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RIGHTS IN LIMBO: AN APPRAISAL OF THE RIGHTS OF MINING HOST COMMUNITIES UNDER THE NIGERIAN MINERALS AND MINING ACT 2007

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Abstract

This paper examines the rights of mining host communities as provided under the Nigerian Minerals and Mining Act, 2007. The Act repealed the Minerals and Mining Act No. 34 of 1999 for the purpose of regulating the exploration and exploitation of solid minerals in Nigeria. The central issue that inspired this article is the need to appraise the rights of host communities contained in Chapter 4 of the Nigerian Minerals and Mining Act, 2007, to determine their adequacy and the level of awareness among host communities regarding such rights. Nigerian laws have historically denied host communities ownership rights and active participation in the management of mineral resources. The ownership and control of all mineral resources is vested exclusively in the Federal Government of Nigeria under Section 44(3) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended). This paper also considers the various rights provided under Chapter 4 of the Act. The paper adopts doctrinal research methodology and finds that many host communities are unaware of these rights and remain at the mercy of government agencies and license applicants. It concludes that government agencies—including the National Orientation Agency, the Mining Cadastre Office, traditional institutions, and the Ministry of Environment—must intensify sensitization efforts to educate host communities about their statutory rights.

Key words: Rights, Limbo, Mining, Host, Communities, Minerals and Mining Act, Plateau State, Community Development Agreement.

1.0 Introduction

Nigeria is endowed with a vast array of solid minerals with the potential to attract investment and drive economic growth. The country possesses both human and material resources in unimaginable quantities, with a variety of minerals found in over five hundred locations across the nation. Each of the thirty-six states of the Federation and the Federal Capital Territory contains at least one mineral type1. These mineral resources range from tin, copper, bauxite, diamond, and gold, among others. Minerals may exist elements or as compounds and are generally categorised into eight broad platforms: silicates, quartz, sulphates, carbonates, oxides, halides, sulphides, phosphates, elements, and mineral oils.[2]

Nigerian laws have historically denied mining host communities ownership rights and active participation in the management of mineral resources found in their ancestral lands. The experience of resource-bearing communities has been marked by exclusion, environmental degradation, human rights violations, agitation, and the declaration of rights by host communities3. The statutory restriction on community ownership of resources has contributed to growing dissatisfaction among host communities and has necessitated an examination of the rights afforded to them under the Nigerian Minerals and Mining Act, 2007.

This article argues that while the Nigerian Minerals and Mining Act, 2007 provides a framework of rights for host communities, these rights remain largely theoretical—"rights in limbo"—due to lack of awareness, weak enforcement mechanisms, procedural gaps, and the prioritization of mining interests over community interests. This paper appraises the rights of host communities under the Act with a view to assessing their adequacy and the level of community awareness, with particular focus on Plateau State—a region with a long history of mining and recent significant regulatory interventions.

2.0 Ownership and Control of Mineral Resources in Nigeria

The authority for the ownership and control of minerals and mineral resources in Nigeria dates back to the colonial era, a legacy that has profoundly shaped the country's legal system and concept of property rights. As a British colony, most laws in Nigeria were fashioned after those of the colonial masters. Nigeria inherited a colonial framework in which ownership of mineral resources was vested in the British Crown. This was predicated on the legal fiction that the

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1 Chikezie, O. "A Review of the Nigerian Minerals/Mining Act, 2007 For Economic Transformation." *International Journal of Innovative Research Education, Technology & Strategies* (*IJIRETSS)* (2012) (4) (1).

2 *Ibid*.

3 Peterside, S.J. "Resource Control and Petroleum Industry." Paper presented at the Conference on Communities and the Petroleum Industry Bill, Creak Motel, Yenagoa, Bayelsa State, November 27-28, 2009, p. 4.

country, as a corporate entity, was the property of Great Britain. Consequently, all minerals—whether oil and gas or solid minerals—were deemed to belong to Britain.[4] As Sagay observed, 'The imperial masters claimed all the minerals in Nigeria for itself, as was to be expected; colonial rulers operated in their own interest, not in the interest of the colonized people.'[5]

This concept of state ownership of minerals was inherited by Nigeria at independence in 1960 and subsequently entrenched in the 1963 Republican Constitution.[6] After independence, the Nigerian state adopted and institutionalized this vestige of colonial experience.[7]

It is pertinent to note that land ownership was not a consideration in the Mineral Oils Ordinance of 1914[8] (as amended in 1925) and only became relevant as a legal provision in the Minerals Act of 1958.[9] The Constitution of the Federal Republic of Nigeria, 1999 (as amended) [10]places "mines and minerals, including oil fields, oil mining, geological surveys, and natural gas" on the Exclusive Legislative List,[11] granting the National Assembly exclusive power to legislate on these matters. Consequently, the Federal Government holds ownership and control of mineral resources in Nigeria. Section 44(3) of the Constitution provides:

> Notwithstanding the foregoing provision of this section the entire property in and control of all minerals, mineral oil and natural gas in, under or upon any land in Nigeria or in, upon the territorial waters and the Exclusive Economic Zone of Nigeria shall rest in the Government of the Federation and shall be managed in such manner as may be prescribed by the National Assembly

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4 Ajomo, M.A. "The Legal Framework of the Petroleum Industry." Paper presented at the Centre for Petroleum Environment and Development Studies Workshop on Essentials of Oil and Gas Law, Lagos, October 17-18, 2001. Cited in Lanre, A. "Ownership and Control of Oil, Gas and Mineral Resources in Nigeria: Between Legality and Legitimacy." TMLaw Review, 2013.

5 Sagay, I. Ownership and Control of Nigerian Petroleum Resources: A Legal Angle. In Victor Eromosele (ed.), Nigerian Petroleum Business: A Handbook. Advent Communications Ltd., 1997.

6 Schedule to the Constitution of the Federal Republic of Nigeria, 1963, Part I, Item 25.

7 Ajomo, op. cit.

8 Mineral Oils Ordinance, No. 17 of 1914. The Laws of the Federation of Nigeria and Lagos: In force 1 June 1958 (1959) Cap. 120.

9 Petroleum Act, 1969, Cap. 350 (1990).

10 Cap C20, Laws of the Federation of Nigeria, 2004.

11 Constitution of the Federal Republic of Nigeria, 1999 (as amended), Second Schedule, Part I, Exclusive Legislative List, Item 39.

This constitutional provision forms the legal foundation for the enactment of the Petroleum Act,[12] the Nigerian Minerals and Mining Act, 2007, and the Exclusive Economic Zone Act.[13] Section 1(1) of the Petroleum Act states:

> The entire ownership and control of all petroleum in, under or upon any lands to which this section applies shall be vested in the state. This section applies in all land (including land covered by water) which
>
> (a) is in Nigeria; or
>
> (b) in under the territory waters of Nigeria; or
>
> (c) forms part of the Exclusive Economic Zone of Nigeria.
>
> …state except in section of this act means a state of the Federation.

Similarly, Section (1) (1) of the Nigerian Minerals and Mining Act, 2007 provides:

> The entire property in and control of all Mineral resources in, under or upon any land in Nigeria, its contiguous continental shelf and all rivers, streams and water courses throughout Nigeria, any area covered by its territorial waters or constituency and the Exclusive Economic Zone is and shall be vested in the government of the Federation for and on behalf of the people of Nigeria.

A holistic reading of these provisions demonstrates unequivocally that ownership and control of natural resources—including petroleum, solid minerals, and even wild animals and plants in their natural habitat—is vested solely in the Federal Government of Nigeria.

The Nigerian Minerals and Mining Act, 2007 was enacted on 16 March 2007 to repeal the Minerals and Mining Act No. 34 of 1999 for the purpose of regulating solid minerals exploration in Nigeria. The Act vests control of all minerals in the Federal Government on behalf of the Nigerian people and prohibits unauthorized exploitation of minerals.[14] The Act further provides that the use of land for mining operations shall take priority over other uses and shall be

12 Cap P10, Laws of the Federation of Nigeria, 2004

13 Cap E17, Laws of the Federation of Nigeria, 2004.

14 No. 34 of 1999.

considered, for mining purposes, as constituting overriding public interest within the meaning of Section 28 of the Land Use Act.[15] Where a mining lease, small-scale mining lease, or quarry lease is granted over land subject to an existing statutory or customary right of occupancy, the Governor of the State shall, within sixty days of such grant, revoke the right of occupancy in accordance with Section 28 of the Land Use Act.[16]

3.0 Rights of Mining Host Communities Under the Nigerian Minerals and Mining Act, 2007

Chapter 4 of the Nigerian Minerals and Mining Act, 2007 confers upon host communities where mineral resources are found and mining exploration is to be conducted—certain rights in relation to such resources. Beyond the Minerals and Mining Act, other legislation also affords rights to mining host communities. For instance, the National Environmental Standards and Regulations Enforcement Agency (NESREA) Act, 2007 provides for rights of access to environmental information, participation in environmental decision-making, and access to justice in environmental matters. However, the critical questions remain: whether these rights are adequate; whether mining host communities, who are predominantly illiterate, understand these rights; and whether there are effective mechanisms for their enforcement. If the answers to these questions are in the negative, then these rights are indeed "rights in limbo."

Table 1: Summary of Host Community Rights, Statutory Basis, Gaps, and Awareness Level

S/N	Right	Statutory Provision	Identified Gaps	Community Awareness Level
1.	Customary Rights (salt, soda, potash, galena)	Section 97	No clear criteria for determining customary winning areas; method for compensation not specified	Very Low

15 Section 1(1) Nigerian Mining and Minerals Act, 2007.

16 Land Use Act, Cap L5, Laws of the Federation of Nigeria, 2004

2.	Right to Extract Quarry Minerals for Personal Use	Section 99	Risk of abuse; no provision for discovery of licensable minerals during extraction	Low
3.	Prohibition of Mining in Sacred Areas	Section 98	Determination vested in MCO/MRC without traditional institution involvement	Very Low (communities unaware and have surrendered sacred areas)
4.	Right of Consent Before Mineral Title Grant	Section 100	Conflict with Section 28 Land Use Act (gubernatorial revocation for mining)	Moderate (communities aware but consent often induced)
5.	Right to Graze or Cultivate	Section 101	Conditional and subordinate to mining operations	Low
6.	Right to Surface Rent	Section 102	Rent determination controlled by Minister; communities unaware of review rights	Low (payments received but framework unknown)
7.	Right of C of O Holder to Compensation	Section 104,107-109	Government pays first, lessee indemnifies; enforcement through suspension/revocation	Very Low

8.	Right to Compensation for Crops, Trees, Buildings, Water Pollution	Section 113,125	Compensation determination excludes community participation; judicial review right unknown	Low (compensation received but inadequacy unknown)
9.	Community Development Agreement (CDA)	Section 116-117	"Host community" undefined; representation unclear; Ministerial resolution favors title holders	Very Low

3.01 Customary Rights

Section 97(1) of the Nigerian Mineral and Mining Act, 2007 provides that:

> Nothing in this Act shall be construed as preventing any citizen of Nigeria from winning subject to the conditions which may be prescribed by the Minister, no citizen of Nigeria shall be prevented from mining salt, soda, potash or galena from any land (other than land within the area of mining lease or land designated by the Minister as security land) from which it had been the customs of the members of the community to which he belongs to win before the coming into force of the Nigerian Mineral and Mining Act, 200717.

Where, before the commencement of the Act, it was the custom of any community to win any of the minerals to which subsections (1) and (2) of Section 97 apply from land over which a mining lease is granted, the lessee shall, during the continuance of the lease, pay to the members of that community compensation as may be determined by a government valuer.18

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17 S.97(1) Nigerian Minerals and Mining Act, 2007.

18 S.97(3) *Ibid.*

Thus, the Act preserves the right of host communities to continue winning specified minerals where such extraction was customary prior to the Act. This provision is intended to foster harmonious relations between host communities and mineral title holders. However, the Act does not specify how to determine the area from which such minerals were customarily won. The provision is drafted in general terms and does not establish clear criteria for identifying the scope of customary extraction rights.

3.02 Right to Extract Certain Quarry Minerals for Personal Use by Local Inhabitants

Although mining activities generally require the holder to possess an exploration license or mining lease, the Act confers upon local inhabitants the right to extract certain quarry minerals for personal use. Section 99(1) and (2) provide:

> (1) Subject to Subsection of this section, nothing in the chapter 4 of the Nigerian Mineral and Mining Act, 2007 shall be deemed apply in relation to the extraction of sand, clay, laterite and stone for personal use by the local inhabitants of an area in accordance with the local custom of the community of that area.
>
> (2) However, in carrying out such activities, the use of explosives for the purpose of extraction of such minerals is highly prohibited.

This right is, however, susceptible to abuse, as local inhabitants may extend their extraction to other mineral resources that require licensing. Additionally, the Act does not address the situation where minerals requiring a license are discovered during the extraction of sand, clay, laterite, or stone.

3.03 Prohibition of Mineral Exploration in Sacred Area:

The Act protects the sacred and religious sites of host communities, thereby preserving the right to freedom of association guaranteed under Section 40 of the Constitution.19

Section 98(1) prohibits mining operations in sacred areas or the destruction of any tree or other object of veneration. Subsection (2) provides that any question regarding whether an area is held

19 Constitution of the Federal Republic of Nigeria, 1999 (as amended), Cap C20, Laws of the Federation of Nigeria, 2004

sacred or whether a tree or object is venerated shall be decided by the Mining Cadastre Office (MCO) upon the recommendation of the Mineral Resources Committee (MRC) of the state concerned. Subsection (3) provides that a licensee or lessee who causes injury or damage to any such area, tree, or object shall pay fair and adequate compensation to the affected persons or communities.

A significant limitation of this provision is that the determination of sacred areas is vested in the Mining Cadastre Office and the Mineral Resources Committee—bodies that may lack the cultural and traditional expertise necessary for such determinations. Ideally, traditional institutions should be formally involved in this process.

Empirical interviews conducted for this paper reveal that host communities are largely unaware of this right. A youth leader from Du District in Plateau State stated that his community believes that wherever mineral resources are discovered, ownership automatically vests in the Federal Government, even if the land includes shrines. He noted that the community has reluctantly relinquished some sacred places for mining, unaware of their statutory right to protection.[20] This was corroborated by a community leader who stated that they were never educated about this right and have at different times been threatened by license holders to surrender their sacred places for mining.[21]

An aged community leader in Bokkos Local Government Area confirmed that during the colonial era, lands containing mineral resources—including sacred areas—were forcefully taken from the people. He opined that even if rights are now embedded in legislation, they serve little practical purpose given this historical dispossession.[22]

3.04 Right of Owners or Occupiers of Land Subject of Application for Mineral Title

One of the rights that communities appear to be more familiar with is the right to be notified and to give consent before a mineral title is granted over their land. Section 100 provides:

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20 Interview with Mathew Chuwang, Youth Leader, Du District, Jos South Local Government Area, Plateau State, 7 January 2026.

21 Interview with Mai Angwa Dung Joseph, Ward Head, Doi Du, Jos South Local Government Area, Plateau State, 7 January 2026.

22 Interview with Da Emmanuel Mangut, Community Leader, Butura, Bokkos Local Government Area, Plateau State, 5 January 2026.

When an application is made for a Mineral title in respect of an area which includes any private owner or land or land occupied under a state lease or right of occupancy, the notice of the application shall be given in the prescribed manner to the owner or occupier of the land and consent obtained before the license is granted, otherwise, the license may be granted with the exclusion of the private land in question.

However, this right conflicts with the power conferred on the Governor of a State under the Land Use Act to revoke rights of occupancy in the overriding public interest, which includes mining purposes. Section 28(1) and (2)(c) of the Land Use Act[23] provides:

(1) It shall be lawful for the Governor to revoke a right of occupancy for overriding public interest.

(2) Overriding public interest in the case of a statutory right of occupancy means-

(a) the alienation by the occupier by assignment, mortgage, transfer of possession, sublease, or otherwise of any right of occupancy or part thereof contrary to the provisions of this Act or of any regulations made thereunder;

(b) the requirement of the land by the Government of the state or by a Local Government in the State, in either case for public purposes within the State, or the requirement of the land by the Government of the Federation for public purposes of the Federation.

(c) the requirement of the land for mining purposes or oil pipelines or for any purpose connected therewith.

(3) Overriding public interest in the case of a customary right of occupancy means-

(a) the requirement of the land by the Government of the State or by a Local Government in the State, in either case for public purposes within the State, or the requirements of the land by the Government of the Federation for public purposes of the Federation;

(b) the requirement of the land for mining purposes or oil pipelines or for any purpose connected therewith;

(c) the requirement of the land for the extraction of building materials;

(d) the alienation by the occupier by sale, assignment, mortgage, transfer of possession, sublease, bequest or otherwise of the right of occupancy without the requisite consent or approval.

This creates a fundamental tension: while Section 100 of the Minerals and Mining Act requires the consent of the landowner or occupier before a mineral title is granted, Section 28 of the Land Use Act[23] empowers the Governor to revoke the right of occupancy—thereby extinguishing the landowner's interest—for mining purposes. This conflict between the two statutes remains unresolved.

Interviews revealed that landowners in Plateau State are typically contacted and their consent obtained before mining licenses are issued. However, consent has never been withheld, and it is often obtained with substantial financial inducements.[24]

3.05 Right of Owner or Occupier to Graze or Cultivate

Section 101(1) - (3) of the Act provides that the holder of a mining lease shall exercise his rights subject to such limitations relating to surface rights as the Minister may prescribe. The lawful occupier of any land within an area subject to a mining lease retains the right to graze livestock upon or cultivate the surface of the land, provided that such activities do not interfere with mining operations. This right is conditional and subordinate to the mining lease.

3.06 Right of Owner or Occupier of Land Subject of Mining Lease (Surface Rent)

Section 102(1) - (7) of the Act establishes the framework for surface rent. The lessee must pay annual surface rent in advance at a rate determined by the Minister for all lands occupied or used

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23 Land Use Act, Cap L5, Laws of the Federation of Nigeria, 2004.

24 Interview with community and youth leaders of Du District, Jos South Local Government Area, Plateau State, 7 January 2026.

in connection with mining operations. Before granting a mining lease on private or State land, the Minister must inform the owner or occupier of the intention to grant the lease and require them to state the desired rate of annual surface rent. If the Minister finds the stated rent fair and reasonable, that amount becomes the surface rent payable. The rate is subject to revision by the Minister every five years.

Empirical findings indicate that while landowners are aware that they receive compensation and stipends, they are generally unaware that the amounts are supposed to be fixed by law and subject to periodic review.[25]

3.07 Right of Holder of Certificate of Occupancy

Section 104 of the Act provides that where, by reason of the grant or existence of a mining lease, the President (in the case of Federal land) or the Governor of a State (in any other case) revokes a right of occupancy over land subject to a certificate of occupancy, the lessee shall pay to the government the amount of compensation paid by the Governor to the holder of the certificate of occupancy by reason of the revocation.

Additionally, Section 107 provides that a mineral title holder may pay reasonable compensation to the occupier of land held under State lease or right of occupancy for any disturbance of surface rights or damage to the surface of the land. Section 108 provides that the amount of compensation shall be determined by the Mining Cadastre Office after consultation with the State Mineral Resources and Environmental Management Committee and a government licensed valuer.

If the holder defaults in payment of compensation within six months after the grant of the mineral title, the Minister may suspend the mineral title.[26] If payment is not made within thirty days after suspension, the Minister may revoke the mineral title.[27] Thus, the Act creates a mechanism whereby the government first compensates the holder of the revoked certificate of occupancy, and the mineral title holder then indemnifies the government. This indemnity obligation is enforceable through suspension or revocation of the mineral title.

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25 *Ibid.*

26 Section 109(1) Nigerian Minerals and Mining Act, 2007.

27 Section 109(2). *Ibid.*

3.08 Right of Owner or Occupier to Compensation for Crops, Economic Trees, Buildings, and Water Pollution.

Section 113(1) and (3) of the Act provides:

> In addition to any reimbursement payable to the Federal Government, the holder of a mineral title shall pay to the owner or occupier of any land within the area of the lease or license, compensation for any crop, economic trees, building or work damaged, removed or destroyed by the holder of the lease or license or by his servant or agent. The compensation herein subject to the provision of the Nigeria Minerals and Mining Act, 2007 be determined by the Minister after giving consideration to the report of the committee set up for consideration of any compensation to be paid by the Federal Government to the owner or occupier of land for which the lease or license is or may be granted under chapter 4 of the Nigeria Minerals and Mining Act, 2007.

Section 113(4) further provides that any person who suffers damage, loss, or disturbance of right by reason of the operation of any provision of Chapter 4 shall be entitled to adequate compensation and may refer any question concerning their interest or the amount of compensation to the Federal High Court having jurisdiction in the area where the subject matter is situate.

Additionally, Section 125 provides that a licensee or lessee shall pay compensation to an owner or occupier whose land is injuriously affected by pollution of any source of water used for domestic or other purposes as a consequence of exploration or mining operations. Interviews revealed that community members are generally unaware of these rights. While they are aware of receiving compensation, they do not know that the amount is subject to determination by statutory processes and that they have the right to seek judicial review of inadequate compensation.28

3.09 Community Development Agreement

28 Interview with community and youth leaders of Du District, Jos South Local Government Area, Plateau State, 7 January 2026.

To promote harmonious relations between host communities and mineral title holders, Section 116 of the Act mandates the conclusion of a Community Development Agreement (CDA). Section 116(1) provides:

Subject to the provisions of this section, the holder of a mining lease, small scale mining lease or quarry lease shall prior to the commencement of any development activity within the lease area, conclude with the host community where the operations are to be conducted an agreement referred to as the Community Development Agreement (CDA) or such other agreement that will ensure the transfer of social and economic benefits to the community.

Subsection (2) requires that the CDA contain undertakings with respect to the social and economic contributions the project will make to the sustainability of the community.[29] Subsection (3) provides that the CDA shall address, when relevant to the host community:

(a) Educational scholarships, apprenticeship, technical training, and employment opportunities for indigenes of the community;

(b) Financial or other forms of contributory support for infrastructural development and maintenance, including education, health, other community services, roads, water, and power;

(c) Assistance with the creation, development, and support of small-scale and micro-enterprises;

(d) Agricultural product marketing; and

(e) Methods and procedures of environmental and socio-economic management and local governance enhancement.[30]

Section 116(4) provides that if the host community and the lessee fail to conclude the CDA before the title holder is ready to commence development work, the matter shall be referred to the Minister for resolution.[31] Section 116(5) provides that the CDA shall be subject to review every five years and shall have binding effect on the parties until reviewed.[32] Section 117 further provides that the CDA shall specify appropriate consultative and monitoring frameworks

29 Section 116(2) Nigerian Minerals and Mining Act, 2007.

30 Section 116(3)(a)-(e) *Ibid.*

31 Section 116(4) *Ibid.*

32 Section 116(5).*Ibid.*

and the means by which the community may participate in the planning, implementation, management, and monitoring of activities under the agreement.[33]

A significant gap in the Act is the absence of a definition of "host community." The Act does not specify who represents the community or what constitutes a legitimate representative body. This ambiguity creates opportunities for elite capture and manipulation of the CDA process.

Furthermore, the referral of unresolved CDA negotiations to the Minister places host communities at a disadvantage. Given administrative bottlenecks and potential political interference, it is often difficult for communities to secure timely resolution. Community members, who typically have low levels of formal education, are ill-equipped to navigate the bureaucratic processes involved in ministerial intervention.[34]

4.0 Contemporary Developments in Plateau State

Plateau State has a long history of mining, particularly tin mining dating back to the colonial era. In recent years, the state has witnessed significant regulatory interventions aimed at addressing the challenges of insecurity, environmental degradation, and exploitation of artisanal miners. These contemporary developments provide important context for understanding the implementation—or lack thereof—of host community rights.

4.01 Executive Order 001 of 2025

On February 21, 2025, Governor Caleb Mutfwang of Plateau State issued Executive Order 001 temporarily suspending all mining activities across the state.[35] The order was motivated by several factors:

- The need to reform the mining sector and eliminate illegal and harmful mining practices
- Concerns about the exploitation of youth through unregulated artisanal mining
- The prevalence of insecurity linked to mining activities, including fatal attacks on mining communities

33 Section 117 *Ibid*.

34 Interview with community and youth leaders of Du District, Jos South Local Government Area, Plateau State, 7 January 2026.

35 This Day Live. "Plateau Mining Suspension: 159 Operators Cleared to Resume." May 2025.

- The imperative to protect citizens, particularly young people, from dangerous working conditions

The suspension was accompanied by the inauguration of a Technical Committee charged with overseeing the reform process. By May 2025, the Committee had cleared 159 operators to resume activities, including holders of mining licenses, small-scale mining leases, exploration licenses, artisanal permits, and 118 tin sheds and buying centers.[36]

4.2 Reforms Implemented Under the Executive Order

The Plateau State Government has implemented several reforms that directly impact host communities:

Reform Description Implications for Host Community Rights.

Formation of Cooperatives Artisanal miners are being organized into cooperatives for better regulation and support Potential to strengthen collective bargaining power for CDAs,

Underage Mining Ban Strict enforcement against underage mining, with sanctions for parents or guardians Protects children's rights and aligns with international labor standards

Buying Center Regulation Buying centers dealing with illegally sourced minerals face arrest and prosecution Aims to disrupt illegal mining networks that bypass community benefits

Gemstone Skills Acquisition Centre Approved to train and empower youths in safe, modern mining techniques Provides alternative livelihoods and technical capacity

Safety Training and Micro-loans Miners to receive training, safety gear, and micro-loans to minimize hazards Addresses safety gaps highlighted by recent tragedies

4.03 The Wase Tragedy of February 2026

In February 2026, over 35 miners died, and approximately 20 others were injured due to suspected carbon monoxide leakage at a mining site operated by Solid Unity Nigeria Limited in

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36 *Ibid*

Kampani Zurak Community, Wase Local Government Area of Plateau State.[37] This tragic incident underscored the severe safety deficiencies in the sector.

The Minister of Solid Minerals Development ordered the immediate shutdown of the site and a forensic investigation. The Minister attributed the tragedy to the absence of industry safety safeguards and noted that proper safety protocols—including adequate ventilation and gas monitoring—were not in place.[38]

For host communities, this incident highlights several critical issues:

· The inadequacy of safety regulation enforcement despite statutory provisions

· The failure of the CDA framework to ensure that title holders implement basic safety measures

· The lack of effective monitoring mechanisms at mining sites

· The absence of technical representatives from regulatory agencies at operational sites

4.04 Insecurity and Fatalities in Mining Communities

Beyond workplace safety, mining communities in Plateau State face severe security challenges. In January 2026, seven civilians were killed at a mining site in Wat, Kuru District, Jos South Local Government Area.[39] The People's Democratic Party (PDP) demanded a transparent investigation and prosecution of perpetrators, citing a 2025 fact-finding report that documented attacks on 420 communities, displacement of thousands, and nearly 12,000 lives lost in the state.[40]

These security challenges create an environment in which host communities are unable to effectively assert their statutory rights. The constant threat of violence undermines community organization, limits access to justice, and reinforces the perception that host communities are powerless in the face of both state and non-state actors.

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37 Vanguard. "Wase Mining Tragedy: Minister Orders Shutdown, Investigation." February 2026.

3838 *Ibid*

39 Premium Times. "Seven Killed in Attack on Mining Community in Plateau." January 2026.

40 *Ibid*

4.05 Plateau State Extractive Transparency Forum

In response to the challenges of CDA implementation and the need for transparency in the mining sector, the Plateau State Government is establishing the Plateau State Extractive Transparency Forum (PSETF).41 The forum is intended to ensure transparency in:

· The implementation of Community Development Agreements

· The computation and application of the 13% derivation principle for mineral-producing states

· The monitoring of environmental compliance by mining operators

The establishment of this forum represents a significant step toward addressing the accountability gaps identified in this paper. However, its effectiveness will depend on whether host communities are genuinely represented in its processes and whether its recommendations are implemented.

4.06 Legislative Developments: Proposed Host Communities Commission

At the federal level, the House of Representatives is considering a bill to establish a Commission to Protect the Rights of Mining Host Communities.42 The bill, sponsored by Sunday Dekeri, passed second reading in July 2024.

Key Provisions of the Proposed Bill:

· Mandate the Commission to ensure host communities benefit directly from mineral resources extracted from their lands

· Guarantee community representation in decision-making

· Secure fair reinvestment of mineral wealth locally

Stakeholder Positions:

· Community leaders, through the Federation of Nigerian Mining Host Communities, strongly support the bill, arguing that host communities have been treated as "sacrifice zones" left in poverty and environmental degradation.43

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41 Interview with community and youth leaders of Du District, Jos South Local Government Area, Plateau State, 7 January 2026

42 House of Representatives Bill, 2024 (unpublished, on file with author).

43 *Ibid*

· Industry representatives, including Dangote Industries Ltd, have cautioned that provisions like mandatory equity ownership and profit-sharing could discourage investment and clash with the existing Minerals and Mining Act. They advocate for stronger enforcement of existing CDAs instead.44

Committee Chairperson Gaza Gbefwi assured that the House would not support legislation that undermines investment but equally would not allow communities to remain impoverished amid mineral wealth.45

5.0 Findings

Based on the doctrinal analysis, empirical interviews, and examination of contemporary developments in Plateau State, the following findings emerge:

1. Lack of Awareness: Host communities in Plateau State are generally unaware of the rights conferred upon them by Chapter 4 of the Nigerian Minerals and Mining Act, 2007. The rights that communities are most familiar with are those relating to consent before mineral title grant and receipt of compensation, though even these are not fully understood in their statutory context. As reflected in Table 1, awareness levels range from "very low" for most rights to "moderate" only for the consent right.
2. Statutory Conflicts: There exists a fundamental conflict between Section 100 of the Minerals and Mining Act (requiring landowner consent) and Section 28 of the Land Use Act (permitting revocation of rights of occupancy for mining as overriding public interest). This conflict remains unresolved and undermines the effectiveness of the consent requirement.
3. Procedural Gaps: The Act fails to define key terms such as "host community" and does not establish clear procedures for determining customary extraction areas or sacred sites. The involvement of traditional institutions in such determinations is not mandated.
4. Weak Enforcement Mechanisms: The referral of CDA disputes to the Minister creates a bottleneck that disadvantages host communities. No timelines are prescribed for ministerial resolution, and communities lack the capacity to effectively pursue such matters.

44 *Ibid*

45 *Ibid*

5. Inadequate Compensation Framework: While the Act provides for compensation, the determination process is largely controlled by government agencies, with limited community participation. Communities are unaware of their right to seek judicial review of inadequate compensation.

6. Historical Dispossession: The colonial legacy of mineral ownership continues to shape community perceptions. Many community members believe they have no rights over mineral resources found on their ancestral lands, a perception reinforced by lack of sensitization.

7. Safety and Security Challenges: Recent tragedies such as the Wase carbon monoxide incident demonstrate the failure of safety regulation enforcement. Concurrently, insecurity in mining communities undermines the ability of host communities to organize and assert their rights.

8. Regulatory Interventions with Mixed Outcomes: Executive Order 001 of 2025 in Plateau State represents a significant regulatory intervention. While reforms such as the formation of cooperatives and the establishment of the Extractive Transparency Forum have potential to strengthen community rights, their effectiveness remains to be demonstrated.

9. Legislative Momentum: The proposed Host Communities Commission bill indicates growing recognition at the federal level of the need to strengthen host community protections. However, the outcome of this legislative initiative remains uncertain, with industry concerns about investment impacts.

6. 0 Conclusion

This paper has appraised the rights of mining host communities under the Nigerian Minerals and Mining Act, 2007. The Act, which is the principal legislation regulating solid minerals exploration and exploitation in Nigeria, vests ownership and control of all mineral resources in the Federal Government on behalf of the Nigerian people. This constitutional and statutory framework has historically excluded host communities from ownership and active participation in the management of mineral resources found in their ancestral lands.

Chapter 4 of the Act confers a range of rights upon host communities, including customary rights, rights to extract certain quarry minerals for personal use, protection of sacred areas, rights of consent, rights to graze and cultivate, rights to surface rent, rights to compensation, and the right to a Community Development Agreement. However, this paper finds that these rights are largely unknown to host communities and are rendered ineffective by procedural gaps, statutory conflicts, weak enforcement mechanisms, and inadequate sensitization.

Contemporary developments in Plateau State—including Executive Order 001 of 2025, the Wase tragedy, the establishment of the Extractive Transparency Forum, and the federal legislative initiative for a Host Communities Commission—highlight both the urgency of addressing host community rights and the potential pathways for reform. However, these developments also reveal the persistent gaps between statutory provisions and practical implementation.

The paper concludes that the rights of mining host communities under the Nigerian Minerals and Mining Act, 2007 remain, in significant measure, "rights in limbo"—existing in law but not in practice. Without deliberate efforts to sensitize communities, resolve statutory conflicts, strengthen enforcement mechanisms, and ensure genuine community participation in regulatory processes, these rights will continue to be inaccessible to those they are intended to protect. Based on the findings of this paper, the following recommendations are made:

A. Law Reform

1. Amendment to Define "Host Community": The National Assembly should amend the Nigerian Minerals and Mining Act, 2007 to include a clear definition of "host community" and establish criteria for determining legitimate community representatives for the purposes of Community Development Agreement negotiations.
2. Resolution of Statutory Conflict: Section 28 of the Land Use Act and Section 100 of the Minerals and Mining Act should be reconciled to clarify the respective roles of landowner consent and gubernatorial revocation powers. An amendment should provide that while mining constitutes overriding public interest, landowner consent remains a prerequisite for mineral title grant, with compensation determined by an independent body.
3. Inclusion of Traditional Institutions: The Act should be amended to require the involvement of traditional institutions in the determination of sacred areas, customary extraction rights, and community representation for CDA purposes.
4. Establishment of CDA Dispute Resolution Mechanism: Instead of referral to the Minister, the Act should establish an independent dispute resolution mechanism with clear timelines for resolving CDA negotiation deadlocks.
5. Support the Host Communities Commission Bill: The National Assembly should expedite the passage of the bill establishing a Commission to Protect the Rights of Mining Host

Communities, with amendments to address legitimate industry concerns while ensuring robust community protections.

B. Policy Implementation

1. Strengthen CDA Monitoring: The Ministry of Solid Minerals Development and the Mining Cadastre Office should establish a dedicated unit to monitor CDA implementation and ensure compliance by mineral title holders. The Plateau State Extractive Transparency Forum should serve as a model for similar initiatives in other mining states.
2. Enforce Compensation Payment Deadlines: The Minister should strictly enforce the six-month deadline for compensation payment and utilize the suspension and revocation powers under Sections 109 of the Act to ensure compliance.
3. Establish Compensation Review Mechanism: A mechanism should be established to ensure that surface rent and compensation amounts are reviewed every five years as required by the Act, with community participation in the review process.
4. Strengthen Safety Regulation Enforcement: Following the Wase tragedy, the Ministry of Solid Minerals Development should mandate the presence of technical representatives at mining sites and conduct regular safety inspections. Operators found in violation of safety standards should face immediate suspension.
5. Address Insecurity in Mining Communities: The Federal and Plateau State Governments should coordinate security responses to protect mining communities from attacks, ensuring that host communities can organize and assert their rights without fear of violence.

C. Sensitization and Capacity Building

1. Mass Sensitization Campaigns: The National Orientation Agency, in collaboration with the Ministry of Solid Minerals Development, the Ministry of Environment, and traditional institutions, should conduct sustained sensitization campaigns to educate host communities about their rights under the Minerals and Mining Act. These campaigns should be conducted in local languages and utilize traditional communication channels.
2. Community Legal Education: The Nigerian Bar Association and legal aid organizations should provide legal education and pro bono legal services to mining host communities to enable them to assert their rights.

3. Capacity Building for Community Leaders: Training programs should be organized for traditional rulers and community leaders on the provisions of the Minerals and Mining Act and their role in protecting community rights.

4. Artisanal Miner Support: The cooperative model being pursued in Plateau State should be expanded and supported with training, safety equipment, and access to finance, enabling artisanal miners to transition from informal to formal operations with associated rights protections.