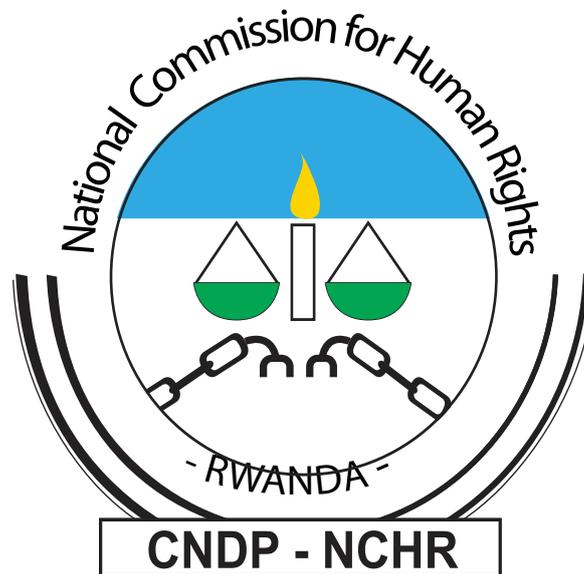


NATIONAL COMMISSION FOR HUMAN RIGHTS



SURVEY ON THE HUMAN RIGHTS SITUATION IN RWANDA MINING SECTOR



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LIST OF ABBREVIATIONS

3TGs:	Tin, Tantalum, Tungsten and Gold
3Ts:	Tin, Tantalum and Tungsten
ACHPR:	African Charter on Human and Peoples Rights
AIDS:	Acquired Immuno-Deficiency Syndrome
AML:	Artisanal Mining Licences
ASM:	Artisanal and Small Scale Mining
AU:	African Union
BGR:	Bundesanstalt für Geowissenschaften und Rohstoffe (German Federal Institute for Geosciences and Natural Resources)
BSP:	Better Sourcing Programme
CAHRA:	Conflict-Affected and High-Risk Areas
CODESRIA:	Council for the Development of Social Science Research in Africa
CSR:	Corporate Social Responsibility
CTC:	Certified Trading Chains
DDG:	Due Diligence Guidance
DRC:	Democratic Republic of Congo
EARF:	Extractive Areas Rehabilitation Fund
EIA:	Environmental Impacts Assessments,
EL:	Exploration Licences,
ESCR:	economic, social and cultural rights
FECOMIRWA:	Federation of mining cooperatives in Rwanda
GLR:	Great Lakes Region
GoR:	Government of Rwanda
Ibid.:	Ibidem, same author, same source of data
ICCPR:	International Covenant on Civil and Political Rights
ICESCR:	International Covenant on Economic, Social and Cultural Rights
ICGLR:	International Conference on the Great Lakes Region
IJRC:	International Justice Resource Center
ITRI:	International Tin Association

iTSCi:	ITRI Tin Supply Chain Initiative
LSML:	Large Scale Mining Licences
MIFOTRA:	Ministry of Labour
MIGEPROF:	Ministry of Gender and Family Promotion
MINALOC:	Ministry of Local Administration
MINICOM:	Ministry of Industry and Commerce
MINIRENA:	Ministère des Ressources Naturelles / Ministry of Natural Resources
MMSD:	Mining, Minerals and Sustainable Development
MOE:	Ministry of Environment
NCHR:	National Commission for Human Rights
No:	Number
NST:	National Strategy for Transformation
OAG:	Office of the Auditor General
OECD:	Organisation for Economic Co-operation and Development
OHCHR:	Office of the United Nations High Commissioner for Human Rights
OHS:	occupational health and safety
Op. cit.:	Opere citato, author seen above (aforementioned author)
PPEs:	Personal protection equipment/s
RCM:	Regional Certification Mechanism
RCS:	Resources Consulting Services
RDB:	Rwanda Development Board
REMA:	Rwanda environment management authority
REWU:	Rwandan extractive industry workers union
RMA:	Rwanda mining association
RMB:	Rwanda Mines Petroleum and Gas Board
RNIR:	Regional Initiative against the Illegal Exploitation of Natural Resources
SGBV:	Sexual and gender based violence
SSML:	Small Scale Mining Licences
STDs:	Sexually Transmitted Diseases,
TIC:	Tantalum-Niobium International Study Centre
TSCi:	Tin Supply Chain Initiative

UDHR: Universal Declaration of Human Rights
UN: United Nations
UNECA-SRO-EA: United Nations Economic Commission for Africa / Sub-Regional Office for Eastern Africa
UNESCO: United Nations Educational, Scientific and Cultural Organization
Vol.: Volume
WIAMO: Rwanda Women in & And Mining Organization

EXECUTIVE SUMMARY

Rwanda mining extraction industry is the second largest source of export income after tourism. According to the National Strategy for Transformation (NST1), there are plans to transform the mining sector to deliver higher-level results including its exports revenues as well as employment promotion.

Although the exploration of minerals creates economic benefits and contributes considerably to the development of a nation, if it is not implemented in accordance to standards, the benefits may be outweighed by social and environmental costs. This means that mining companies among others, should avoid encroaching on the human rights of others and should address adverse human rights impacts with which they are involved through prevention and remediation measures.

According to the NCHR's pilot survey conducted in 2015 on the respect of human rights in mining sector, it was found that a number of miners did not have formal employment contracts, had limited personal protection equipment, employed children in mines and gaps in right to social welfare and environment degradation. Furthermore, in 2021, Transparency International Rwanda (TI-Rwanda) reported the informal employment for miners and unfair contracts termination. The study also emphasized that gender mainstreaming and the risks copying mechanisms in place to deal with socio-economic and environmental issues related to mining activities are not at their full coverage.

Consequently, based on the United Nations Guiding Principles on Business and Human Rights provisions, the NCHR found it imperative to review the situation of human rights respect in Rwanda mining sector to bridge the gaps on possible human rights violations by business enterprises. Specifically, the present survey assessed the status of miners' rights, the rights of investors and the rights of mining sites neighbouring communities.

The survey was conducted on 91 mining sites located in 15 Districts in Rwanda, namely Nyarugenge, Bugesera, Gatsibo, Kayonza, Rwamagana, Kamonyi, Muhanga, Ruhango, Karongi, Ngororero, Nyamasheke, Rutsiro, Burera, Gakenke and Rulindo. Data was collected from 357 respondents including miners, investors and persons neighbouring the mine sites. In addition, 29 key informants from Government institutions, NGOs and local authorities provided supporting information on the respect of human rights in Rwanda mining sector.

As regards to the miners, a number of rights were assessed including the right to work in a healthy and safe workplace environment, the right to salary, the right to employment contracts, the right to social security, the

right to training, the right to join trade unions, the child right to be protected against the worst forms of labour and women's right to equal employment opportunities as men.

Concerning the right to work in a healthy and safe workplace environment, it was evidenced that health insurance was provided to workers in 77% of the visited sites. The mining related diseases do no longer exist due to improved mining techniques that are currently employed. In addition, this survey found significant enhancement of the right to Personal Protective Equipment (PPEs). For example, the safety boots availability increased from 64.6% in 2015 to 91.2% in 2021, the snug coveralls use augmented from 67.69% in 2015 to 93.4% in 2021, and the lighting torches obtainability in the sites improved from 41.53% in 2015 to 91% in 2021. The Survey also found that the use of tunnel support structures is at 91.6%, the signposts and safety stairs in working tunnels are respected at 74.1% whereas 64.5% of surveyed sites use ventilation systems. It was further noticed that the provision of lighting torches in the mine tunnels increased from 41.53% in 2015 to 91% in 2021, the availability of first aid boxes increased from 44.61% in 2015 to 76.9% in 2021 and the availability of stretchers increased from 7.6% to 42.9% in the same period.

In line with the above, tremendous improvement regarding the right to work in a healthy and safe workplace environment was noticed between 2015 and 2021. Nevertheless, more improvement is still required to better guarantee its respect.

With regard to the right employment contract, it was found that informal employment was at 81.4% in the mining sector and this hinders the respect of the right to employment contract.

As for the right to salary, it was observed that miners are regularly paid. Most of them get salary based on individual production, 63.3% of them expressed that they were facilitated with salary advances and they are provided paid leaves at the rate of 25.3%.

Concerning the right to social security, it was noted that 56% of miners do not access pension scheme and this shows that its respect has irregularities that need to be addressed.

In line with the right to training, the survey revealed that 78.02% miners receive daily work instructions, 43.96% of them do not have the core work related training, 74.73% of them did not receive training on their rights while only 29.5% of mining engineers have received training on their rights.

Regarding the right to form and join trade unions, the survey indicated that miners were not members of any trade unions in 50.55% of visited mine sites, despite having full right to join them as reported by 75.4% of interviewed mine engineers. As far as women's rights to equal employment opportunities as men in mining sector is concerned, it was noted that women's participation in mining activities is less compared to men's. Women encounter challenges including: perceptions that the nature of mining activities itself limit females in extraction works, households' responsibilities, the fact that some females are not comfortable with the extraction works in addition to limited financial capacity for females wishing to invest in mining sector.

For child rights to be protected against the worst forms of labour, there was observed no child labor in 90 (98.9%) out of 91 visited mining sites. As for the right to clean environment, it was observed that this right was not fully respected. Soil erosion was prevented by planting trees in 84.44% of the visited sites and using terracing techniques in 83.72% of the visited sites. The waste disposal was observed in 70.93% of the visited sites, management of dust to prevent air pollution was done at the rate of 75.82% and mine reclamation at the site disposal was applied in 71.59% of the visited sites. Issues around environment restoration were related to investors' less interest in applying environmental protection techniques and this has exposed some communities to air pollution, heavy vibrations, water torrent from the mining sites and building cracks due to mining activities.

On the right to private property, it was observed that 26 out of 27 (96.29%) of the affected mining sites neighbours have been expropriated.

Concerning the right to development, the Commission noted that where mining activities are conducted, communities benefit business opportunities and employment among others. Some community members also benefit from corporate social responsibility by mining investors in terms of infrastructure and supporting government social protection programs like Girinka, mutual health insurances for vulnerable families.

As far as mining investors are concerned, it was noticed that their rights are respected. The Government has set guiding laws, rules and regulations to their business and provided them with necessary supervision and facilitations.

Based on the above, it was observed that, though the status of human rights in Rwanda mining sector improved considerably, there are still loopholes to be sealed. The NCHR recommends responsible agencies to build mineworkers' capacities to help them perform their work professionally, to enhance regular monitoring of mining laws implementation, rules/regulations enforcement and promote women's employment in Rwanda mining sector.

CHAPTER I. GENERAL INTRODUCTION

1.1. Background

Mining sector is a major source of revenue for the economies of countries gifted with various mineral resources. These huge deposit resources represent wealth capital in the countries where they are exploited sustainably. Therefore, mining contributes significantly to the economic activity of several countries in both developed and developing nations¹. There is no doubt that the exploration of solid minerals creates economic benefits and contribute considerably to the development of a nation. However, the benefits may be outweighed by social and environmental costs².

According to the study conducted by Directorate General for External Policy of European Parliament, business entities most of time become authoritative to maximize economic benefits which leads to the abuse and sometimes violation of human rights³. In 2020 and 2021, Bernaz Nadia and Rao, Madhura documented various cases of human rights abuse caused by businesses. The case of Assam Tea plantations in India is a well-known business and human rights issue specifically the violation of the right to food and nutrition, workers' right to adequate housing and violation of the right to safe working environment⁴. When it comes to business, particularly in mining sector, human rights violation becomes a serious concern. Different studies highlighted that irresponsible mining businesses expose workers to various diseases, unsafe work environment, insufficient payment, fatal accidents and environmental degradation⁵.

¹ Oluwatosin B. Igbayiloye and Danny Bradlow, 'An Assessment of the Regulatory Legal and Institutional Framework of the Mining Industry in South Africa and Kenya for Effective Human Rights Protection: Lessons for Other Countries', *African Human Rights Law Journal*, 21.1 (2021), 363–88 <<https://doi.org/10.17159/1996-2096/2021/v21n1a16>>.

² Idem

³ Beata Faracik, 'Implementation of the UN Guiding Principles on Business and Human Rights', *SSRN Electronic Journal*, 2019 <<https://doi.org/10.2139/ssrn.2955762>>.

⁴ Nadia Bernaz, 'Conceptualizing Corporate Accountability in International Law: Models for a Business and Human Rights Treaty', *Human Rights Review*, 22.1 (2021), 45–64 <<https://doi.org/10.1007/s12142-020-00606-w>>; Madhura Rao and Nadia Bernaz, 'Corporate Responsibility for Human Rights in Assam Tea Plantations: A Business and Human Rights Approach', *Sustainability (Switzerland)*, 12.18 (2020) <<https://doi.org/10.3390/SU12187409>>.

⁵ 'The Mining Reality In Ecuador And The Guarantee Of The Human Rights Of Indigenous Peoples', *Actualidad Jurídica Ambiental*, 87, 2019; Sara L. Seck, 'Canadian Mining Internationally and the UN Guiding Principles for Business and Human Rights', *Canadian Yearbook of International Law/Annuaire Canadien de Droit International*, 49 (2012), 51–116 <<https://doi.org/10.1017/S0069005800010328>>; Igbayiloye and Bradlow; Nina Collins and Alan Woodley, 'Social Water Assessment Protocol: A Step towards Connecting Mining, Water and Human Rights', *Impact Assessment and Project Appraisal*, 31.2 (2013) <<https://doi.org/10.1080/14615517.2013.774717>>; Chris Ballard, 'Human Rights and the Mining Sector in Indonesia : A Baseline Study', *Mining, Minerals and Sustainable Development*, 182, 2002; Uwafiokun Idemudia, Cynthia Kwakyewah, and Judy Muthuri, 'Mining, the Environment, and Human Rights in Ghana: An Area of Limited Statehood Perspective', *Business Strategy and the Environment*, 29.7 (2020) <<https://doi.org/10.1002/bse.2581>>; Andrew Aytin, 'A Social Movements' Perspective on Human Rights Impact of Mining Liberalization in the Philippines', *New Solutions*, 25.4 (2016) <<https://doi.org/10.1177/1048291115608354>>.

To address hindrances posed by business activities on human rights, in June 2011, the United Nations Council of Human Rights endorsed the Guiding Principles on Business and Human Rights⁶. These principles are grounded on the recognition of: (a) States' existing obligations to respect, protect and fulfil human rights and fundamental freedoms; (b) The role of business enterprises as specialized organs of society performing specialized functions, required to comply with all applicable laws and to respect human rights; (c) The need for rights and obligations to be matched to appropriate and effective remedies when breached. They apply to all States and to all business enterprises, transnational and others, regardless of their size, sector, location, ownership and structure⁷.

This means that mining companies among others, should avoid encroaching on the human rights of miners, neighbouring communities and should address adverse human rights abuse and violation impact with which they are involved through prevention, mitigation and where appropriate human rights remediation⁸. This is a global standard of expected conduct for all business enterprises wherever they operate and they are applicable to the mining sector too⁹. It should be noted that Rwanda has endorsed these principles.

1.2. Problem statement

Rwanda Mining Sector is a key driver for the national economic development being the second largest source of export income after tourism and the country wants to sustain a competitive industrial sector in the great lakes region.

Mining activities are currently carried out by mining companies and cooperatives in over 3,000 mining sites across the country. In 2019 before the outbreak of COVID-19 pandemic, the mining sector employed approximately 71,205 workers, an increase from 47,727 workers in 2017. However, due to the slowdown in mining and processing operations as a result of the said pandemic, the number fell by 19% to 57,379 workers,

⁶ UN, 'The UN Guiding Principles on Business and Human Rights', *United Nations Human Rights*, 2011, 45–63 <<https://doi.org/10.4324/9781351171922-3>>.

⁷ UN, 'The UN Guiding Principles on Business and Human Rights', *United Nations Human Rights*, 2011, 45–63 <<https://doi.org/10.4324/9781351171922-3>>.

⁸ Faracik, Beata, 'Implementation of the UN Guiding Principles on Business and Human Rights', *SSRN Electronic Journal*, 2019 <<https://doi.org/10.2139/ssrn.2955762>>

⁹ Seck, Sara L., 'Canadian Mining Internationally and the UN Guiding Principles for Business and Human Rights', *Canadian Yearbook of International Law/Annuaire Canadien de Droit International*, 49 (2012), 51–116 <<https://doi.org/10.1017/S0069005800010328>>

as reported in June 2021 by RMB. As the Government helps the sector to recover from COVID-19 pandemic effects, there is hope that the number of jobs in the mining and extraction sector could increase to 100,000 jobs in 2021¹⁰.

Through the National Strategy for Transformation (NST1), there are plans to transform the mining sector by adopting a new approach to deliver higher-level results of the mining industry by increasing exports' revenues and employment promotion as well. The NST1 envisions mining sector to contribute 1.5 BN USD export value by 2024¹¹. Therefore, it is imperative to elaborate suitable regulatory framework favourable to investors and ensure the respect of human rights in the sector.

The Law N° 58/2018 of 13/08/2018 on mining and quarry operation in Rwanda has been gazetted¹² to ensure smooth and sustainable functioning of mining sector. In addition to the establishment of suitable legal framework, Rwanda is located in the so called "conflict-affected and high-risk areas" and thus required adherence to the Organisation for Economic Co-operation and Development (OECD) due diligence guidance for responsible supply chains of minerals from conflict-affected and high-risk areas should be respected too. The main objective is that the guidance helps companies to respect human rights and avoid contribution to conflicts through their mineral sourcing practices. It also cultivates transparency in mineral supply chain and enables countries to benefit from their mineral resources and prevent human rights abuse/violation, conflict and insecurity support¹³.

However, these laws, regulations and due diligence guidelines are probably either not fully respected or have loopholes as it is evidenced by various gaps identified through researches and surveys.

In 2014, the NCHR undertook a pilot survey on the respect of human rights in mining sector with the main objective to inquire about the situation of workers' rights and the protection of the environment. Based on its findings, the Commission issued recommendations to relevant institutions on identified challenges including the lack of employment contracts for a large number of workers, salaries and other benefits not harmonized in some

¹⁰ Michel Nkurunziza, What would it take for mining sector to adopt new technology? In The New Times of 08th June 2021, <<https://www.newtimes.co.rw/business/what-would-it-take-mining-sector-adopt-new-technology#.YMc07IJQt5Y.twitter>>, November 2021.

¹¹ 7 Years Government Programme: National Strategy for Transformation (NST1) https://www.nirida.gov.rw/uploads/tx_dce/National_Strategy_For_Transformation_-_NST1-min.pdf accessed on 5 December 2021 at 2:00 p.m.

¹² Government of Rwanda, *Law N° 58/2018 of 13/08/2018 Related to Mining and Quarry Operation in Rwanda* (Rwanda: Official Gazette, 2018).

¹³ OECD, *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas*, *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas* (OECD, 2016) <<https://doi.org/10.1787/9789264252479-en>>.

companies, workers without health insurance; degradation of the environment by mining operations, child labour and non-relocation or expropriation of families nearby insecure mining extraction points.

Furthermore, in 2017, the International Institute for Sustainable Development (IISD) identified a number of gaps in mining sector and these include the Voluntary Principles for Business Human Rights and Security are not part of the mining law or policy in Rwanda, subcontractors who are often hired as casual labourers with informal agreements and payments and the exploration practices in place which are not favourable for landowners as only financial compensation considerations are made and they are inconsistently applied¹⁴. Moreover, this assessment highlighted that there is little emphasis on the issue of gender proportion in mining and the impact of population pressure on mining development¹⁵.

Recently in 2021, Transparency International Rwanda (TI-Rwanda), conducted a baseline study on transparency and compliance in extractive industry in Rwanda. The study documented that the current mining law is not fully enforced. It also highlighted that the large number of miners is employed without contracts and unfair termination of working contracts. Additionally, the inquiry emphasized that gender mainstreaming and the risks copying mechanisms in place to deal with socio-economic and environmental issues related to mining activities are not at full coverage¹⁶.

Apart from the highlighted challenges, the above-mentioned studies did not incorporate the UN Business guiding principles on human rights and full consideration of chain of custody system currently applied in Rwanda. Evidently, there are still need for complementary analysis for existing research gaps to retrieve suitable recommendations to competent institutions.

It is in this regard that the Commission conducted this survey to review the human rights situation in Rwanda mining sector.

¹⁴ The International Institute for Sustainable Development, *IGF Mining Policy Framework Assessment: Rwanda*, 2017.

¹⁵ *Idem*

¹⁶ Transparency international Rwanda, *Baseline Study on Transparency and Compliance in Extractive Industry in Rwanda 2021*.

1.3. Objective of the survey

1.3.1. General objective

The general objective of the survey was to assess the respect of human rights in mining sector in Rwanda in order to prevent and redress the risk of negative impact linked to business activities in Rwanda mining sector.

1.3.2. Specific objectives

The main objective was broken down into the following specific objectives:

- To assess the status of the respect of workers' rights in mining sector;
- To assess the status of the respect of investors' rights in Rwanda;
- To assess the status of the human rights respect for mining sites' neighbouring communities;
- To formulate recommendations in order to prevent and redress the risk of negative impact linked to business activities in Rwanda mining sector.

CHAPTER II. LITERATURE REVIEW

This chapter elucidates legal provisions pertaining to the respect of human rights in Rwanda mining sector and empirical evidences documented from previous studies in order to enrich the reference for this survey and ensure a sound methodology and data analysis.

2.1. LEGAL FRAMEWORK

This section concerns legal provisions on the respect of human rights in Rwanda mining sector as categorized under the workers' rights, investors' rights, the rights of mining sites neighbouring communities and the state's obligations to respect, protect and fulfil human rights in mining sector respectively.

2.1.1. Mineworkers' rights

According to article 40 of the Law N° 66/2018 of 30/08/2018 regulating labour in Rwanda, the rights of an employee include: the right to work in an environment where health and safety in the workplace are guaranteed, right to receive equal salary for works of equal value without discrimination of any kind, the right to be provided leave as provided for by Law, the right to join a trade unions of his/her choice, the right to be trained by his/her employer and the right to receive information relevant to his/her work. The following discussion details the standards required for above-mentioned rights.

2.1.1.1. The right to work in a healthy and safe workplace environment

Domestically, the right to health is provided for by article 21 of the Constitution of the Republic of Rwanda of 2003 revised in 2015 which stipulated that: "*all Rwandans have the right to good health*". This right relates to both the right of individuals to obtain a certain standard of health and health care, and the State obligation to ensure a certain standard of public health. The right to an adequate standard of living is very close to right to health.

The right to health is internationally guaranteed by article 11 of the ICESCR which states that: "*The States Parties to the Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing, housing, and to the continuous improvement of living conditions*";

Within the endeavours to guarantee the right to health, chapter 5 of the Law N° 66/2018 of 30/08/2018 regulating labour in Rwanda has provisions that guarantee the occupational health and safety (OHS) at workplace. These

include general health and safety conditions in the workplace, OHS Committee; personal protective equipment (PPEs), first aid toolkits, fire-fighting and imminent danger, preventing and fighting occupational accidents and diseases, and the declaration of occupational accidents, disease or death¹⁷.

In the same respect, article 43 of the Law N° 58/2018 of 13/08/2018 on mining and quarry operations, protects the right to health as follows:

A holder of a licence must:

- 1. Ensure that the mine is commissioned, maintained and decommissioned in a manner that does not compromise the health and safety of workers and other people;*
- 2. Ensure that all persons working at the mine have the necessary skills, competence and resources to carry out their work safely and to ensure the safety of others.*

Where the authorised officer considers that the operations may compromise or endanger the health and safety of a person, that officer may make an urgent decision. Such a decision may require the identified danger to be rectified immediately or within a reasonable time or that the mining or quarry operations be suspended until the danger is rectified.

2.1.1.2. The right to salary, employment contract and social security

The right to work is universally guaranteed by article 6.1 of the ICESCR, according to which “*the States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard these right*”.

The Law N° 66/2018 of 30/08/2018 regulating labour in Rwanda which also applies to the mining sector highlights that, employees have right to written contracts, an equal pay for equal jobs (non-discrimination), being paid through banks and other financial institutions, leaves, trainings, good working conditions that protect workers' health and safety, being given working and protective equipment, being affiliated to the social security

¹⁷ Article 77 – 82 of the Law N° 66/2018 of 30/08/2018 regulating labour in Rwanda

and being organized in trade unions, among others¹⁸. The same rights are guaranteed by the Law N° 58/2018 of 13/08/2018 on mining and quarry operations¹⁹.

2.1.1.3. The right to training

According to Article 6 of the ICESCR, States must take steps including technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

In addition, article 39 (8) of the Law N° 66/2018 of 30/08/2018 regulating labour in Rwanda which stipulates that it is the obligation of the employer to provide professional training to employees and continue upgrading their capacity. Particularly, article 64 of the Law on mining and quarry operations in Rwanda says that the holder of a mining licence must have a program for employees' capacity building to allow them fulfil their duties.

2.1.1.4. The Right to form trade unions

Articles 31 (b) and 39 of Rwanda constitution of the Republic of Rwanda of 2003 revised in 2015 indicate that employee has right to form and join trade unions and freedom of association to support his/her social economic benefits²⁰. Furthermore, article 40 (4) of Rwanda, labour law says that it is the rights of employee to join trade unions of his/her choice²¹.

2.1.1.5. Women's right to equal employment opportunities as men

The right to equal access to economic opportunities through employment is provided by the Article 11 of the Convention on the Elimination of All Forms of Discrimination against Women of 1979 stipulates that "*States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular the right to work as*

¹⁸ Article 40, 41 and 67 of the Law N° 66/2018 of 30/08/2018 regulating labour in Rwanda, Official Gazette No. Special of 06/09/2018.

¹⁹ Articles 24, 28, 43, 52 and 64 of the Law N° 58/2018 of 13/08/2018 on mining and quarry operations

²⁰ Government of Rwanda, 'Rwanda's Constitution of 2003 with Amendments through 2015', *Constitute Project*, 2017, 1–9 <[https://doi.org/10.1061/\(ASCE\)WW.1943-5460.0000400](https://doi.org/10.1061/(ASCE)WW.1943-5460.0000400)>.

²¹ Official Gazette no. Special of 06/09/2018, N° 66/2018 of 30/08/2018 *Law Regulating Labour in Rwanda*, Official Gazette No. Special of 06/09/2018 *Ibirimo/Summary/Sommaire*, 2018.

an inalienable right of all human beings and the right to the same employment opportunities, including the application of the same criteria for selection in matters of employment”.

The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa in its Article 13, paragraphs (a), (b) and (c), states that: *“states parties shall adopt and enforce legislative and other measures to guarantee women equal opportunities in work and career advancement and other economic opportunities in terms of equality of access to employment, equal remuneration for jobs of equal value for women and men, transparency in recruitment, guarantee women the freedom to choose their occupation, and protect them from exploitation by their employers”.*

The constitution of the Republic of Rwanda of 2003 revised in 2015, in its article 30 stipulates that: *“everyone has the right to free choice of employment”.* It adds that: *“all individuals, without any form of discrimination, have the right to equal pay for equal work”.*

In addition, the Law n° 66/2018 of 30/08/2018 regulating labour in Rwanda in, its article 9, prohibits any kind of discrimination including gender-based discrimination at workplace. The same law guarantees equal remuneration for equal work for both females and males.

In a particular manner, mineral licence holders are obliged to ensure that the mining operations are carried out in accordance with applicable health and safety standards, including standards necessary to protect the health and safety of women and to promote activities aiming at gender equality and complementarity²².

2.1.1.6. Child right to be protected against the worst form of work

The worst forms of child labour are defined by the ILO convention n° 182 of 1999 concerning prohibition of the worst forms of child labour and immediate action for the elimination as: (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances, (c) the use, procuring or offering of a child for illicit activities, in particular for the production and

²² Article 36 of the Law N° 58/2018 of 13/08/2018 on mining and quarry operations

trafficking of drugs as defined in the relevant international treaties and (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

The Law N° 66/2018 of 30/08/2018 regulating labour in Rwanda in its articles 5 and 6 guarantee children's rights in relation to minimum age for admission to employment and prohibition of all forms of work for the child. Whereas, child labour is understood as the employment of a child in any company, even as apprentice, before the age of sixteen (16). Even if a child aged between sixteen (16) and eighteen (18) may be employed²³, this is still prohibited in the mining sector, because mining activities are categorised amongst the worst forms of child labour and therefore prohibited to children²⁴.

2.1.2. Mining investors' rights

Apart from employees' rights, mining investors have rights to explore, mine process, melt and refine the minerals under their licence. They have right to put in place in their mining area equipment, plants, machinery and buildings and to sell mineral products recovered from the holder's mining licence area²⁵;

As for the acquisition of mineral licence, the application is addressed to the competent authority under modalities and requirements determined by regulations issued by the competent authority. Where necessary, mineral licences are issued through open tender for potential mining areas²⁶.

In a bid to ensure the mineral supply chain due diligence, the Government of Rwanda committed to comply with international established frameworks and regulations. These include: US Dodd-Frank Act Section 1502 requiring companies to declare whether the 3Ts in their supply chain originate from the DRC or neighbouring countries and the OECD due diligence guidance for responsible supply chains of minerals from conflict-affected and high-risk areas (DDG),²⁷.

The GoR also piloted the German Federal Institute for Geosciences and Natural Resources, *Bundesanstalt für Geowissenschaften und Rohstoffe* (BGR)'s Certified Trading Chains (CTC) scheme as a comprehensive

²³ Article 5 and 6 of the Law N° 66/2018 of 30/08/2018 regulating labour in Rwanda, Official Gazette No. Special of 06/09/2018

²⁴ Article 4 of the Ministerial Order N°06 of 13/07/2010 determining the list of worst forms of child labour, their nature, categories of institutions that are not allowed to employ them and their prevention mechanisms, Official Gazette n° 30 of 26/07/2010

²⁵ Chapter 3 of the law N° 58/2018 of 13/08/2018 on mining and quarry operations

²⁶ Articles 10 and 11 of the Law N° 58/2018 of 13/08/2018, aforementioned.

²⁷ OECD-UN 2012 Guidance (p. 12) cited by Estelle Levin and Rupert Cook, Mineral Supply Chain Due Diligence Audits and Risk Assessments in the Great Lakes Region: Analysis Report (London: BGR/ICGLR, 2013).

certification scheme to promote responsible mining practice in ASM supply chains²⁸. This scheme had a strong focus on the social and environmental considerations associated with mineral production in Rwanda²⁹.

In addition, through the 2012 Ministerial Regulations on minerals certification mechanisms,³⁰ Rwanda domesticated the responsible mining scheme of the International Conference on the Great Lakes Region (ICGLR)³¹ which helped Rwanda to acquire Regional Certification Mechanism (RCM) to track the chain of custody of tin, tantalum, tungsten and gold (3TGs).

In line with the above, Rwanda is using services of the private chain of custody service provider, that is, the Tin Supply Chain Initiative (TSCi). It constitutes a joint initiative between International Tin Association and the Tantalum-Niobium International Study Centre (TIC) and is implemented by PACT World³². In 2016, Rwanda welcomed a second service provider to monitor the minerals chain of custody. This was Better Sourcing Programme (BSP), which later became Resources Consulting Services (RCS) Global³³.

On the other side, the ITRI Tin Supply Chain Initiative (iTSCi) is a joint programme between ITRI and the Tantalum-Niobium International Study Centre (TIC) which is implemented by PACT World³⁴ in partnership with the GoR to ensure that mineral production conforms to the standards expected by the international markets, and at the same time promoting development.

²⁸ Rupert Cook and Paul Mitchell, Evaluation of the Mining Revenue Streams and Due Diligence Implementation Costs in Mineral Supply Chains in Rwanda, (Kigali: BGR/RNRA, 2014), p. 11.

²⁹ UNECA-SRO-EA, Special report on the ICGLR Regional Initiative against the Illegal Exploitation of Natural Resources (RINR) and other Certification Mechanisms in the Great Lakes Region: Lessons Learned and Best practices (Kigali: UNECA-SRO-EA, 2013), p. 34.

³⁰ Ministerial regulations No 002//2012/MINIRENA of 28/03/2012 on the regional certification mechanism for minerals, Official Gazette N° 17 of 23 April 2012.

³¹ ICGLR, Regional Initiative against the Illegal Exploitation of Natural Resources, available at <http://www.icglr-rinr.org/index.php/en/>

³² Pact World, Rwanda, available at <http://www.pactworld.org/country/rwanda>

³³ RCS, Annual due diligence report, accessible at <https://www.rcsglobal.com/pdfs/Annual-Due-Diligence-Report-NMC-2020.pdf>

³⁴ Pact World, Rwanda, <http://www.pactworld.org/country/rwanda>

2.1.3. The rights of mining sites neighbouring communities

Communities in the neighbourhood of mining sites have the right to property, and to a good or healthy environment as part of the second generation of human rights³⁵, that are enjoyed in common or in solidarity, given that these are rights that embrace collective rights of society or peoples. Apart from the right to a healthy environment, they also include right to a sustainable development and right to peace³⁶.

2.1.3.1. Right to property

The right to property is recognized by the Constitution of the Republic of Rwanda of 2003 revised in 2015, the UDHR and the African Charter on Human and Peoples Rights (ACHPR).

The Constitution of the Republic of Rwanda 2003 as revised in 2015, articles 34 and 35 stipulate that private property is inviolable and cannot be encroached except in case of public interests and rights transfers in line with processes and procedures provided for by the law³⁷. Land is also part of the property rights, though some scholars and human rights activists want land to be recognized as also a separate human right, by international and domestic legal instruments across the world³⁸.

Article 17 of the UDHR states that “*Everyone has the right to own property alone as well as in association with others*” and that “*no one shall be arbitrarily deprived of his/her property*”³⁹.

For the ACHPR, “*The right to property shall be guaranteed. It may only be encroached upon in the interest of public need or in the general interest of the community and in accordance with the provisions of appropriate laws*” (article 14)⁴⁰.

The Rwandan mining law protects properties of the communities in the neighbourhood of mining activities. For instance, the law provides that in case there is a discovery of mineral or quarry deposit on any land, the

³⁵ Murphy, John. “Second generation rights and the bill of rights debate in south Africa.” *South African Sociological*

³⁶ Council of Europe, the Evolution of Human Rights, <<https://www.coe.int/en/web/compass/the-evolution-of-human-rights>>, November 2021.

³⁷ The Constitution of the Republic of Rwanda of 2003 revised in 2015, Official Gazette n° Special of 24/12/2015.

³⁸ Jérémie Gilbert, “Land Rights as Human Rights”, *SUR* 18 (2013), <<https://sur.conectas.org/en/land-rights-human-rights/>>, November 2021.

³⁹ UN, Universal Declaration of Human Rights, <<https://www.un.org/en/universal-declaration-human-rights/>>, November 2021.

⁴⁰ AU, African Charter on Human and Peoples Rights, <<http://www.humanrights.se/wp-content/uploads/2012/01/African-Charter-on-Human-and-Peoples-Rights.pdf>>, November 2021.

landowner or a lawful occupier is fairly compensated in accordance with the law relating to expropriation in the public interest before the licence holder commences the mining operations⁴¹.

2.1.3.2. Right to a healthy environment

According to article 12 (2, b) of the ICESCR, States parties have to improve all aspects of environmental and industrial hygiene. In Rwanda, apart from provisions of the mining law pertaining to environment protection in order to ensure the right to a healthy environment, there are laws that are specific to the protection of environment, including a law on environmental management⁴² and a law on water management⁴³. Chapter 5 of Rwanda mining law is dedicated to environment protection, in terms of complying with environmental laws, having a rehabilitation plan and rehabilitating damaged areas, paying an environmental rehabilitation guarantee and using dynamites in a way that does not harm the environment and does not disturb the neighbouring communities⁴⁴.

2.1.3.3. Right to development

The UN adopted the right to development among other human rights, as an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized⁴⁵.

Concerning the mining sector, the community enjoys the right to development through obligations imposed on mining investors. For instance, mines neighbouring communities enjoy part of mitigations of mining impacts onto the community, including an obligation for mining investors to employ the local workforce and ensure skills transfer to them, procure local products and contribute to the socio-economic development of communities where they operate⁴⁶ and an obligation known as Corporate Social Responsibility (CSR)⁴⁷, which in turn becomes the communities' rights.

⁴¹ Article 5 of the Law N° 58/2018 of 13/08/2018 on mining and quarry operation in Rwanda.

⁴² Law N°48/2018 of 13/08/2018 on environment, Official Gazette Special No of 21/09/2018.

⁴³ Law N°49/2018 of 13/08/2018 determining the use and management of water resources in Rwanda, Official Gazette Special No of 21/09/2018.

⁴⁴ Article 39 – 44 of the Law N° 58/2018 of 13/08/2018 on mining and quarry operation in Rwanda

⁴⁵ Article 1 of the UN's Declaration of the Right to Development, Adopted by General Assembly resolution 41/128 of 4 December 1986

⁴⁶ See articles 63 and 66 of the Law N° 58/2018 of 13/08/2018 on mining and quarry operation in Rwanda.

⁴⁷ McMahon Gary and Moreira Susana, The Contribution of the Mining Sector to Socioeconomic and Human Development, In the Extractive industries for development series, No. 30. World Bank, Washington, 2014.

2.1.4. State's obligations to respect, protect and fulfil human rights in mining sector

It is worthy noting that states have obligations to respect, protect and fulfil human rights and freedoms. Article 43 of the Constitution of the Republic of Rwanda of 2003 revised in 2015 provides that Judiciary is a human rights and freedoms guardian. Judiciary provides justice to victims of human rights violations including those associated with mining business where the grieved party has right to sue in a court of her/his choice depending on the nature and size of the claim⁴⁸.

In addition, Rwanda law on mining and quarry operations provides for both administrative and criminal sanctions to those who violate human rights in relation to mining operations.

On one side, administrative sanctions include business suspension and closure, as well as the infliction of administrative fines against those who fail to indicate the origin of minerals, to submit reports, to pay required fees, to pay security and insurance of employees and to refuse access to authorities in operations area, etc⁴⁹.

Criminal sanctions on the other side, include imprisonments and fines that are inflicted against those convicted with undertaking mining or quarry operations without a licence, non-compliance with standards including labour and environmental protection starts, displacement, destruction, removal or crossing the demarcation features of the mineral or quarry licence area, use of dynamites in mining or quarry operations without authorisation, fraud, providing false information and others⁵⁰.

⁴⁸ Law N°30/2018 of 02/06/2018 determining the jurisdiction of courts, Official Gazette n° Special of 02/06/2018

⁴⁹ Law N° 58/2018 of 13/08/2018 on mining and quarry operation in Rwanda.

⁵⁰ Idem

2.2. EMPIRICAL REVIEW

This part entails rights relating to the mining workforce, mining investors, mining sites neighbouring communities, and state obligations to respect, protect and fulfil human rights in mining sector with reference made to previous researches on the matters pertaining to human rights violations in mining sector.

2.2.1. Human rights pertaining to the mining workforce

When it comes to the respect of workers' rights, mining sector is often reported to have an indecent working environment, including poor mining practices leading to accidents that breach against the right to life, lack of occupational health and safety measures in some companies, bad working conditions, gender gap and lack of standards necessary to protect the health and safety of women among others⁵¹. For most of the on-site miners, such as diggers, ore transporters and washers, there are generally no written employment contracts⁵².

In October 2021, Transparency International Rwanda reported that 79.1% of the workers in the mining sector do not have employment contracts, and that around 83% of the contracts were terminated unfairly⁵³. Consequently, there were no contribution to the social security scheme, which could cover occupational hazards in terms of mining accidents, illnesses and diseases contracted from mining activities, maternity allowances as well as pensions for miners who go for retirement⁵⁴. Moreover, contrarily to legal provisions, miners' salaries are generally not paid through bank accounts⁵⁵.

Women are more handicapped by working without PPEs in some companies, and there are still weaknesses in designing suitable and accessible mine tunnels, bathrooms of decent standards, and separate changing rooms for male and female workers⁵⁶. There are also serious challenges in terms of loss of income during

⁵¹ RMB, RMB to continue ensuring mining operators welfare, <https://www.rmb.gov.rw/index.php?id=100&tx_news_pi1%5Bnews%5D=140&tx_news_pi1%5Bcontroller%5D=News&tx_news_pi1%5Baction%5D=detail&cHash=9a90ab1ea601cdeb8061d1ea4a6288>, November 2021.

⁵² Rene Anthere Rwanyange, Rwanda Miners Union urges employers to provide workers' contracts, in The Panorama of 04th December 2020, <<https://panorama.rw/index.php/2020/12/04/rwanda-miners-union-urges-employers-to-provide-workers-contracts/>>, November 2021.

⁵³ Abraham Uwimana, New report highlights gender gaps, poor conditions for miners, in The New Times of 05th October 2021, <<https://www.newtimes.co.rw/news/new-report-highlights-gender-gaps-poor-conditions-miners>>, November 2021.

⁵⁴ Emmanuel Ntirenganya, Miners petition for pension benefits, in The New Times of 30th April 2017, <<https://www.newtimes.co.rw/section/read/211545>>, November 2021.

⁵⁵ Michel Nkurunziza, Mining companies on the spot over working conditions, In The New Times of 08th December 2020, <<https://www.newtimes.co.rw/business/mining-companies-spot-over-working-conditions>>, November 2021.

⁵⁶ Bernd Drechsler, Jennifer Hinton and Manfred Walle, An Occupational Safety Health System for small scale Mines in Rwanda Interventions in Support of Mining Companies' Capacity to Comply with CTC, Report on the consultancy within the framework of the CTC project, BGR, 2010, Kigali; Johanna Carstens, Development of a policy and guidelines on gender equality for Rwandan mining

pregnancy and breastfeeding periods because they are not allowed to work in such conditions, as there are generally no alternative jobs for pregnant and breastfeeding women⁵⁷. SGBVs cases might also exist in mining although such cases remain low or probably unknown because they are not always reported⁵⁸.

Concerning child labour, though prohibited in Rwanda, there are still loopholes that allow children to join the mining sector, as confirmed by the Ministry of Labour (MIFOTRA)⁵⁹. This is due to a number of factors such as: poor management and protection of mining sites⁶⁰, abandoned mining sites where children are involved illicitly⁶¹, cases of children who are compelled by parents to help them in the mines⁶² as well as lack of programmes that keep children busy for instance during schools' holidays⁶³. There are also cases of children who dropout from schools to join the mining sector due to the availability of mining activities in their surroundings, coupled with lack of parental education⁶⁴.

2.2.2. Human rights pertaining to mining investors

With regard to mining investors' rights, the implementation of initiatives for the responsible production and sourcing of 3TGs in Rwanda is seen as an unnecessary burden on mineral licence holders. The GoR and the Rwanda Mining Association (RMA) have identified challenges that are not associated with the responsible sourcing initiatives themselves but rather legislative and regulatory in nature. In the downstream, regulations have had a negative impact on companies (smelting companies, refineries and the end users) that are using

enterprises", Report on the consultancy within the framework of the CTC project, BGR, 2010, Kigali; IMPACT, Women in Artisanal & Small-Scale Mining in Central and East Africa, 2017, <<https://impacttransform.org/en/work/project/women-in-artisanal-and-small-scale-mining-in-central-and-east-africa/>>, November 2021.

⁵⁷ Bernard Nsanzimana, Aline Providence Nkundibiza & Patricie Mwambarangwe (2020) Promoting gender equality in the Rwandan ASM: efforts and obstacles, Canadian Journal of African Studies / Revue canadienne des études africaines, 54:1, 119-138, DOI: 10.1080/00083968.2019.1671884

⁵⁸ Laine Munir, Women, Conflict, and Modern Mining in Rwanda during COVID-19 PANDEMIC, in the IUCN, 06th January 2021, <<https://www.iucn.org/news/commission-environmental-economic-and-social-policy/202101/women-conflict-and-modern-mining-rwanda-during-COVID-19-pandemic>>, November 2021.

⁵⁹ Kanamugire Emmanuel, There is still way to go for mining operators in Rwanda to comply with the Labour Law, In IGIHE of Nov. 24th 2016, <<http://igihe.com/amakuru/u-rwanda/article/iyubahirizwa-ry-itegeko-rigenga-umurimo-mu-bucukuzi-bw-amabuye-y-agaciro>>, November 2021.

⁶⁰ Umuseke, Gatsibo: Over 150 children are underneath looking for minerals, In the Umuseke of Nov. 12th 2017, <<https://umuseke.rw/gatsibo-abana-basaga-150-bari-munsi-yubutaka-bashaka-ubukungu.html>>, November 2021.

⁶¹ Athan Tashobya, "Illegal activities threaten Gishwati-Mukura park conservation", in The New Times of September 27, 2016, <<http://www.newtimes.co.rw/section/article/2016-09-27/203901/>>, November 2021.

⁶² Okello James, Police Warns Over Child Labour, In the New Times of Sunday Ap. 10th 2016, <<http://www.newsofrwanda.com/featured1/30908/police-warns-over-child-labour/>>, November 2021.

⁶³ ITRI/iTSCI, Story from the field – Rwanda, Guidance reduces illegal mining and child labour, <https://www.itsci.org/wp-content/uploads/2017/10/Guidance_reduces_illegal_mining_and_child_labour.pdf>, November 2021.

⁶⁴ Rwanda National Police, Rulindo: the duo arrested over illegal mining child labour, <<https://police.gov.rw/media-archives/news-detail/news/rulindo-the-duo-arrested-over-illegal-mining-child-labour/>>, November 2021.

3TGs as their raw materials. This is because the financial burden for the ITRI/iTSCi and recently BSP services often falls on the miners themselves who contribute to the payment of GoR's employees in charge of mineral tagging at mine sites, and the ICGLR mineral certification and audits costs. In the upstream, mining operators, especially ASMs, can experience increased operating costs due to the responsible sourcing initiatives⁶⁵. Another challenge in the risks of limited market access and reputational risk associated with conflict-minerals legislation, which increases the perceived risk of sourcing from the GLR as opposed to minerals from other Sub-Saharan countries⁶⁶.

2.2.3. Human rights pertaining to mining sites neighbouring communities

In areas with poor mining laws and policies, or their poor enforcement, mining is perceived as a threat to society in a variety of ways including land disputes and environmental degradation, illegal mining done by some community members, deaths and injuries from mine accidents, irregular armed forces, prostitution, AIDS and other Sexually Transmitted Diseases (STDs), sexual and gender-based violence (SGBV) and other negative impacts⁶⁷.

For the case of Rwanda, frequent violations of human rights are reported in land and environmental matters. Ownership over land is part of rights to property. The law governing land provides that the holder of land rights is given fair compensation for public interest activities to be carried out in the land he/she was owning⁶⁸ and the law relating to expropriation in the public interest classifies mining and quarry activities among others⁶⁹.

Although not many cases of land and environmental matters in Rwanda are reported, some land right holders in the mine sites' neighbourhood expressed conflicting interests with mineral and quarry licence holders, where the latter are said to start mining operations before paying compensations, as well as cases of land erosions associated with poor management of mineral tailings and water used in mineral processing⁷⁰. There also a few

⁶⁵ RMA, Op. cit., p. 1.

⁶⁶ Rupert Cook and Paul Mitchell, Evaluation of the Mining Revenue Streams and Due Diligence Implementation Costs in Mineral Supply Chains in Rwanda, (Kigali: BGR/RNRA, 2014), p. 49.

⁶⁷ OXFAM Australia, Impacts of mining, <<https://www.oxfam.org.au/what-we-do/mining/impacts-of-mining/>>, November 2021.

⁶⁸ Article 47 of the Law N° 27/2021 of 10/06/2021 governing land, Official Gazette Special N° of 10/06/2021; Article 5 of Law N° 58/2018 of 13/08/2018 on mining and quarry operations, Official Gazette n°33 of 13/08/2018.

⁶⁹ Article 5 (22o) of the Law N° 32/2015 of 11/06/2015 relating to expropriation in the public interest, Official Gazette n° 35 of 31/08/2015.

⁷⁰ See for example, Jean de Dieu Nsabimana, Rwamagana families to be expropriated to avoid mining accidents, in The New Times of 21st May 2018, <<https://www.newtimes.co.rw/news/rwamagana-families-be-expropriated-avoid-mining-accidents>>, November 2021.

cases which have been reported by some residents about dispute of ownership over land with mining companies⁷¹.

As far as environmental degradation is concerned, mining activities have been reported to be one of its causes, which in turn lead to conflicting interests between investors, the community and law enforcement. This includes: water pollution resulting in washing the ores in rivers or channelling used water in rivers, deforestation, erosion, land scenery deformation, poor management of tailings that end up filling river banks; all due to the non-implementation of environmental plans and mining in line with Environmental Impacts Assessments (EIAs) and which cases are found across the whole country as reported by the Office of the Auditor General (OAG)⁷².

2.2.4. State's interventions in fulfilling its obligations to respect and protect human rights in mining sector

The respect of human right in mining sector is monitored by RMB and the local authorities as they are endowed with powers to oversee the compliance of law and suspend mining activities that abuse human rights. For instance, in 2020, twenty-four (24) mining companies in Ngororero District were temporarily suspended for failure to follow mining regulations. Those companies were accused of causing environmental damages such as polluting rivers including Nyabarongo River and abuse of workers' rights by not providing them with appropriate PPEs, bathhouses and toilets. In addition to environmental degradation, illegal mining has been shown to cause human deaths and insecurity⁷³.

However, some work is being done in line with minimizing human rights abuses in mining sector by stakeholders like the Rwanda Extractive Workers Union (REWU), on workers' rights and Rwanda Women In&And Mining Organization (WIAMO) on women and children's rights⁷⁴.

⁷¹ See for instance, Havugimana Alphonse and others vs. Rutongo Mines Ltd., Supreme Court Case No RCAA 0022/14/CS of 25/11/2016.

⁷² OAG, Performance audit report of environmental management of mining activities for the period 01 January 2012 – 31 January 2015 (Kigali: OAG, 2018), pp. 4 – 11.

⁷³ TOP AFRICA NEWS, Ngororero: 24 Mining Companies temporarily suspended for non-compliance to regulations, <<https://www.topafricanews.com/2020/10/16/ngororero-24-mining-companies-temporarily-suspended-for-non-compliance-to-regulations/>>, November 2021.

⁷⁴ Maria Laura Barreto, Economic Contributions of Artisanal and Small-Scale Mining in Rwanda: Tin, Tantalum, and Tungsten, EARF, <https://www.responsiblemines.org/wp-content/uploads/2018/03/Rwanda_case_study.pdf>, November 2021.

CHAPTER III: METHODOLOGY

This section explains the methodology used to assess the human rights situation in Rwanda mining sector. It discusses survey approaches, sampling design, geographic coverage, data collection techniques, data quality and validity techniques, data analysis and presentation as well as ethical considerations.

3.1. Survey approaches

This survey employed mixed approaches to get and analyse information related to human rights situation in Rwanda mining sector. The analytical approach was used by breaking down the research objective systematically. The second approach was the deductive approach whereby comparison was made on both local and international human rights standards in mining industry vis-a-vis the practice. In addition, both qualitative and quantitative data served much importance in this survey.

3.2. Sampling design, frame and Sample Size

A two-stage sampling design was applied to select respondents of this survey. Primary sampling units were mining sites falling into four (4) categories of licences namely: Exploration Licence (EL), Small Scale Mining Licence (SSML), Artisanal Mining Licence (AML) and Large-Scale Mining Licence (LSML). Secondary sampling units were individuals working at mining workplace including miners, site managers and site engineers and neighbours of mining sites.

As for the sampling frame, the Commission used the list of 186 licenced mining companies obtained from Rwanda Mines Petroleum and Gas Board (RMB). The list contained 40 Exploration Licences (EL), 25 Artisanal Mining Licences (AML), 107 Small Scale Mining Licences (SSML) and 14 Large Scale Mining Licences (LSML).

The primary sample size was determined using modified Cochran's formula by considering normal derivation of 95% confidence level. The margin of error of ± 5 and Z-value equivalent to 1.96.

$$\text{Therefore, } n = \frac{n_o}{1 + \frac{(n_o - 1)}{N}} \quad n_o = \frac{z^2 pq}{e^2}$$

Where,

- i. n_0 is the initial sample size
- ii. n is the final sample size
 - e is the desired level of precision (i.e. the margin of error),
 - p is the (estimated) proportion of the population which has the attribute in question a
 - q is $1 - p$ and
 - z is the z-value
- iii. N is the population size

The sample size was calculated as forth:

$$n_0 = ((1.96)^2 (0.5) (0.5)) / (0.05)^2 = 385 \text{ and}$$

$$n = 385 / (1 + (384 / 186)) = 125.6315$$

Thus, the proposed primary sample size was 125 mining sites. Unfortunately, during the field works the enumerators found 34 inactive sites and this reduced the Sample size to 91 mining sites.

The secondary sample was purposively selected based on the number of mining sites operating in the concerned District. This means that the higher the number of mining sites was, the higher the sample size. Every site had four major groups of respondents namely site managers or investors, Site engineers, miners and mining site neighbours. Some respondents especially site managers and engineers could not be found at the mining site because they were absent at the time of the survey. In total, the number of interviewed respondents was 357 falling into the following categories: 91 groups of miners, 61 mining site engineers, 74 mining site managers/owners and 131 neighbours of the mining sites.

3.3. Geographic coverage and their respective sample size

Based on convenience sampling technique, the study selected 15 districts whereby probabilistic sample of 91 mining sites were visited and purposive sample of 357 respondents were interviewed. Table 3.1 indicates the covered districts and their respective sample size.

Table 3.1: Districts covered and number of surveyed mining sites

No	Location		Surveyed sites	
	Province/City	District	District Sample size	Province sample size
1	Kigali City	Nyarugenge	4	4
2	Eastern Province	Bugesera	8	28
3		Gatsibo	7	
4		Kayonza	6	
5		Rwamagana	7	
6	Southern province	Kamonyi	6	19
7		Muhanga	11	
8		Ruhango	2	
9	Western province	Karongi	4	24
10		Ngororero	6	
11		Nyamasheke	6	
12		Rutsiro	8	
13	Northern Province	Burera	3	16
14		Gakenke	10	
15		Rulindo	3	
Total			91	91

Source: Author 2021

Muhanga and Gakenke Districts count higher numbers of surveyed sites 11 and 10 respectively. The coverage of limited number of sites in some districts was due to the sampling frame that had outdated information on active mining sites.

3.4. Key Informant Interviews (KIs)

The Commission selected a qualitative sample of 29 key informants were interviewed including mining schools, nongovernmental organizations and associations, local authorities and Government institutions.

Table 3.2: Key informants interviewed during the survey

Nº	Key Informant Interviews respondent	Quantity
1	Districts' Personnel in charge of mining	15
2	Gender Monitoring Office (GMO)	1
3	Rwanda Women in & And Mining Organization (WIAMO) for the promotion of gender equality and social inclusion	1
4	Pact World Rwanda (ITRI/iTSCi) for the minerals supply chain due diligence (traceability and certification)	1
5	Rutongo mining schools (IPRC&TVETs)	1
6	Rwandan extractive industry workers union (REWU)	1
7	Rwanda Mining Board (RMB)	1
8	Ministry of Local Government (MINALOC)	1
9	Ministry of Environment (MOE)	1
10	Rwanda Development Board (RDB)	1
11	Ministry of Public Service and Labour (MIFOTRA)	1
12	Rwanda Environment Management Authority (REMA)	1
13	Mining sites neighbouring hospitals/health centres	3
Total KIIs		29

Source: Author

As the total KIIs are 29 respondents, the collected data from Key informant interviews remain valid.

3.5. Data collection techniques

The Commission has employed different data collection techniques to gather both primary and secondary data during this survey. Secondary data were collected via desk review of institutions' and scientific publications related to the current survey while primary data were gathered from the field using KIIs and designed questionnaire for each category of respondents.

3.6. Data quality and validity

The quality research instruments was achieved through different validations by NCHR and the hired consultant. The Commission deployed its staff for data collection to ensure that the information is accurate and human rights based.

3.7. Data analysis

Several approaches were applied to analyse the findings of the survey. Quantitative data were analysed using excel sheet and its analysis particularly focused on descriptive approach in terms of frequencies and percentages. The analysis of qualitative data used content analysis technique by grouping texts from transcripts based on their subject areas.

3.8. Data presentation

Presentation of the findings of the survey was in form of charts, diagrams and tabulations. These presentation techniques generated a clear visualization of the respect of human rights in mining sector..

3.9. Ethical considerations

The survey on the respect of human rights in mining in Rwanda was carried out within the confines of different aspects of ethical considerations.

3.9.1. Communicating relevant institutions and authorities

The NCHR wrote letters to inform relevant institutions and authorities about the survey and requested responses on questionnaires addressed to them.

3.9.2. Privacy and confidentiality

The survey conformed to the best practices of ensuring that information obtained from respondents were treated with utmost privacy and confidentiality. Respondents were assured to feel comfortable in providing the information and that their responses will be kept confidential and only be used in the interest of the survey.

3.9.3. Acknowledgement of references

There was full acknowledgement of various sources of information to which the Commission made reference to produce this report on the human rights situation in Rwanda mining sector.

3.9.4. Do no harm to the Participants

This survey was conducted in a manner that ensures no harm posed to respondents. This was achieved by interviewing respondents with precautions and taking safety measures into consideration.

CHAPTER IV. PRESENTATION AND DISCUSSION OF FINDINGS

This chapter presents and discusses findings on the human rights situation in Rwanda mining sector in line with specific objectives. After presenting demographic information of respondents, the chapter highlights the status of respect of miners' rights, respect of investors' rights and finally the status of human rights respect for mining sites' neighbouring communities.

4.1. Demographic characteristics of respondents

Demographic information presented in this section concerns individual respondents interviewed by the Commission during the survey. These include mining engineers, investors and mining sites' neighbours. Miners' demographic information was not assessed since they were interviewed in their representative groups at every mining site.

4.1.1. Mining engineers

Table 4.1 illustrates detailed information on interviewed mining engineers in respect of their age, gender and level of education.

Table 4. 1: Demographic information of mining engineers

Age	Number	Percentage (%)
18-30	30	49.18
30-40	24	39.34
40-50	6	9.84
50-60	1	1.64
Total	61	100
Gender		
Male	45	73.77
Female	16	26.23
Total	61	100
Education level		
Primary	2	3.28
A level (HS)	4	6.56
University	55	90.16
Total	61	100

Source: Primary data, 2021

Table 4.1 indicates that a total of 61 mining workers were interviewed during the survey, out of whom 73.77% were males and 26.23% were females. This means that female mining engineers are less represented than their male counterparts. Young mining engineers aged between 18 and 30 years old dominate with 49.18 % while those aged between 50 and 60 years old count the minority with 1.64 %. Concerning their level of education, 90.16% of interviewed mining engineers attended University, 6.56% attended high school and 3.28% attended only primary schools.

4.1.2. Mining Sites Managers or investors

Table 4.2 illustrates detailed information on interviewed mining sites managers/investors in respect of their age, gender and their level of education.

Table 4. 2: Demographic data for mining investors

Age	Number	Percentage (%)
18-30	14	18.92
30-40	22	29.73
40-50	29	39.19
50-60	7	9.46
Above 60	1	1.35
Preferred not to say	1	1.35
Total	74	100
Gender		
Female	4	5.41
Male	70	94.59
Total	74	100
Education level		
No school	1	1.35
Primary	12	16.22
O level	3	4.05
A level (HS)	11	14.86
TVET	3	4.05
University	44	59.46
Total	74	100.00

Source: Primary, 2021

As indicated in Table 4.2, among 74 mining sites managers or investors, males were 94.59% while 5.41% were females. Mining sites managers/investors aged between 40 and 50 years old were most represented with 39.19% and followed by those aged between 30 and 40 years old, with 29.73%.

As for the education level, 59.46% respondents attended university, 14.86% attended high school with A level while 4.05% attended TVET.

It was noted that few females were employed as managers or investors in mining operations. The majority of managers or investors in the mining sector were predominantly aged between 30 and 50.

4.1.3. Mining sites' neighbours

Table 4.3 indicates the detailed information on age, gender and education level of respondents from communities neighbouring mining sites.

Table 4. 3: Demographic data for mining site neighbours

Age	Number	Percentage (%)
16-17	1	0.8%
18-30	23	17.6%
30-40	43	32.8%
40-50	37	28.2%
40-50	1	0.8%
50-60	19	14.5%
60 and above	7	5.3%
Total	131	100.0%
Gender		
Female	47	35.9%
Male	84	64.1%
Total	131	100.0%
Education		
A Level (HS)	5	3.8%
No school	19	14.5%
O LEVEL	6	4.6%
Primary	94	71.8%
TVET	2	1.5%
University	4	3.1%
Not said	1	0.8%
Total	131	100.0%

Source: Primary data, 2021

It is indicated in Table 4.3 that among 131 interviewed mining sites neighbours, 35.9% were females while 64.1% were males. Many of interviewed mining sites' neighbours were aged between 30 and 40 years old with 32.8% and the majority of them attended primary schools at the rate of 71.8%.

4.2. The situation of human rights in Rwanda mining sector

This section focuses on the analysis and discussion of findings on the human rights situation in Rwanda mining sector. It highlights the human rights respect for mining employees, mining investors and mining sites' neighbouring communities respectively.

4.2.1. The respect of the rights of mining employees

Mining employees discussed under this section relate to general standards of workers' rights provided by the Article 40 of the Law N° 66/2018 of 30/08/2018 regulating labour in Rwanda. These include the right to work in an environment where health and safety in the workplace are guaranteed, the right to receive equal salary for works of equal value without discrimination of any kind; the right paid leave, the right to join a trade union of his/her choice and the to be trained by his/her employer.

4.2.1.1. The right to work in a healthy and safe workplace environment

As mentioned earlier, the right to work in a healthy and safe workplace environment is guaranteed in chapter 5 of the Law N° 66/2018 of 30/08/2018 regulating labour in Rwanda law, which provides for requirements for occupational health and safety (OHS) at workplace. These include general health and safety conditions in the workplace, OHS Committee, personal protective equipment (PPEs), first aid, fire-fighting and imminent danger, preventing and fighting occupational accidents and diseases, and the declaration of occupational accidents, disease or death.

The Law N° 58/2018 of 13/08/2018 on mining and quarry operations, in its Article 52 (3), (4) and (6), provides protection of employees in mineral exploration, exploitation, processing, trading and quarry operations. It is specified that any mining investor who fails to comply with health and safety standards in mineral exploration, processing, exploitation and trading and quarry operations commits a breach and is liable to a provisional suspension of the licence.

4.2.1.1.1. Accident Insurance

Due to the nature of mining sector, it is crucial for employees to have accident or risk insurance. During the survey, the Commission assessed the status of accident insurance for miners and other employees.

Figure 4. 1: Accident insurance coverage at mining sites



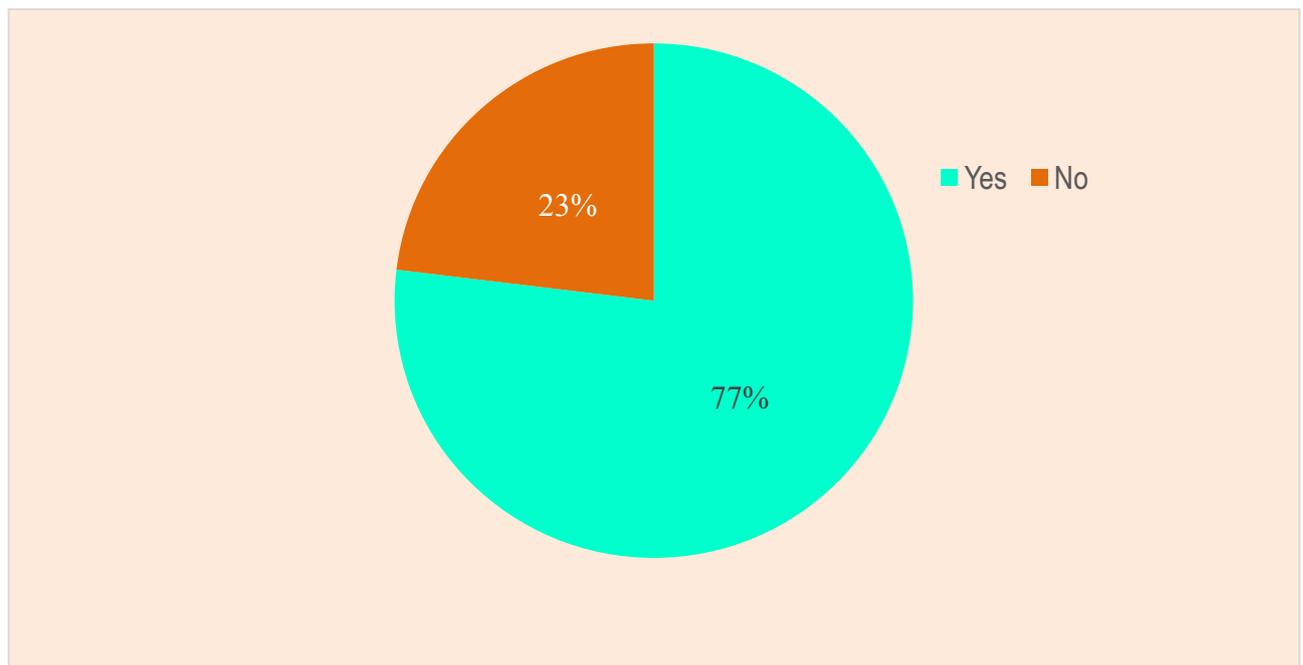
Source: Author's field survey 2021

Referring to Figure 4.1, 90.11% of mineworkers have accident insurance while 6.59% do not have it. It can be highlighted that some of mining firms use the group risk insurance for certain number of undefined workers.

4.2.1.1.2. Medical insurance

Apart from risk insurance, the survey assessed the coverage of medical insurance among mining employees. Table 4.5 indicates the findings.

Figure 4. 2: Medical insurance coverage among mineworkers



Source: Primary data 2021

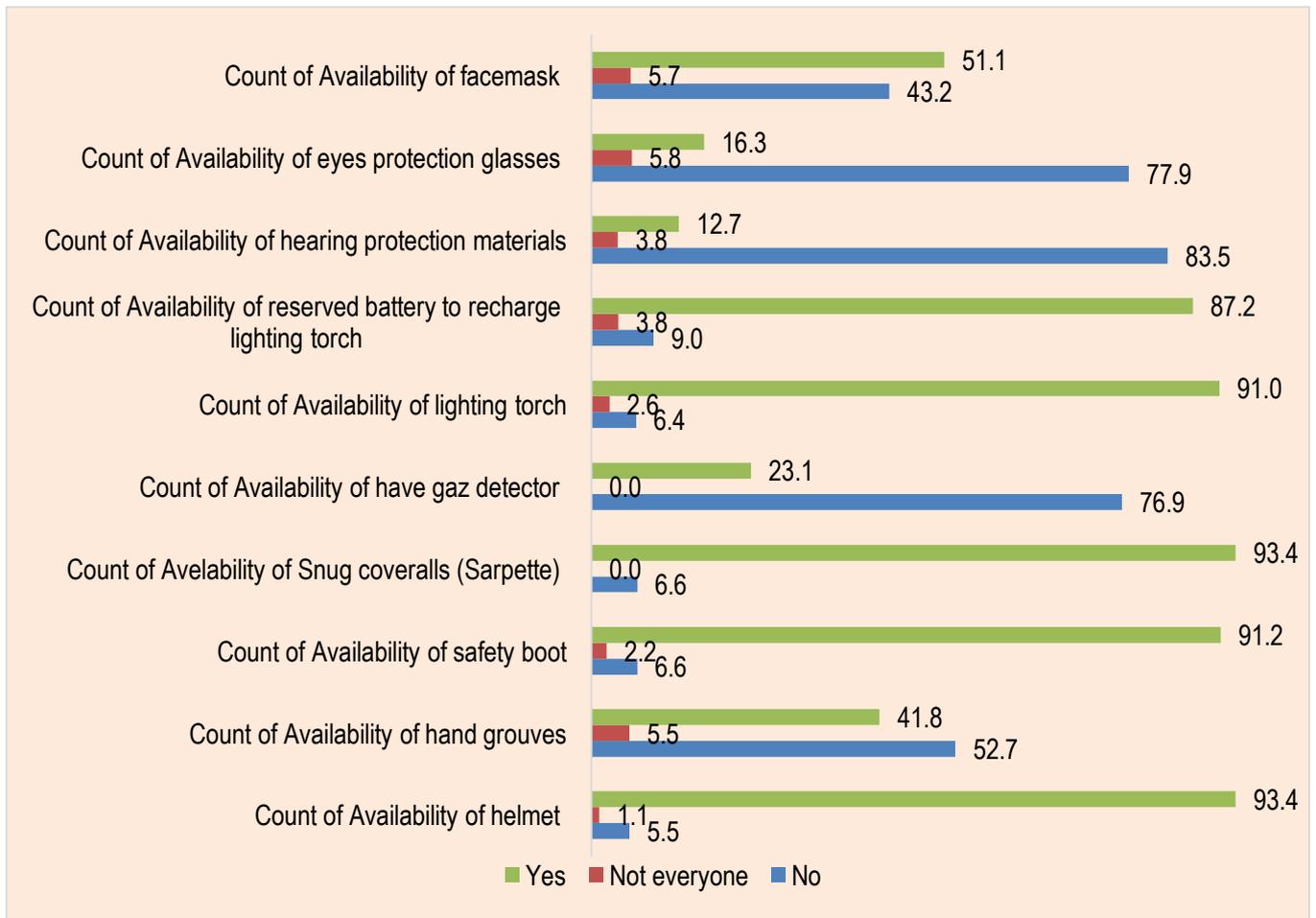
Figure 4.2 indicates that 77% of the visited mining sites had medical insurance for every employee while 23% of mining sites had not medical insurance for some employees.

The Commission acknowledged that some mining investors pay medical insurance for their employees and others facilitate employees with advances to pay their medical insurances. However, the Commission was concerned by 23% of mining sites that do not have medical insurance for every employee. Therefore, the Commission recommends that every employee at mining site shall have medical insurance.

4.2.1.1.3. Provision of Personal protection equipment (PPEs) to employees

Concerning the provision of personal protection equipment (PPEs), the Commission assessed the availability of common required PPEs in mining operations such as helmets, safety boots, snug coveralls, lighting torches, gas detectors, eyes protection glasses, hearing protection materials, reserved batteries, hearing protection materials, gas detectors, eye protection glasses, hand grooves and facemasks. The Figure 4.3 below displays the percentages on availability of PPEs.

Figure 4. 3: Percentage of mineworkers with Personal Protection Equipment



Source: Primary data, 2021

Figure 4.3, it is evident that the common PPEs such as helmets, safety boots, snug coveralls, lighting torches, gas detectors, eyes protection glasses, hearing protection materials and reserved batteries are provided to mining employees.

Despite general improvement in the provision of PPEs to mining employees, some loopholes were found on the provision of hearing protection materials, gas detectors, eye protection glasses, hand grooves and facemasks. Investors are recommended to fully avail PPEs to all mining workers at their mining sites.

4.2.1.1.4. Prevention and treatment of occupational diseases resulted from mining activities

During the survey, the Commission assessed the existence of preventive measures and treatment of occupational diseases related to mining operations. Table 4.5 illustrates reported mining related diseases by interviewed mineworkers.

Table 4. 4: Status of mining related disease among mineworkers

<i>Disease</i>	<i>Number of reported mining related disease</i>	<i>Percentage (%)</i>
<i>None</i>	86	94.51
<i>Chest pain</i>	1	1.10
<i>Tuberculosis</i>	2	2.20
<i>Silicosis</i>	1	1.10
<i>pneumoconiosis, lungs</i>	1	1.10
<i>Grand Total</i>	91	100

Source: Primary data, 2021

Referring to Table 4.5, in 91 visited mining sites, 94.51% reported that they did not experience any mining related disease while only 2.2% reported tuberculosis, 1.1% chest pain, 1.1% silicosis and 1.1% reported pneumoconiosis/lungs cases.

The consulted health facilities neighbouring visited mining sites revealed that they had not yet confirmed any kind of mining related case although they could not ascertain that mining related diseases do not exist. One of the interviewed health center lab technician highlighted that the health center received mine workers with respiratory problems even though the technician could not confirm whether they resulted from mining activities or not.

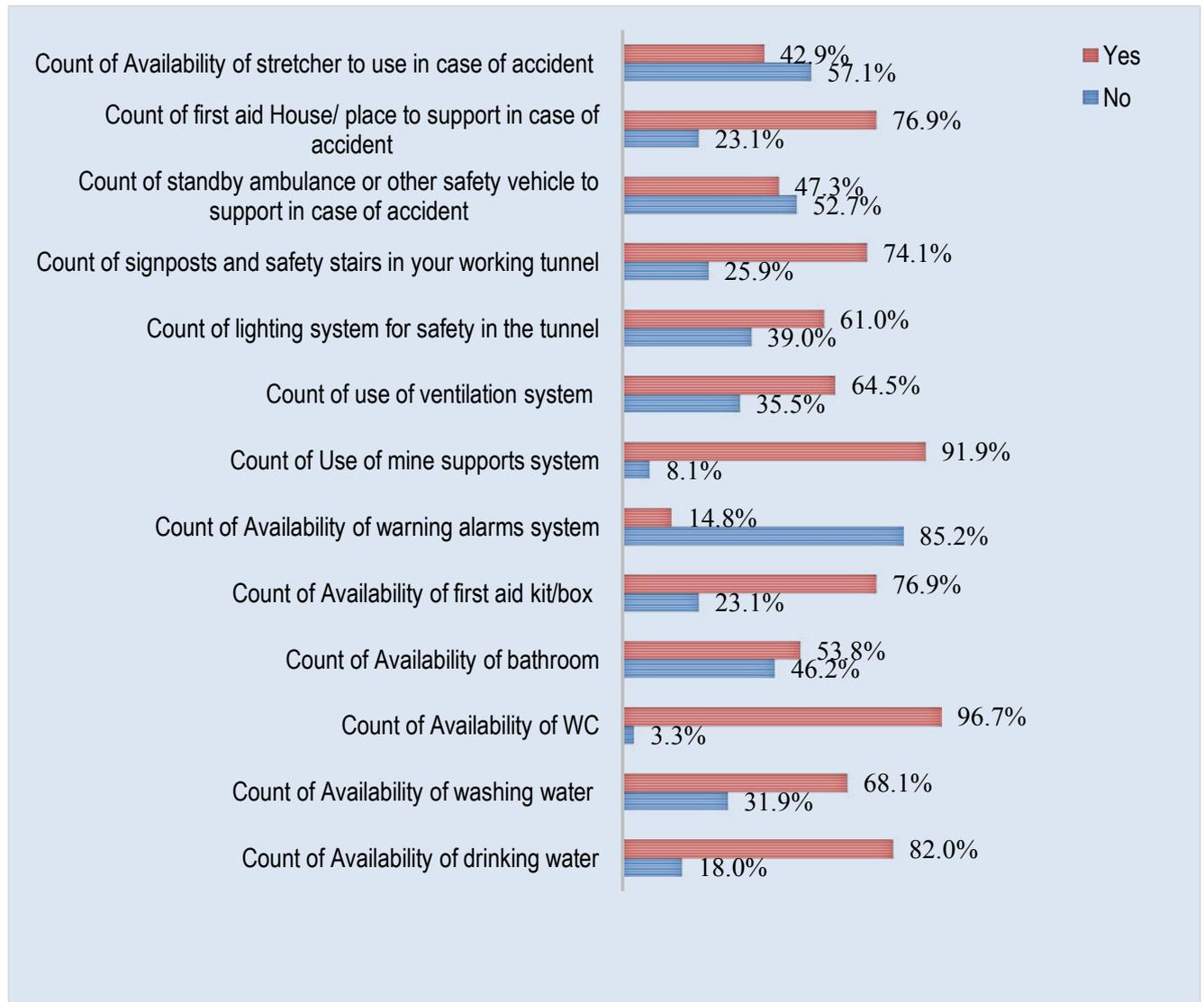
Health professionals explained that that mining related diseases show severe symptoms after long period and their diagnosis requires comprehensive examination in referral hospitals. This means that they are not easily diagnosable with simple test and simple symptoms and therefore recommend mineworkers to reveal to medical personnel their occupation status for comprehensive examination of such diseases.

As for the prevention of occupational mining related diseases, the Commission noticed that it is done by employing a number of advanced mining techniques including stopping dust emission among others.

4.2.1.1.5. Preserving safe working conditions

During the survey, the Commission assessed 13 elements of safe working environment in mining activities. Those assessed key elements are displayed in Figure 4.4.

Figure 4. 4: Status of safe work environment at the mining workplace



Source: Primary data, 2021

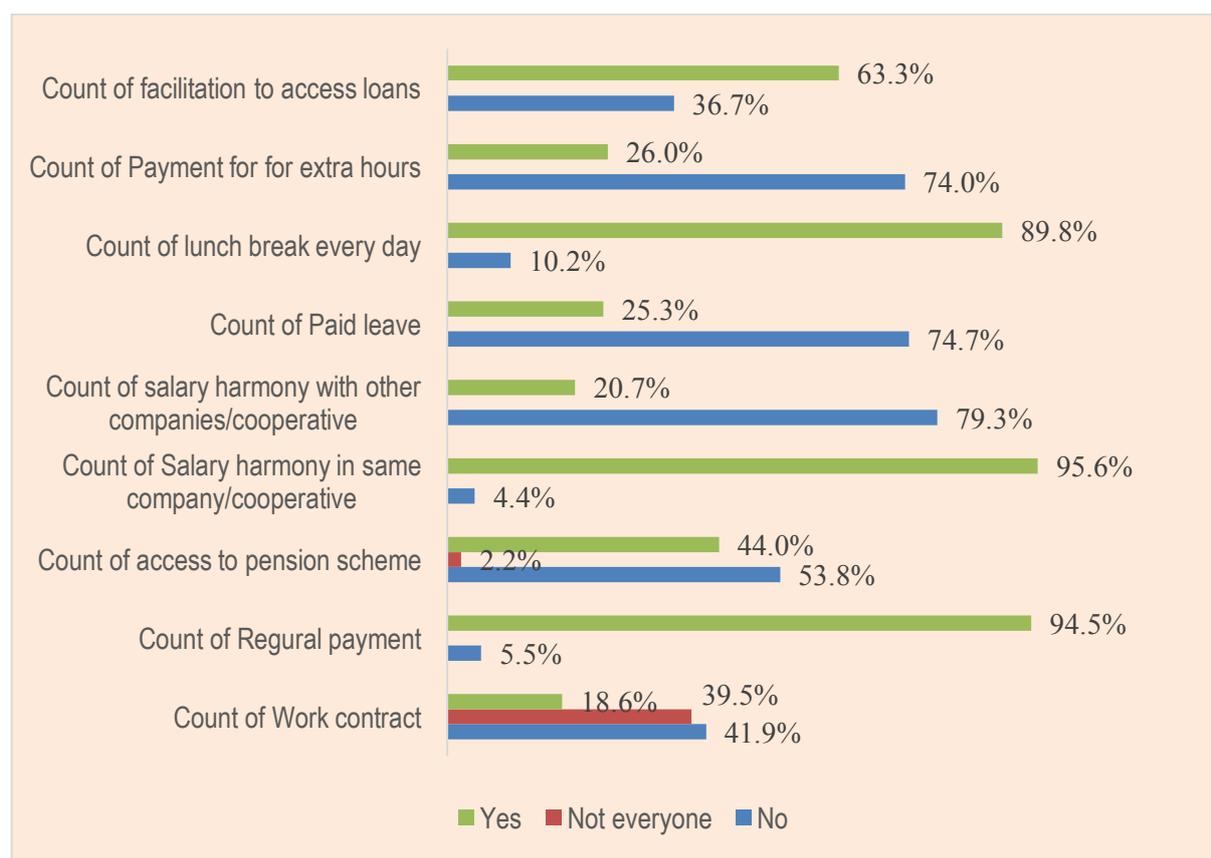
Figure 4.4 shows an improved status of availability of some key elements for safe working conditions at 91 visited mining sites. These are: toilets for workers (96.7%), mine supports system (91.6%), drinking water (82%), first aid kit/box (76.9%), use signposts and safety stairs in tunnels (74.1%) and first aid House/ place to support in case of accident (76.9%).

However, there were less respected safety conditions in mining sites such as warning alarm system which were only found in 14.8% of 91 visited mining sites, availability of standby ambulance or any other means of transport to support in case of accident (47.3%) and availability of stretchers to use in case of accidents were only available in 42.9% visited sites.

4.2.1.2. Right to employment contract, salary and social security contributions

As mentioned above, the Law N° 66/2018 of 30/08/2018 regulating labour in Rwanda which also applies to the mining sector highlights that employees have right to: written contracts, equal pay for equal jobs, paid leaves and to be affiliated to the social security among others. The following Figure 4.5 indicates Commission’s findings on considered elements for the realization of the right to employment contract, salary and social security contributions.

Figure 4. 5: Social welfare status in miners



Source: Primary data, 2021

Referring to Figure 4.5, it was found that 18.6% of 91 visited mining sites had all employees with written employment contracts, 39.5% of the sites had employees some of whom had written employment contracts and 41.9% had employees with no written employment contract. It was generally noticed that where employees did not have formal contracts, they were employed on casual basis and were paid per production.

As for salary payment, it was noted that mineworkers from 94.5% of visited mining sites had regular and harmonized salary within the same firm. However, salaries were different from one firm to another. It was also found that 63.3% of mineworkers were facilitated by employers with salary advances.

Concerning mineworkers' right to social security contributions, the Commission found that pension schemes are provided at the rate of 44%.

It was also found that, out of 91 visited mining sites, 25.3% allow paid leaves to mineworkers and 26.0% of them give payment to mineworkers for extra times.

4.2.1.3. Right to training

According to article 39 (8) of the Law N° 66/2018 of 30/08/2018 regulating labour in Rwanda, it is the obligation of the employer to provide professional training to employees and continue upgrading their capacity. Particularly, article 64 of the Law on mining and quarry operations in Rwanda says that the holder of a mining licence must have a program for employees' capacity building to allow them fulfil their duties.

Given the importance attributed to capacity building and employees' training in particular and the fact that all mineworkers do not have similar responsibilities and work demands, the Commission focused on training of two categories of mineworkers namely miners and mining engineers.

Table 4. 5: Status of miners' training

	No	%	Yes	%	Total	%
Count of receiving instructions every day	20	21.98%	71	78.02%	91	100.0%
Count of working trainings	40	43.96%	51	56.04%	91	100.0%
Count of training on workers' rights	68	74.73%	23	25.27%	91	100.0%

Source: Primary data, 2021

Table 4.6 indicates that, in 91 visited sites, 78.02% of them provide instructions to miners every day to smoothen their duties while 56.04% of them provide work related training. Unfortunately, only 25.27% of the visited sites provide training on workers' rights.

Table 4. 6: Status of mining engineers' training

	No		Not every day		Yes		Grand Total	
	Count	%	Count	%	Count	%	Count	%
Count of receiving instructions every day	7	11.5%	9	14.8%	45	73.8%	61	100%
Count of working trainings	27	44.3%	N/A		34	55.7%	61	100%
Count of training on workers' rights	43	70.5%	N/A		18	29.5%	61	100%

Source: Primary data, 2021

With reference to Table 4.7, it is shown that 73.8 % of the visited mining sites, mining engineers therein, receive working instructions every day.

Concerning training, 55.7% of mining engineers get work related trainings and only 29.5% receive training on workers' rights. It is therefore evident that there is a need to promote the right to training in mining sector.

4.2.1.4. Right to form and join trade unions

Trade unions are independent, membership-based organisations of workers that represent and negotiate on behalf of workers whereas it can be very difficult for an individual worker to speak to management about a workplace problem. They give advice when their members have problems at work, represent members in discussions with employers, and help improve wages and working conditions by negotiating with employers. Unions also make sure that their members' legal rights are enforced, provide and broker education and learning opportunities for members, promote equal opportunities at work, fight against discrimination and help to ensure a healthy and safe working environment. Many unions provide services for their members, such as welfare benefits, personal legal help and financial services⁷⁵.

During the survey, the Commission assessed the status of mineworkers' participation in trade unions and found that only 49.45% of miners were members of trade unions and 75.4% mining engineers had joined them.

⁷⁵ Ethical Trading Initiative (2010). Working with trade unions to improve working conditions: The benefits for retailers and suppliers

The Commission recommends that miners should be sensitized to form and join trade unions at their workplaces.

4.2.1.5. Women’s rights to equal employment opportunities as men

It is well known that females are not many in mining sector everywhere. Therefore, the study analyzed the status of gender mainstreaming in mining sector of Rwanda as the champion country in gender promotion.

Table 4. 9: Female works availability in mining sites

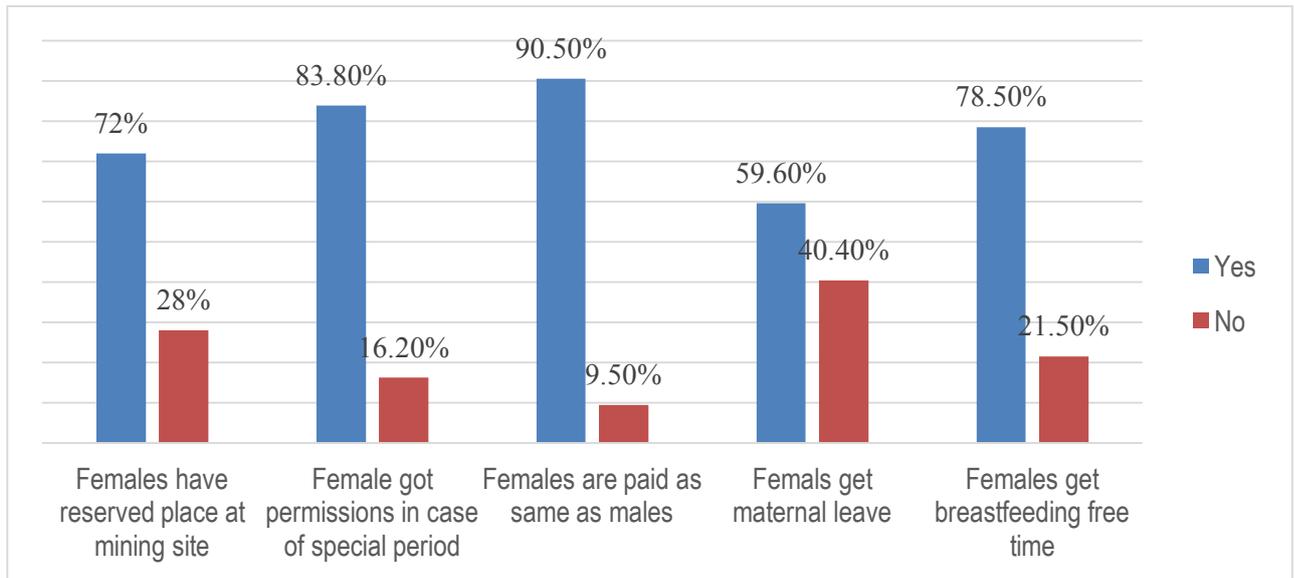
Row Labels	Count of female workers availability in mining sites	Count in %ge
No	15	16.5%
Yes	76	83.5%
<i>Grand Total</i>	91	100.0%

Source: Primary data, 2021

The survey results in Table 4.16 indicate that 83.5% of mining sites have women workers; but the number of female workers is less than 30% required in Rwanda gender policy. In the demographic data, Table 4.1 and Table 4.2, the mining engineers are 26.23% while the mining site owners are 5.41%. Additionally, the study interviewed Rwanda Development Board (RDB) about the number of female mining investors registered in Rwanda. The RDB responded the following: *“In 2020, ten Mining Projects were registered and some belongs to female investors. However, mining is still considered as energy intensive work which retards females to venture into it hence limited number of female investors compared to their male counterparts”*. Really, females are less interested in mining sector of Rwanda.

Furthermore, the enquiry continued by examining whether the working environment is suitable to female workers or not.

Figure 4. 10: Status of Gender mainstreaming (miners' respondents)



Source: Primary data, 2021

Generally, the working environment is not bad to females working in mining sectors. With reference to Figure 4.11, it was observed that 90.5% of respondents confirmed that the females are paid as same as males, 83.8% testified the grant of permission in case of the female special periods, the free time for blest feeding endowment affirmed at 78.5% of respondents, and the female reserved place is available in 72% of all assessed sites. However, many sites do not grant maternity leave to the workers due to their informal employment conditions.

The research outcomes from miners revealed existing perceptions that the nature of mining activities itself limit females in extraction works. It was also reported constrains related to female households' responsibilities and the fact that some females do not like the extraction employment themselves. Furthermore, the interviewees highlighted the limited financial capital as an additional limitation to female investors.

In brief, there are still barriers to either female workers or female investors in Rwanda mining sector. After gender mainstreaming, the study investigated the status of child labour in mining sector too.

4.2.1.6. Child right to be protected from worst forms of labour

Although there are some irregularities, the survey results proof the protection of children's rights in Rwanda mining sector.

The Commission found no child labour in 90 (98.9%) out of 91 surveyed sites. Only one site had 3 out 87 workers who were 17 years old on the visit date. The remaining one site had unknown number of children who do illegal extraction and play around the mining site due to poor monitoring and control of that mining site.

In addition, the survey asked also the local community about the child labor. Therefore, the two members of community responded the following:

1. *"There are children who left schools and used to come to fetch water for miners",* and
2. *"There are sites that does not have known employees and every person get in to site as there is no strong supervision of the site".*

Hence, even though the children's rights respect is at the significant level in mining activities, there are still gaps to seal. Especially, to improve seriousness in management of mining sites.

To conclude the findings' part, there are still loopholes in the respect of employees and community rights. However, the study did not identify any violation or abuse of investors' rights. Hence, it identified challenges they face related to the practice of their business sector in Rwanda. Therefore, the next part discusses the findings.

4.2.2. The respect of the rights of mining sites neighbouring communities

4.2.2.1. Rights to clean environment

The survey assessed whether mining practice in Rwanda expose the community to the environmental hazards focusing on cleanness of the mining site, water recycling, waste disposal dams, tree plantation, use of terracing techniques, air pollution prevention, noise pollution prevention and mine reclamation at disposal stage.

Table 4. 11: Status of clean environment at mining sites

	<i>N/A</i>	<i>No</i>	<i>%</i>	<i>Yes</i>	<i>%</i>	<i>Total</i>	<i>Total</i>
<i>Site always clean</i>		4	4.40%	87	95.60%	91	100%
<i>Used water recycling</i>	1	35	38.89%	55	61.11%	90	100%
<i>Tree plantation</i>	1	14	15.56%	76	84.44%	90	100%
<i>Waste disposal place</i>		22	24.18%	69	75.82%	91	100%
<i>Use of terracing to prevent lumps of soil erosion</i>	5	14	16.28%	72	83.72%	86	100%
<i>Manage dust to prevent air pollution</i>	5	25	29.07%	61	70.93%	86	100%
<i>Mine reclamation/ rehabilitation at the site disposal</i>	3	25	28.41%	63	71.59%	88	100%

Source: Primary data 2021

According to Table 4.8, the assessed elements for clean environment were implemented in more than 60% of the visited sites. The most implemented element was the cleanness of the mining site which was realized in 95.6% of the sites while the least implemented environment protection technique was the water recycling respected in 55 sites only.

The Commission noticed that mining sites do not comply with the environment protection regulations as long as none of the condition met at 100%.

The Commission also assessed the status of exposure to air and noise pollution, heavy vibration, water torrent from the mining sites, building cracks resulted from mining sites and accident resulted from mining activities through information gathered from 131 neighbours of mining sites.

Table 4. 12: Community exposure to environmental issues

	Not exposed		Exposed		Grand Total	
	Count	%	Count	%	Count	%
Exposed to air pollution	120	93.0%	9	7.0%	129	100%
Exposed to noise pollution	112	87.5%	16	12.5%	128	100%
Exposed to heavy vibration	118	95.2%	6	4.8%	124	100%
Exposed to water torrent from the mining site	117	91.4%	11	8.6%	128	100%

Exposed to building cracks resulted from mining site	124	96.9%	4	3.1%	128	100%
Exposed to accident resulted from mining site	121	94.5%	7	5.5%	128	100%

Source: Author's field survey 2021

The results in Table 4.9 show that the exposure to the above said environmental issues is less than 10% and the noise pollution exposure being the highest with 12.55%.

4.2.2.2. Right to private property

Apart from environmental protection, the Commission assessed the community right to private property. Out of 130 neighbours of mining sites who responded, only 27 (20.8%) of them had the land affected by extraction activities.

Table 4. 13: Community's land affected by mining activities

Row Labels	Count of mining activities occupied respondent's land.	Count of mining activities occupied respondent's land (%)
No	103	79.2%
Yes	27	20.8%
Grand Total	130	100%

Source: Primary data, 2021

It was found that among the affected neighbours, 96.29% (26 out of 27) got expropriated as indicated in Table 4.11 and only two remained non-expropriated.

Table 4. 14: Status of expropriation of population by mining investors

Row Labels	Count of Get expropriated	Count of Get expropriated in %
No	1	3.71%
Yes	26	96.29%
Grand Total	27	100.0%

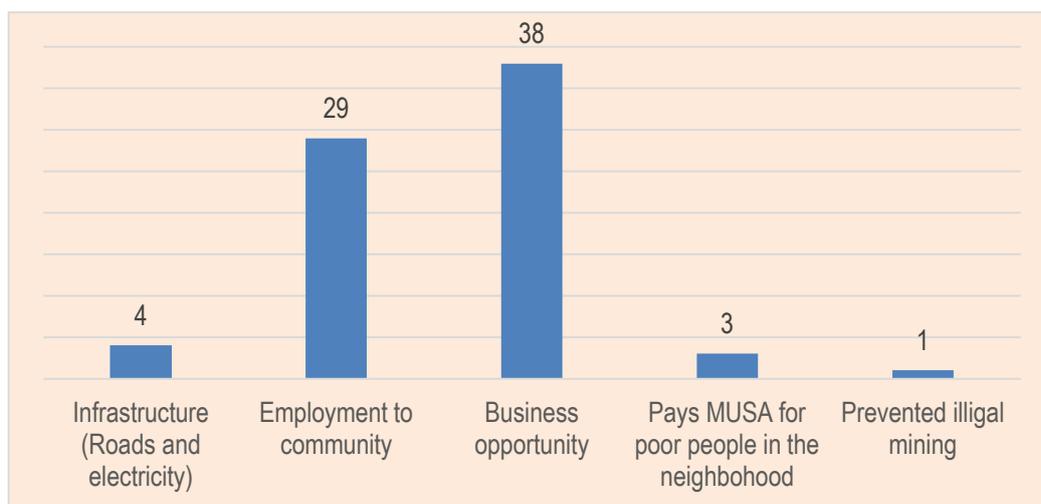
Source: Primary data, 2021

The non-expropriated person claimed that her cassava trees were cut down during exploratory activities with no compensation. It should be noted that being a mining exploratory study does not prevent the community to enjoy their right to private property.

4.2.2.3. Right to development

The survey asked about the benefits the local community get from the mining sites in their community. The results in Figure 4.6 indicated that the first benefit the community gain from the mining sites is “business opportunity”.

Figure 4.6: Benefits of neighbouring community



Source: Primary data, 2021

The community neighbouring mining sites revealed that mining activities in their neighborhood brings clients to their businesses and availed infrastructure facilitate their businesses. The job opportunity come on the second ranking and infrastructure access to the next rank. Lastly, the payment of MUSA to vulnerable group and security enhancement through prevention of illegal mining are other community benefits.

To summarize the community rights section, one may climax that: (1) The respect of right to clean environment has many dodges, (2) There is considerable level of right to private property respect and (3) The community next to mining activities enjoys right to development. The next section analyses the right to mining investors.

4.2.3. Rights of mining investors

The rights of mining investors vary depending on the type of mining licences they hold. Therefore, to analyze the status of mining investors rights, the study asked them the type of licence they hold to ease the survey.

Table 4. 15: Mining licences of respondents

Row Labels	Count in number	Count in %
Exploration licence, Mining licence, Minerals processing center	1	1.4%
Exploration licence	6	8.2%
Mining licence	65	89.0%
Mining licence and Trading licence	1	1.4%
Grand Total	73	100.0%

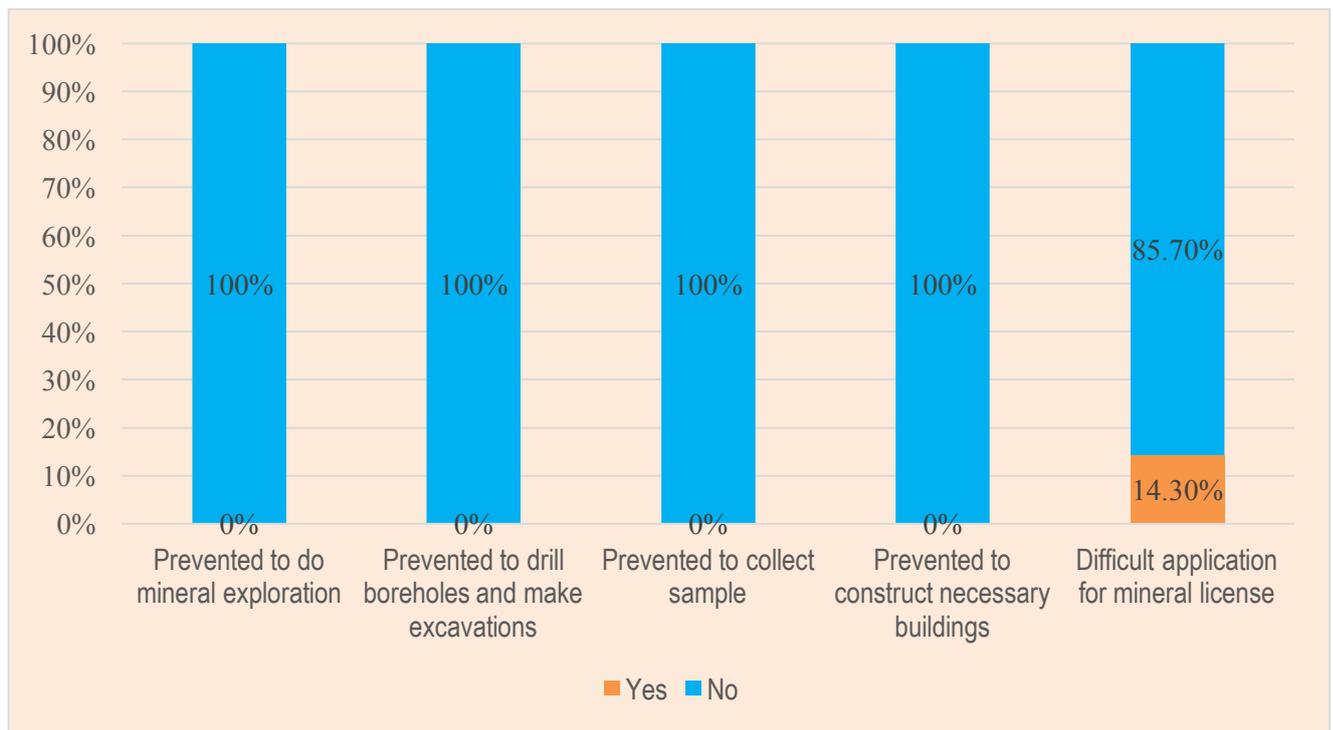
Source: Primary data, 2021

With reference to Table 4.12, there are 73 mining companies surveyed in entire surveyed 91 mining sites. Therefore, there are companies that found in more than one site. Among them, 65 (89.0%) companies have only mining licence, 6 (8.2%) have exploratory licence, 1(1.4%) has all exploration licence, mining licence and minerals processing licence, and the remaining one (1.4%) with Mining and Trading licence.

4.2.3.1. Rights of exploratory licence holders

The rights of exploratory licence holders are related to right to do exploration, right to drill holes and make excavation, right to collect sample and right to construct necessary buildings on the site.

Figure 4. 7: Status of Rights of Exploratory licence holder



Source: Primary data, 2021

The results in Figure 4.7 indicates only one manager who has responded that he did not receive the first priority during application of mining licence. Hence, the respect for the right to get priority during application is at 85.7% and all the remaining specific rights are respected fully.

However, the results shows that the application of manager who expressed the lack of prioritization during mining licence application was still under process. Hence, there are no Violation of exploratory licence holders' rights.

4.2.3.2. Rights of mining licence holders

The Table 4.13 illustrates the status of Rights of mining licence holders.

Table 4. 16: Status of Rights of mining licence holders

	Yes		No		Grand Total	
	Count	%	Count	%	Count	%
Prevented to construct necessary buildings	13	20.0%	52	80.0%	65	100.0%
Receiving primary right to apply for a mineral licence	55	82.1%	12	17.9%	67	100.0%
Prevention of right to mine/process/refine/transport minerals under your licence	3	4.5%	64	95.5%	67	100.0%
Prevention of right to put in place mining area equipment/plant/ machinery/buildings	1	1.6%	60	98.4%	61	100.0%
Getting banned from selling mineral products recovered from the mining licence area	14	20.9%	53	79.1%	67	100.0%

Source: Primary data, 2021

The results show that:

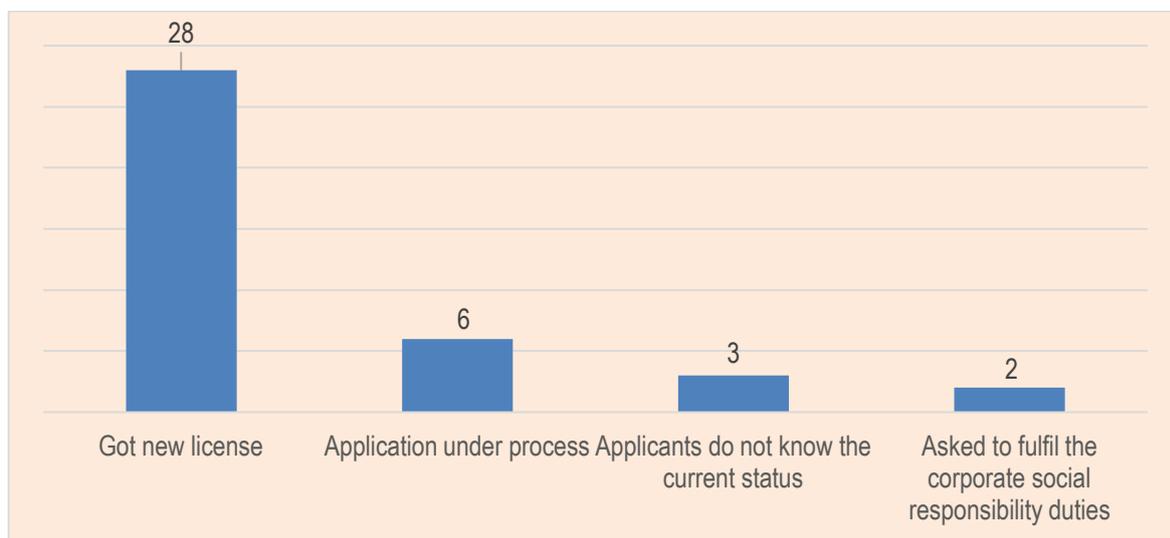
- The right of construction of necessary buildings respected at 80.0%,
- The right of Receiving primary right to apply for a mineral licence granted at 82.1%,
- The right to mine/process/refine/transport minerals under your licence respected at 95.5%,
- The right to put in place mining equipment/plants/ machineries/buildings cherished at 98.4%, and
- The right of selling mineral products recovered from the mining licence area esteemed at 79.1%.

When asked on the reasons of not granting the rights of mining licences holders at 100%, no reason was expressed by respondents and this means that it is related to procedure compliance reasons.

4.2.3.3. Right to renew the mining licence

After evaluation of specific rights to types of mining licences, the study proceeded with the common right to mining investors.

Figure 4. 8: Status of Right to renew the mining licence



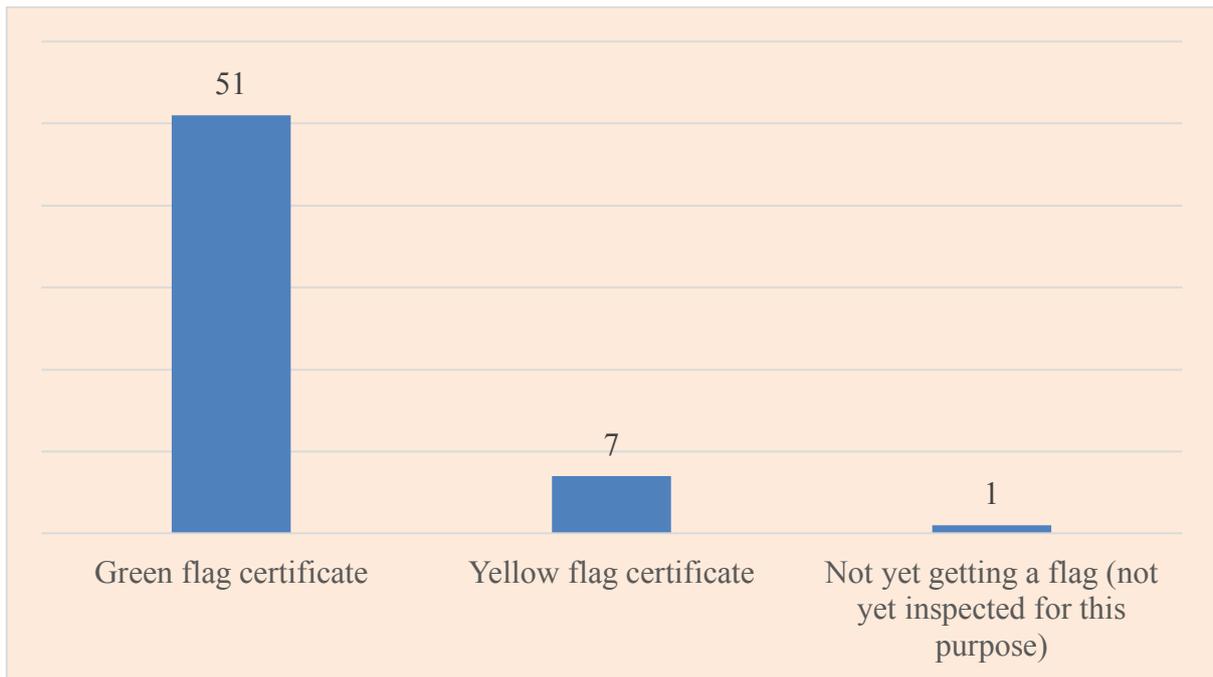
Source: Primary data, 2021

With reference to Figure 4.8, it is clear that there is full respect of right to licences renewal in all 39 companies who applied. 28 companies already got renewed licences, 5 responded that their applications are still under process, 3 applicants do not know the current status, and the remaining 2 were asked to fulfil the corporate social responsibility duties. Furthermore, the survey investigated the whether the current chain of custody do respect the rights of mining investors too.

4.2.3.4. Status of Investors rights in the current chain of custody system

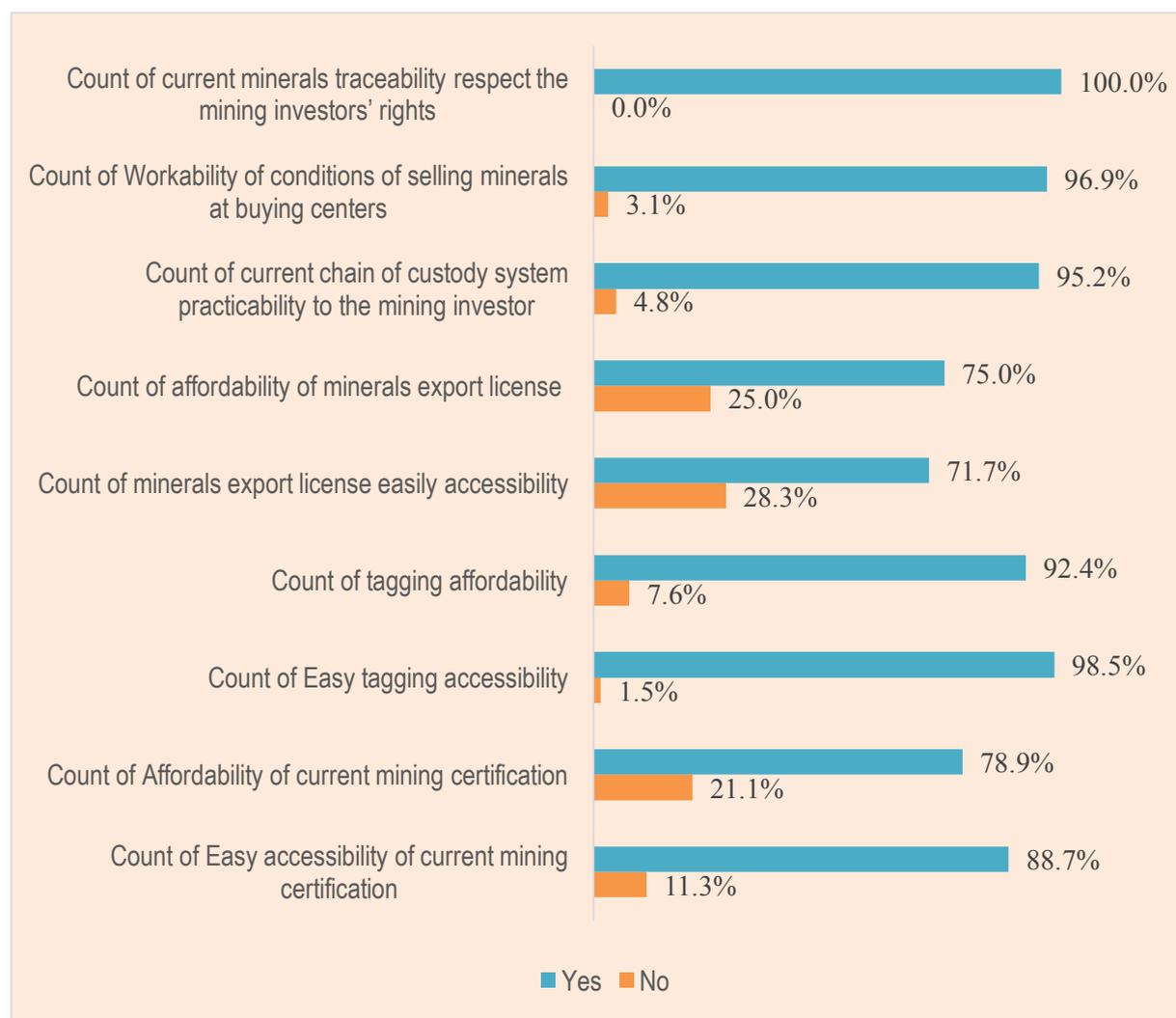
This survey evaluated the status of human rights in the current chain of custody system. It evaluated the human rights respect in traceability, mineral tagging, certification and licensing.

Figure 4. 9: Status of mining site certificate



In the surveyed 74 mining investors, 59 managed to respond on the question related to ICGL mining sites certification. With reference to Figure 4.9, 51(86.44%) have Green flag certificate. 7 (11.86%) have Yellow flag certificate and 1 (1.69%) have not yet inspected for this purpose. Moreover, none of investors indicated human rights abuse or violation during this certification.

Figure 4. 10: Human rights status in Chain of custody system



Source: Primary data, 2021

With reference to Figure 4.10, the mining investors highlighted at 100% that the current mineral traceability respect their rights. 95.2% of respondents confirmed easy practicability of current chain of custody system. Furthermore, the study detailed some considerable elements in chain of custody system to identify the gap.

Hence, the results show that:

- The current conditions of selling the minerals at buying centres are workable at 96.9%;
- The accessibility of mining certification is at 88.7% while its affordability is at 78.9%;
- Easy tagging is accessibility at 98.5% and its affordability confirmed at 92.4% of respondent;
- Finally, the minerals export licence is easily accessible at 71.7% and its affordability is at 75%.

Therefore, the study evaluated the major reasons causing the slight gap in chain of custody system practicability. Hence, Table 4.14 summarizes those reasons.

Table 4. 17: Reasons of certification inaccessibility and unaffordability

Reasons for certification inaccessibility	Number
Delay of procedures and registration process	1
It requires to complete many things and hard works	8
Procedures take time	3
Sub Total	11
Reasons of certification unaffordability	
High tax	1
It requires to complete many things and Demanding conditions	8
Lot of bureaucracy	2
Sub Total	11
Reasons of tagging unaffordability	
Within the EAC, the conditions became harder	1
Sub Total	1
Reasons of minerals export licence easily inaccessibility	
Bureaucracy Delay	2
The requirements are very complicated	2
Sub Total	4
Reasons of minerals export licence unaffordability	
Difficult/ Demanding requirements	4
Sub Total	4
Reasons current minerals traceability do not respect the mining investors' rights	
No local technicians with skills of mining	1
Sub Total	1

Source: Primary data, 2021

Generally, the major reasons remain the **“high demanding requirements”** at the first rank. The bureaucratic delays, the harder conditions in EAC, high tax and lack of local expert are the additional reasons. Among these causes, none of them associated to the human rights violation activities. Hence, there are no human rights violation in the currently applied chain of custody system in Rwanda. Rather, there are other hindrances.

The survey asked the mining sites investors about other hindrances in the Rwandan Chain of custody system and or in the current traceability system to mining investors. At the forefront, “the lack of mining business knowledge is the major hindrance to investors.

Table 4. 18: Other hindrances in the Chain of custody system and traceability to miners

Row Labels	Count of frequency
Lack of training (Lack of knowledge in mining sector)	13
Illegal miners who cause insecurity and mining fraudulent	9
Higher taxes applicable to the importation of machines and substances to use in mining like pumps and explosives.	6
Mineral prices fluctuation	6
Hard process	4
Remuneration to workers but the investment is high	2
The regulation posed to miners, Which are opposed to the real and practical mining situation on the site and Uncooperative implementers	2
Grand Total	42

Source: Primary data, 2021

The Table 4.15 indicated that the first challenge is "the limited knowledge in mining business practice" which has 13 frequencies. The second one is the illegal miners called "Abahebyi" who cause insecurity and other mining fraudulent counted 9 times. Third interruptions, counted 6 times, are both mineral price fluctuations (at local and international market) and the high importation cost (import of tools, machineries, and other materials needed in mining activities). The fourth difficulty is the hard process through which the miners have to pass through to fulfill the chain of custody and traceability requirements. Lastly the cost of production and the imposed regulations, which are opposed to the real-world local mining situation.

In brief, the results in the rights to investors section indicate that there is no violation of investor's rights. Rather, they face burdens linked to their business nature. The next part discusses the child labor and gender mainstreaming in mining sector in Rwanda.

4.3. IDENTIFIED CHALLENGES IN RWANDA MINING SECTOR

After thorough data analysis, the results indicated that, there are challenges in Rwanda mining sector. Those are the following in their three major groups:

4.3.1. Challenges to mining investors

1. The main identified challenge to mining investors is associated to limited knowledge:
 - (i) In mining professional and business practice to improve the production maximization, full safety coverage, environmental protection, and market maximization at both local and international levels to boost the revenue from their production at the minimum cost, limited knowledge;
 - (ii) To enhance the promotion and protection of human rights in mining sector and limited knowledge;
 - (iii) To laws, policies and other regulations governing mining practice to ensure the respect of full requirements.
2. The second challenge is the insufficient geological data to small scale and artisanal mining licence holders indicating the location of minerals and the estimated quantities of the ore body. If the ore body estimate is known, the investment budgeting would be easier. This would enhance formal employment, respect of corporate social responsibility and easy implementation of environmental safety requirements as long as all costs would be budgeted for in advance and the investor has higher probability to gain a positive return on investment;
3. Illegal mining activities that causes unsafety and environment destruction and thus affecting licence holders and mining employees;
4. Price fluctuations at both local and international market;
5. Artisanal mining due to limited capacity to employ advanced mining technology and equipment;
6. High cost of production (cost of importation of tools, machineries & materials and cost of certifications) and the regulations imposed to miners, which are opposed to the real and practical mining situation on the site.

4.3.2. Challenges to mining employees

1. Limited knowledge of workers' rights and the procedural requirements to get remedy in case of violation or abuse;
2. Informal way of employment;
3. The challenge related to remuneration of miners per production. There are employees who do not receive any remuneration while they spent their energy into the mine tunnel and did not find minerals. This brings poverty in their families, stunting of children, school drop out, illegal mining, etc...;
4. Due to the nature of the mining sector, which requires working hard by physical energy, the retirement age of 65/60 years is too high. The employees of this sector suggest to the Government to reduce those ages up to 55 years old voluntary and 60 years old;
5. The lack of gender mainstreaming in mining practice. There is perception of mining as a man's world, the lack of alternative placements for pregnant and breastfeeding women, lack of changing rooms and washrooms specific to women. In addition, unfamiliarity with women's participation in the mining workforce for both companies and community members where, in some mining areas, considered as prostitutes or lack of cultural values.

4.3.3. Challenges of legal and policy enforcement

1. Lack of full monitoring and evaluation of policies implementation and law compliance after granting licences. In addition, low enforcement of licence holders' accountability, corporate social responsibility and community protection responsibilities. These facilitate illegal mining, environmental destruction and insecurity on abandoned or less controlled mining sites;
2. Some mining companies do not invest efficiently in environmental restoration during and after mining activities. There are mining companies which implement restoration activities when forced to do it after suspension of their licences, and other companies even mine in State forests and this leads to deforestation which has a negative impacts like soil erosion, landslides, water turbidity.

CHAPTER V. GENERAL CONCLUSION AND RECOMMENDATIONS

The survey on the human rights situation in Rwanda mining sector was intended to assess the respect of human rights in order to prevent and redress the risks of negative impacts linked to business activities in mining sector. This chapter draws conclusions from the survey and issues recommendations to concerned organs.

5.1. Conclusion

The Commission assessed mineworkers' right to work in a healthy and safe workplace environment, the right to salary, the right to employment contracts, the right to social security, the right to training, the right to join trade unions, the child right to be protected against the worst forms of labour and women's right to equal employment opportunities as men. The findings indicated that tremendous improvement regarding workers' right to work in a healthy and safe workplace environment was noticed between 2015 and 2021 although more improvement is still required to better guarantee its respect.

For mining investors' rights, the results led to the conclusion that there is full respect of investors' rights, irrespective of business challenges they encounter. Those include limited knowledge to the professional mining business practice and human rights, limited geological data on ore body location and quantity, etc.

Concerning the rights of mining sites neighbouring communities, the survey highlighted considerable respect of the rights to private property. Communities also benefited business opportunities and employment among others from mining operations.

Therefore, it is in this regard that the survey concludes that, even though the human rights situation in mining sector of Rwanda improved considerably, there are still loopholes to be sealed in mining operations. The following recommendations were formulated to relevant authorities.

5.2. Recommendations

For alleviation of the loopholes that hinder the enjoyment of human rights respect in mining sector, the Commission recommends Rwanda Mining Board and its relevant stakeholders the following:

1. To update and publish regularly a list of active mining licence holders to support different users in their planning and decision making;

2. To publish regularly mineral prices updates on Rwanda market to facilitate miners to bargain their wages with employers since they are paid per production;
3. To enhance regular monitoring of mining activities and laws and regulations enforcement for environment protection, healthy and safe workplace environment and to ensure the respect of corporate social responsibility by mining companies;
4. To urge small scale and artisanal mining companies to employ improved equipment to resolve the problem of poor productivity affecting workers' remuneration;
5. To promote women's employment and investment in Rwanda mining sector.

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