society, and formulate response strategies. It reports to the CEWERU.

At the local level, peace committees consist of governmental and non-governmental representatives and their functions include: establishing modes of collecting and sharing information; creating partnerships in peacebuilding activities; and awareness raising. Also at the local level, the structures rely on field monitors who collect and report open source information against an agreed set of indicators in their areas of reporting, and often work closely with the peace committees.

CEWERU's information flow chart is shown below:



The operations of CEWERU continue to be hindered by several challenges including:

- Poor infrastructure and inaccessibility of the areas of coverage
- Inadequate capacity in addressing conflicts
- Lack of information and coordination between the various actors
- Complexity of conflicts in the region

11. Feasibility of integrating a Development Minerals GHM with existing mechanisms

With the above preliminary analysis of the various mechanisms, the options for including the Development Minerals mechanism sets in different assumptions including staffing, capacity building, favourable climate of governance and cross coordination of sectors.

The CEWERU at the Ministry of Internal Affairs offers a good opportunity for the integration of Development Minerals Grievance Mechanism given that its mandate already extends to natural resources. Besides, the field findings show that a good number of the conflicts in mining areas relate to land which is a key focus of the CEWERU. Some adjustments would however have to be made to the composition to include either DGSM or MEMD staff, district staff or any of the line Agencies at district level involved in the management of Development Minerals. An illustration of operationalisation of the grievance handling mechanism for the Development Minerals at district level within the CEWERU is explained below.

Phase 1: Establishment of legal and office infrastructure

- Develop procedures (handbook) based at district level for functioning of the grievance office as part of the CEWERU
- Develop Terms of Reference (TOR) for the positions of administrator, case officer and monitoring officer at district level
- Seek staff for the positions of administrator (1), case officer (1) and monitoring officer (1) within the Government infrastructure at district level.
- Train staff in procedures and technical aspects of grievance redress
- Establish a roster of local experts necessary for independent assessment
- Establish telephone infrastructure for a hotline, SMS and other real time communication gadgets in the grievance office
- Raise awareness about the grievance handling mechanism to other Development Minerals structures such as mining associations, District Mineral Watch Platforms, natural resource committees at district level
- Train natural resource officers and other district officials, NGOs, interest groups and environmental and community development experts necessary to provide support services to the grievance handling mechanism

Phase 2: Establishment of field infrastructure

- The grievance handling mechanism could start functioning with locally based case officers stationed in each region or district (for the beginning a sample from each region could be chosen).
- Train new case officers in procedures and technical aspects of grievance redress
- Expand locations nationwide by positioning a suggestion/complaint box at the district natural resource office.
- Raise awareness on grievance handling among local communities and private development minerals rights holders about the function and procedures of the grievance handling mechanism

- Compose the roster of experts and identify local experts on social and mining topics, as well as mediators in collaboration with the District natural resource officer and DGSM officials at district level.

Phase 3: Establishment of digital modality

- Create additional webpage on CEWERU website specifically showing the grievance handling mechanism. A provision should be made for an interactive webpage so as stakeholders can submit queries, comments and complaints by filling in and submitting a form.
- In addition, a specific email address will be set up for grievance handling.

Phase 4: Monitoring and Evaluation of the GHM

This can be carried out at district level with assistance from DGSM, CEWERU and the district structures. This should consider: percentage of grievances resolved, percentage of grievance addressed in set time frame, percentage of grievances handled with simple conflict resolution techniques (apology, explanation, etc.) percentage of grievances handled with more complex procedure (problem solving, mediation) and percentage of positive feedback.

The grievance handling mechanism should have the following steps-that are subject to time from registering the grievance to resolving it or appealing decisions reached.

Other considerations would include:

- Time and resources-staffing of structures and building capacity of stakeholders
- The legal implications of the Mechanism since the formal legal systems are considered complicated in procedures and serve as last resort, worse still very expensive let alone a source of outright enmity compared to locally available means of resolving conflicts that are considered easy in procedures, familiar, trustworthy, simple and sustainable in building lasting relationships.
- Economic considerations are also important in this case since the Development Minerals is purely an economic activity. This is important because most of the issues that will be arising could be of economic nature, which could lead to inefficiencies in grievance handling procedures that could be abused by conflicting parties.
- Buy-in from the different stakeholders would be another very strong consideration.

From the above analysis, there is need to carry out capacity trainings on GHMs to the various actors who are capable of adopting new knowledge. The other opportunity is provided for in the replication and customization of the existing grievance handling mechanisms that were identified during the analysis. There is also need to identify the existing grievance mechanisms among some of the actors that could be elevated as part of their governance structures as observed in some areas of study. The actors in the Development Minerals sector also need to get acquainted with some of the global best practices in small scale mining and their grievance handling procedures.

12. Conclusion

Demand for Development Minerals in Uganda is on the increase given the planned and ongoing massive infrastructural projects in the country and this has the potential to fuel conflicts in the sector. This calls for a specific Grievance Handling Mechanism for the Development Minerals sector.

The District Committees can also be good entry points at that level. The biggest challenge however is that some members of those Committees are easily compromised by project developers and hence may not act in the best interests of the affected communities.

A good GHM for the Development Minerals sector would need full acceptance by the affected communities and would have to be self-sustaining given that many of the Mechanisms that exist at local level are struggling to stay operational. The Mechanisms that exist at national level are issue specific and are not tuned towards handling conflict in the Development Minerals sector. The CEWERU in particular seems the most ideal entry point for any Grievance Handling Mechanism in the Development Minerals sector because it has structures in place and has been operational for some time.

A GHM for the Development Minerals sector in Uganda should also take into consideration the attributes¹⁶ below, many of which the CEWERU already encompasses:

Legitimate	Enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes
Accessible	Being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access
Predictable	Providing a clear and known procedure with an indicative time frame for each stage, and clarity on the types of process and outcome available and means of monitoring implementation
Equitable	Seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms

¹⁶ See: <https://www.businessrespecthumanrights.org/en/page/349/remediation-and-grievance-mechanisms>

Transparent	Keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake
Rights-compatible	Ensuring that outcomes and remedies accord with internationally recognized human rights
Dialogue and engagement	Consulting the stakeholder groups for whose use they are intended on their design and performance, and focusing on dialogue as the means to address and resolve grievances

13. Recommendations on Conflict Management in the Development Minerals Sector

Below are institution specific recommendations arising out of findings of this situational analysis of the Development Minerals sector in Uganda.

INSTITUTION	RECOMMENDATIONS
Ministry of Energy and Mineral Development / Directorate of Geological Survey and Mines	<ul style="list-style-type: none"> • Support formalisation of ASM for efficient regulation and monitoring of mining activities in the Development Minerals sector. • Create designated Development Minerals ASM mining zones to create ownership amongst ASMs and avert conflict with MSM & LSM companies • Support mobilisation of ASMs into associations and build their leadership structures to a point where they can be a first point of call for conflict at ASM sites • Train mining inspectors to be able to identify, document, where possible mediate escalate emerging conflicts for redress at a higher level • Harmonise the working relationship between DGSM, Environmental Police and the Police Minerals Protection Unit to improve their efficiency, coordination and eliminate the overlapping of their mandates
National Environment Management Authority (NEMA)	<ul style="list-style-type: none"> • Resource and facilitate the District Environment Committees to routinely convene and attend to emerging cases of conflict in mining • Be considerate to ASMs while awarding licenses to medium and large scale sand mining companies in order to ensure that ASMs can also continue to conduct mining alongside the companies • Create specific mining zones along lake shores and gazetted wetlands to guide mining operations of ASMs • Conduct regular consultations with ASM and community leaders in sand mining areas before awarding EIAs to sand mining companies
District Governments Local	<ul style="list-style-type: none"> • Build the capacity of Local Councils at the community level in conflict management • Harmonise all existing District level Committees to integrate grievance management for the Development Minerals sector • Register and keep track of all transporters of Development Minerals in the District in order to reduce cases of non-payment by transporters

	<ul style="list-style-type: none"> • Closely monitor the work of the District Principal Human Resource Officers regarding grievance handling to ensure that complainants receive timely redress
Ministry of Works and Transport	<ul style="list-style-type: none"> • Ensure contracts with infrastructure contractors are sensitive to owners of land where raw materials for these projects may be sourced in order to avoid conflict over compensation • Ensure each infrastructural contract project includes a component of grievance handling • Apprehend transporters of infrastructure contractors who illegally divert materials meant for projects to the open market hence undercutting ASM markets
Ministry of Justice and Constitutional Affairs	<ul style="list-style-type: none"> • Conduct capacity building of judicial officers in for them to understand the Development Minerals sector and hence be able to handle related cases fairly and on a timely basis
Development Partners / Non-Governmental Organizations	<ul style="list-style-type: none"> • Conduct institutional capacity building for key institutions handling grievances in the Development Minerals sector. These include MEMD, DGSM, NEMA, Judiciary and the Local Government to enable them appreciate the sector • Support the convening of the different committees at District level to enable them regularly attend to emerging cases of conflict • Support an enhanced version of CEWERU both financially and technically so that it can widen its scope to include development minerals and take on new partners namely DGSM and others • Support the creation of District Development Minerals Forum comprising of different actors that can be a Community of Practice that meets periodically to assess the state of conflict in the Development Minerals sector in that district.



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