

Jonah's Miners

A Situational Analysis of COVID-19
Impacts on Kenya's Artisanal Small
Scale Miners

ABOUT THIS REPORT

Jonah's Miners

The late Jonah Mngola's report on finding and hearing Artisanal Small Scale Miners in Kenya, making them visible to policy-makers.

One year after the passing of our Programmes Manager, Extractives, the late Jonah Mngola, we now release a report that he had been working on up until his last day on earth. He did not get to publish it, but we eventually found the strength to pick up where he left off, and publish it as a way to remember him and honour his life's work.

In Jonah's words

“

Honestly I find it unconscionable that in 2019 we could have people scratching at the earth for a pittance with their bare hands – no gloves, no shoes – in the hot sun, and with no equipment to increase their productivity. Yet they are mining some of the most valuable jewels that make rich people feel beautiful. Surely, they should feel worthy? These are my people. I want them to be seen, I want them to be heard. I want their lives to change. Si you find time, we go there and you will see them?



FOREWORD



Al Kags

Executive Director, Open Institute

Jonah's unexpected passing threw our team for a loop. The majority of us took a long time to come to terms with it and it was hard to get back to his work on extractives – to pick up where he held off.

Now as we remember him for his generosity of spirit, for his patience and kindness, we cannot fail to remember his passion and how much he cared for Artisanal Small Scale Miners in Kenya. We finally found the strength to open his files again and complete the work that he had started.

Jonah was always clear about what needs to happen in Kenya. That ultimately, ASMs should be able to work productively (meaning that they should get fair incomes for their hard-earned work) and safely (meaning that they should have dignity as they work – proper dressing, equipment and structures to help their work places be safe.)

For this to happen, government and social organisations must see the circumstances facing ASMs, have precise data about them and use that data to act on their needs and priorities.

Data are an important prerequisite for the sustainable development of the ASM sector. Whereas the goal is to have everyone in the sector working with dignity, the kinds of support that different people need is different. Women need different support from men and youth need more support than older miners.

Through this scoping exercise, we have been able to understand how we could use data to make visible every ASM in Kenya.

What we are hoping for is that we shall collaborate with governments (both county and national) to make sure that Artisanal Small Scale miners count – and are counted. It is time that we stopped working with estimates and find a way to work with the ASMs to collect and share their own citizen data.

We hope to collaborate with private sector players in the area to create methods that provide ASMs with inclusive action – financial literacy, civic literacy and even basic literacy where it is needed.

We are intent on working towards Jonah's vision for ASMs – and we are glad to call them, Jonah's miners.



ACRONYMS

ASM	Artisanal Small Scale Mining
CS	Cabinet Secretary
CSO	Civil Society Organisations
CSR	Corporate Social Responsibility
COVID-19	Coronavirus Disease (formerly referred to as “2019 novel coronavirus”)
EMCA	Environmental Management and Coordination Act, 1999
LSM	Large Scale Mining
NGO	Non-governmental Organisation
OI	Open Institute
PPE	Personal Protective Equipment
USD	United States Dollar
VAT	Value Added Tax

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Executive Summary

The extractive industry (oil, gas and mining) drives economic growth across the world. However, these benefits come at a cost. Greenhouse gas emissions, pollution and biodiversity loss are just some of the global threats that wanton extraction poses to human health and the environment. On the other hand, sustainable extraction of these mineral and oil and gas resources is expected to provide significant resources which can greatly boost economic performance; contributing significantly towards poverty reduction.

Kenya, in so far as its mineral potential is concerned, is still in early exploration, as the country was initially mapped out as an agricultural zone which led to reduced exploration for minerals. Kenya is vastly underexplored for minerals and its mining sector is currently dominated by the production of non-metallic commodities with its focus on multinational corporations.

In the past, small scale mining had been tainted with negative associations, hence largely considered illegal in many countries. Throughout Africa and in Kenya, small-scale mining is an activity that is widely gaining acceptance and recognition through the enactment of various legal frameworks in countries' mining sectors.

Small scale mining, though largely practised by artisans who lack the requisite training, education, essential equipment, management skills and financial resources, has great potential to contribute to poverty alleviation especially in rural areas. If Kenya fully harnesses the potential of artisanal small scale mining (ASM), the country can reap great benefits in reduction of rural-urban migration especially amongst unemployed youth, the creation of alternative economic activities, the contribution towards national incomes and state revenues helping the country achieve its developmental goals under the Kenya Vision 2030.

This report focuses on the outcomes of the Open Institute's (OI) engagements with artisanal miners in three counties. It highlights the common issues faced by artisanal miners before the outbreak of COVID-19, then goes further to provide a status report on how the COVID-19 pandemic has affected their work, livelihoods, highlighting their present needs, challenges and priorities.

The first part of the report delves into the scoping trip carried out that highlighted the challenges ASMs ordinarily face in their day to day lives. Such challenges included the gaps that exist with respect to the governance of the industry, the health and safety risks, the environmental problems that arise as a result of the use of mercury and the ASMs mining activities, the lack of financial literacy to manage the newfound wealth and the lack of data within the industry making it difficult for stakeholders to effectively redress ASM grievances. The report introduces the challenges facing ASMs in the wake of the COVID-19 pandemic and also includes the presidential directives on COVID-19 that have had a socioeconomic impact on livelihoods.

The second part of the report highlights OI's interventions that commenced in June 2020. Notably, OI mapped out ASM groups, to understand their needs and priorities. This was intended to get their issues and challenges addressed by Government agencies and other industry stakeholders by presenting a report with the requisite data and evidence. It also documented the impact of COVID-19 on ASMs especially in light of the presidential directives and curfew, social-distancing and cessation of movement measures put in place by the government from 2020 to 2021. This part of the report highlights the impact of COVID-19 on the youth in Taita-Taveta County, where mining activities were adversely impacted or halted. It also provides a snapshot of how COVID-19 has impacted women, commodity prices, livelihoods, children, health and safety of miners, and the environment, before ending by documenting the human rights issues that have arisen.

The third part of the report documents responses put in place to combat the impacts of COVID-19 on ASMs. It highlights and breaks down the communities responses to COVID-19. ASMs have resorted to table banking, livestock farming and agriculture. It highlights OI's initiatives including the remote mapping exercise carried out to identify the existing ASM groups in three counties (Taita Taveta, Migori and Kakamega), their challenges, needs and priorities. This mapping exercise aims to bring awareness of these issues to the Government and key stakeholders who are in a position to address them.

This part of the report also brings to the fore a tool OI has developed called Nuru. It is an online platform that allows citizen monitors on the ground to make observations about the social, economic and human rights impacts of the COVID-19 pandemic.

Lastly, the report provides recommendations towards addressing the plight of ASMs during COVID-19 including exempting ASMs from curfew measures that have been implemented to allow them to make up for the reduction of personnel and the limited time which has lowered production and left many of them hungry. Having a legal framework that provides for artisanal mining or raising awareness of artisans legal obligations is not enough for the growth, eradication of illegal activities and realisation of the potential of the small-scale mining sector. The report calls for the need to enhance the financial capacity of individual miners, improve their access to technology or mining equipment, provide access to finance for miners, information and support to enable the mining sector to have long-lasting Impacts towards Kenya's economy and growth.

It concludes with a call to action by stakeholders to address the plight of ASMs. Having a legal framework that provides for artisanal mining or raising awareness of artisan's legal obligations is not enough for the growth, eradication of illegal activities and realisation of the potential of the small-scale mining sector. The report calls for the need to enhance the financial capacity of miners, improve their access to technology or machinery, provide access to finance for miners, information and support to enable the mining sector to have long-lasting Impacts towards Kenya's economy and growth.

If Kenya fully harnesses the potential of ASM, the country can reap great benefits in reduction of rural-urban migration especially amongst unemployed youth, the creation of alternative economic activities, the contribution towards national incomes and state revenues helping the country achieve its developmental goals under the Kenya Vision 2030.



Introduction

Artisanal and Small scale Mining (ASM) is an activity that has garnered significant recognition and momentum throughout Africa and in Kenya, as seen in various policy documents and revised country mining codes. For many countries, this is an informal sector, limited in so far as the production is concerned, information, revenues and operations. The ASM sector, however, provides a livelihood for millions of people in different countries. This activity has been viewed as a major source of economic development for many rural and regional communities.

The definition of ASMs is often controversial, with negative associations attributed to them. ASM is tainted with its association to smuggling, tax evasion, health and safety risks, environmental risks, socio-cultural dislocations, unregulated and varied illicit activities. Artisanal mining is often characterized by persons in rural settings, with little or no machinery seeking to eke out or supplement a livelihood, to small-scale formal commercial mining activities that can responsibly produce minerals. Small scale mining can fall under two categories; the mining and quarrying of industrial minerals and construction materials on a small scale; and the mining of high-value minerals, such as gold and gemstones of which the latter will be the focus of this report. It is largely practised in rural areas.

Kenya's Rift Valley is marked with mineral occurrences of soda ash, gemstones, gypsum, fluorspar, gold, manganese, diatomite, marble and granite amongst other minerals¹. Western Kenya and Nyanza are known to have mineral occurrences of gold, iron ore and copper. Whilst Central Kenya has mineral deposits of iron ore, gemstones, coal, gypsum, diatomite, manganese, carbon dioxide and limestone amongst other minerals. The Coastal part of Kenya is known to have mineral occurrences of iron ore, gemstones, graphite, rare earth elements, titanium, gypsum, manganese, niobium amongst other minerals. The North-Eastern part of Kenya is known for its gypsum.

Kenya had historically been mapped as an agricultural zone, this resulted in the reduced exploration of minerals, as such there still is an early exploration of its mineral potential. Metallic minerals produced in Kenya include titanium, gold and iron ore. The country recently made announcements of having world-class deposits of rare earth elements in the coastal part of Kenya estimated to be worth USD 62.4 Billion.

Whilst the focus has long been on large scale mining (LSM), little data exists with respect to the ASM field. The sustainable extraction of these mineral resources is expected to provide significant resources which can greatly boost economic performance, contributing towards poverty reduction. All this while globally, demand for minerals globally is growing and provides great opportunities for the prosperity of communities in Kenya, better management of the mining industries - particularly the artisanal small scale mining sector - will improve the livelihoods of miners and help eliminate poverty and there need to be a deliberate effort to include Women and Youth in the decision making processes in the mining industries will strengthen the mining industry in Kenya.

The project area's focus is Western Kenya; Migori County and Kakamega County which are both known for gold. The project also focuses on Coastal Kenya, specifically Taita-Taveta County which is known for its gemstones.

It is estimated that sub-Saharan Africa's small scale mining produces gold and gemstones worth about USD 1 Billion². Nevertheless, statistics from this sub-sector are difficult to ascertain, and so the economic impact in Kenya is difficult to determine.

¹Kenya Mining Investment Handbook, 2016, Government of Kenya, 21-27.

² International Labour Organisation, Social and Labour Issues in Small Scale Mines, 1999.

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ASMs within Kenya's Legal Framework



Kenya's Mining Act has been harmonized with existing environmental legislation, as it requires mineral rights holders to comply with the requirements of the Environmental Management and Co-ordination Act, 1999 (EMCA). For Artisanal miners, it provides that holders are to observe good mining practices, health and safety rules and pay due regard to the protection of the environment and the Cabinet Secretary is to prescribe regulations for the protection, health and safety of ASM operations.

Kenya's Mining laws emanate from the Constitution of Kenya 2010 (herewith Constitution) which is the supreme law of the land and binds all persons and all State organs at both levels of Government³. In Kenya, the land belongs to the people as a nation, communities and individuals. Land in Kenya is classified as public, community or private land and minerals and mineral oils fall under public land. The minerals vest in and are held by the Government in trust for the people.

Several rights are emanating from Chapter 4 of the Constitution that apply to ASMs, these include the right to freedom and security which connotes persons not being deprived of freedom arbitrarily or without just cause or to be treated in a cruel or inhuman or degrading manner; human dignity; right to access to information; freedom of assembly, peaceable demonstration and petition; economic and social rights which include the right to access adequate housing and reasonable standards of sanitation, freedom from hunger, social security and education. The definition of ASMs is controversial, with negative associations attributed to them. It is tainted with its association to smuggling, tax evasion, health and safety risks, socio-cultural dislocations, unregulated and varied illicit activities.

Kenya's Mining and Minerals Policy Sessional Paper No. 7 of 2016⁴ recognised the potential of the ASM sector and its strategy called upon the National Government to mainstream and formalize ASM mining operations to support livelihoods and entrepreneurship. The policy provided that the Government would remove barriers holding back the development of ASMs, this is with regards to the lack of access to finance, recognition of gender and prohibitions on the exploitation of child labour, recognized mineral rights, inadequate technical capacities and provision of incentives to operate legally.

The policy complements the Mining Act No. 12 of 2016⁵ (herewith the Mining Act), which provides for the recognition of "artisanal mining" which connotes the traditional and customary mining operations using traditional or customary ways and means. The Mining Act guides as to who qualifies to be an artisanal miner: individuals have to be citizens of Kenya, have attained the age of majority and may be members of an artisanal mining cooperative association or group.

Mining permits grant the holder the authority to carry out small scale mining operations. The absence of mining permits for persons carrying out mining operations, using customary or traditional means, infers that they are carrying out such activities without authority being given and such actions can be categorised as unlawful or an illegal act.

Despite the recognition of ASMs within the law, our engagements with ASMs informed us that they were not pleased with the negative associations that come with it including discrimination. The COVID-19 pandemic has further compounded their challenges as with all sectors. The pandemic has deepened pre-existing inequalities, exposing vulnerabilities in social, political and economic systems.

²International Labour Organisation, Social and Labour Issues in Small Scale Mines, 1999.

³Article 2, Constitution of Kenya, 2010.

⁴<http://www.jkuat.ac.ke/departments/mining/wp-content/uploads/2020/01/PUBLISHED-MINING-POLICY-Parliament-final-1.pdf>

⁵http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/MiningAct_No12of2016.pdf



“Artisanal mining” connotes the traditional and customary mining operations using traditional or customary ways and means.

- Kenya’s Mining Act No. 12 of 2016

Government anti-COVID-19 measures and ASMs



In Kenya, ASM activities have been hit hard by the ongoing COVID-19 pandemic. The previously imposed lockdowns and curfew left miners and potential investors contemplating exiting the sector - many of them being rural and marginalized communities whose economies are entirely dependent on the minerals. Kenya's ASMs are believed to be approximately 140,000 thousand persons, with 800,000 persons directly dependent on these small scale miners.

The effects of COVID-19 and the nationwide measures that the government has taken in Kenya led to decreased mining activities and investment. Key informant interviews by OI revealed that middlemen did take advantage of low business volumes by paying pittances for commodities. This occurred against a global spike in gold prices as investors and retail buyers sought to hedge against rising inflation and many central banks injected immense amounts of liquidity into the financial system. It was posited that the economic cost and consequences of the pandemic and the fight will last for a long time globally.

Kenya's first case of the novel coronavirus COVID-19 was confirmed by the Ministry of Health on March 12, 2020, in Nairobi. The presumed case had been tested and confirmed at the National Influenza Centre Laboratory.

The National Government through the Ministry of Health put in place several measures to safeguard public health including but not limited to a multi-agency approach to tackle COVID-19. The National Emergency Response Committee was established through the Presidential Executive Order.

The raft of measures imposed that affected ASM's included:

1 The Ministry of Health imposed social distancing measures and wearing of masks by all Kenyans when in public places. In line with this, there was a closure of bars and nightclubs and the prohibition of the sale of alcohol by licensed hotels.

2 There was a restriction of numbers in public gatherings and workplaces. A further restriction was also placed by the Inter-Faith Council, limiting the maximum number of persons permitted to attend funerals and weddings, with all in attendance abiding by the Ministry of Health Protocols. The Government directed that all schools and tertiary institutions be closed with immediate effect and would remain closed pending multisectoral consultations guaranteeing the safety of learners.

3 There was a ban on the sale of second-hand clothing, otherwise known as 'mitumba', countrywide.

4 There was a Nationwide Curfew that was implemented limiting the movement of Kenyans within specified hours which would be reviewed from time to time.

The President also announced a stimulus package to address the impact of coronavirus on the economy. This included:

100%

Tax relief for persons earning a gross monthly income of up to Kshs 24,000/-



30%
to
25%

Reduction of the top income tax rate (Pay as you earn)



16%
to
14%

Reduction of VAT

Kshs 10 Billion

to the elderly, orphans and other vulnerable members of the society through cash transactions by the Ministry of Labour and Social Protection to cushion them from adverse effects of the pandemic.

⁶International Labour Organisation, Social and Labour Issues in Small Scale Mines, 1999.

Outcomes from the Scoping Study



OI carried out a scoping study in late 2019 across several counties to learn about the key issues that needed redress when it comes to ASM's. These are categorized below.



4.1 Governance

From the scoping study, we learnt that there exists a gap in so far as the governance of the mining industry at the grassroots is concerned in Kenya. There's a lack of clarity on roles, responsibilities and rights amongst miners and County officials; between the roles of National Government and County Governments with respect to revenue collection and issuance of permits.



4.2 Health and Safety

Similarly, the scoping trip highlighted the challenges faced by ASMs with respect to health and safety. It is a very important issue due to the rudimentary nature and unskilled workforce of this sector. The health and safety practices tend to be very poor. For example, from the scoping study, we learnt that dust and fine particles resulting from blasting and drilling cause respiratory illnesses. Streams and rivers often became polluted from the mercury used by ASMs, making water unsafe for drinking, this can also affect fish stocks relied upon for food. The exposure to mercury for ASMs in Migori and Kakamega has had serious health impacts, including irreversible brain damage.



4.3 Environmental Safeguards

Our scoping study highlighted the extent to which artisanal mining operates outside the ambits of environmental safeguards. The legal framework requires all mineral rights holders, licensees or permit holders to comply with other environmental provisions outside the mining law. But in Taita Taveta County, we witnessed wide open pits with mounds of damp tailings on the sides of the pits. Trees and shrubs were cleared to pave way for these mining sites, without due regard to the indigenous nature of the ecosystem. Similarly, in Western Kenya the use of mercury by the ASMs in the process of the concentration and amalgamation of gold was rampant. There was a release of these harmful substances to the environment where it is processed by a variety of living organisms.



4.4 Short-lived Gains

We encountered many miners who informed us that in many cases their newfound wealth was always short-lived. A lack of education and financial literacy led to wealth being squandered. Predominantly, men spent it on meaningless investments including prostitution. And once the money was all spent, they returned to their homes with nothing to show for such dangerous work.

Because these issues are overlooked, we posit that this spurs a new form of "resource curse" at the hyperlocal level, which continues to keep the miners in poverty. It ultimately leads to more harm, poverty and death.



4.5 Lack of Adequate Data

The scoping trip revealed that there is a systemic lack of government data on ASMs, which makes it hard for the government to address grievances, especially at the local level. This was evident by the asymmetry of policies and strategies with the realities on the ground.

As stated, it manifests as the lack of financial literacy on how to manage the newfound wealth, impeding development, there's a lack of access to machinery, access to credit facilities.

A photograph of two men in a forest setting. The man on the left is wearing a colorful floral shirt, light-colored pants, and a grey bucket hat. He is holding a long, cylindrical tool, possibly a probe or a small pipe. The man on the right is wearing a blue and white checkered shirt and light-colored pants. He is also holding the same tool, and they appear to be working together to dig or probe the ground. The background is a dense forest with green foliage and tree trunks. The image has a blue overlay at the bottom with a white border around the text.

SECTION 1:

Engagement with Artisanal Mining Groups



Methodology

We commenced working with ASM communities in Taita Taveta, Kakamega and Migori in June of 2020. We focused on collecting citizen-generated data to build knowledge on their work status, needs, priorities, and focus points. We hypothesized that organised citizens, using data, are in a better position to contribute to shaping mining policy decisions and strengthening their agency in advocating for good practices with key stakeholders. Further, there is great potential to improve the livelihoods of miners and help eliminate poverty.

To begin with, we leveraged our networks in the Counties, engaging them to map out the existing registered ASM groups. In other words, the sampling was purposive with an aim to understand issues through key informant interviews. We further engaged the chairpersons of those ASM groups to understand their dynamics, challenges, issues and priorities.

Further, we also wanted to showcase and map who and where the ASMs are intending to develop a database (the very first time this has been done). This was intended to bring about visibility to the needs and priorities of small scale miners using data and evidence.

The next phase for the mapping exercise was an in-depth conversation with the individual miners to grasp the impact of COVID-19 on their livelihoods and that of their dependents. To improve the quality of data, we identified fifteen community monitors in each county who were keen on monitoring the impact of COVID-19 on ASMs. The community monitors task was to provide regular updates of the challenges faced as a result of the pandemic through the Nuru platform by digitizing community monitoring data through written reports, voice notes, videos and photos.

In September and October of 2021, we reconnected with the same community monitors to collect fresh data. This round was focused on re-examining the impact of COVID-19 on ASM's one year down the line. Of importance were some of the measures communities had taken to recover and build their resilience.

Results from data collection in the Counties in 2020/2021



Age Distribution

The mapping exercise revealed the average age of the miners were youth aged about 35 years old. The interviews, as well as sites visited revealed that ASM's are dominated by men, with women making up just a small percentage. Further engagements with some of the chairpersons revealed that underage children were working at the mines, this was largely attributed to schools being closed, children having smaller body frames making it easier for them to get through smaller shafts, families having extra mouths to feed, the reduced numbers and shifts at the mine site and the need to earn an income at the end of the day.

In the Counties of Taita Taveta, Migori and Kakamega, we got to engage ASMs who were organised into groups that had structures in place usually consisting of chairpersons, secretaries and treasurers.



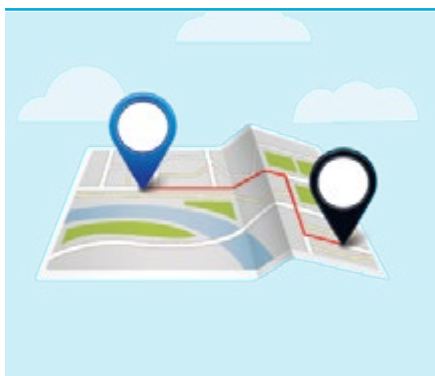
Registration of Groups

The officials of the mining groups were democratically elected from their members. They maintained a register of their members even though some of them worked on more than one site. Many of the miners were engaged in other businesses. The mapping exercise revealed that there were several groups across the three counties, most of which were registered. However, only one group (from all of those interviewed) had a mining permit. Further discussions with ASMs revealed that the ASM groups were keen on formalising their activities and ensuring that, collectively, they were able to make a living for themselves and their dependents.



Level of Education

Respondents (from the groups) confirmed that the majority of ASM's comprise individuals who have at least received basic education (that is up to secondary school). This was then followed by undergraduates at 19.6% who attributed their work at the mines to failure in securing gainful formal employment. One respondent, also an ASM, had obtained PhD (doctorate) level education.



Migration within Mine Sites

Members of mining groups ordinarily mostly remained on one site and were not migratory. But 40% of the respondents confirmed that they were migratory but this was also dependent on the productivity of mines. There were cases of miners who had come from other counties to work at these mine sites (including some from neighbouring countries such as Tanzania) to work in gold mines in Western Kenya.

Many ASM groups expressed the challenges they had faced in obtaining mining permits - attributing this to bureaucracy at the Ministry.

ASM groups also revealed that they wanted the government to not just remove red tape but provide some incentives when it comes to the formalisation process.

As a note here, many of the ASM groups have created internal governance structures, and expressed willingness to engage not just with the government but also other stakeholders to improve their working conditions.

{ **40%** of the respondents confirmed that they were migratory but this was also dependent on the productivity of mines. }



Alternative Business Activities

The majority of ASM's do not just rely on mining but have alternative sources of income to sustain their livelihoods. This is especially true since the outbreak of COVID-19. The hardest-hit county as of June 2020 was Taita-Taveta, where almost all respondents interviewed had started an alternative business activity.

Through our KII's, we found anecdotal evidence that some miners in Migori have, with the support of the National Irrigation Board, resorted to planting rice on previously dilapidated gold mines. This project has already enlisted 800 farmers so far and is targeting 5,000 people.



Infrastructure at the Mines

In Western Kenya, there's fairly good access to mine sites via the existing road networks, In Taita-Taveta however, it depends on the location of mines and some remote areas have extremely poor road access to the mine sites. Telephone masts in Western Kenya have made sure mobile networks are available. But in Taita-Taveta, the mobile networks (all leading mobile network operators) availability is poor and unavailable at some sites. Generally in Western Kenya and Taita-Taveta, there was a problem of accessing banking facilities outside major towns. The situation remained unchanged by October 2021.

Consequently, there is room for mobile service providers and the Communications Authority of Kenya to expand services to these remote areas. With such infrastructure comes opportunities to use mobile money services, grow financial literacy and encourage saving. Mobile service providers through partnerships with various groups can also introduce digital health care services.



Access to Machinery

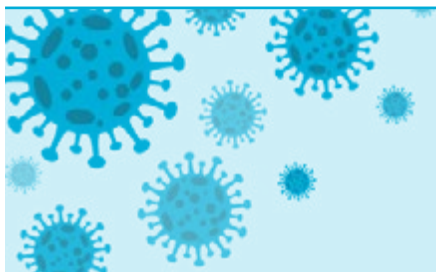
84.3% of respondents do not have access to machinery. Only 11% have access to leased machinery and only 3.9% have their own machinery.

To ASM's, the lack of machinery means low production at the end of the day at the mine site. This translates to low or no daily income. The situation remains unchanged in 2021 and so provides an opportunity for stakeholders to make such investments



Adverse Weather Conditions

From May to July 2020, Kenya was experiencing heavy rains; the meteorological department cautioned that there would be heavy rainfall in parts of the Western, Central and Coastal regions. Miners in Kakamega and Taita-Taveta revealed that heavy rains affected their work by slowing the daily output. In 2021 however, this was not reported.



COVID-19 Awareness

In June 2020, all ASM groups interviewed confirmed that their members were aware of the pandemic. 94% of them had taken health and safety measures at the mine sites. Such measures included: reduction of numbers of miners, wearing face masks and maintaining hand washing facilities at the site.

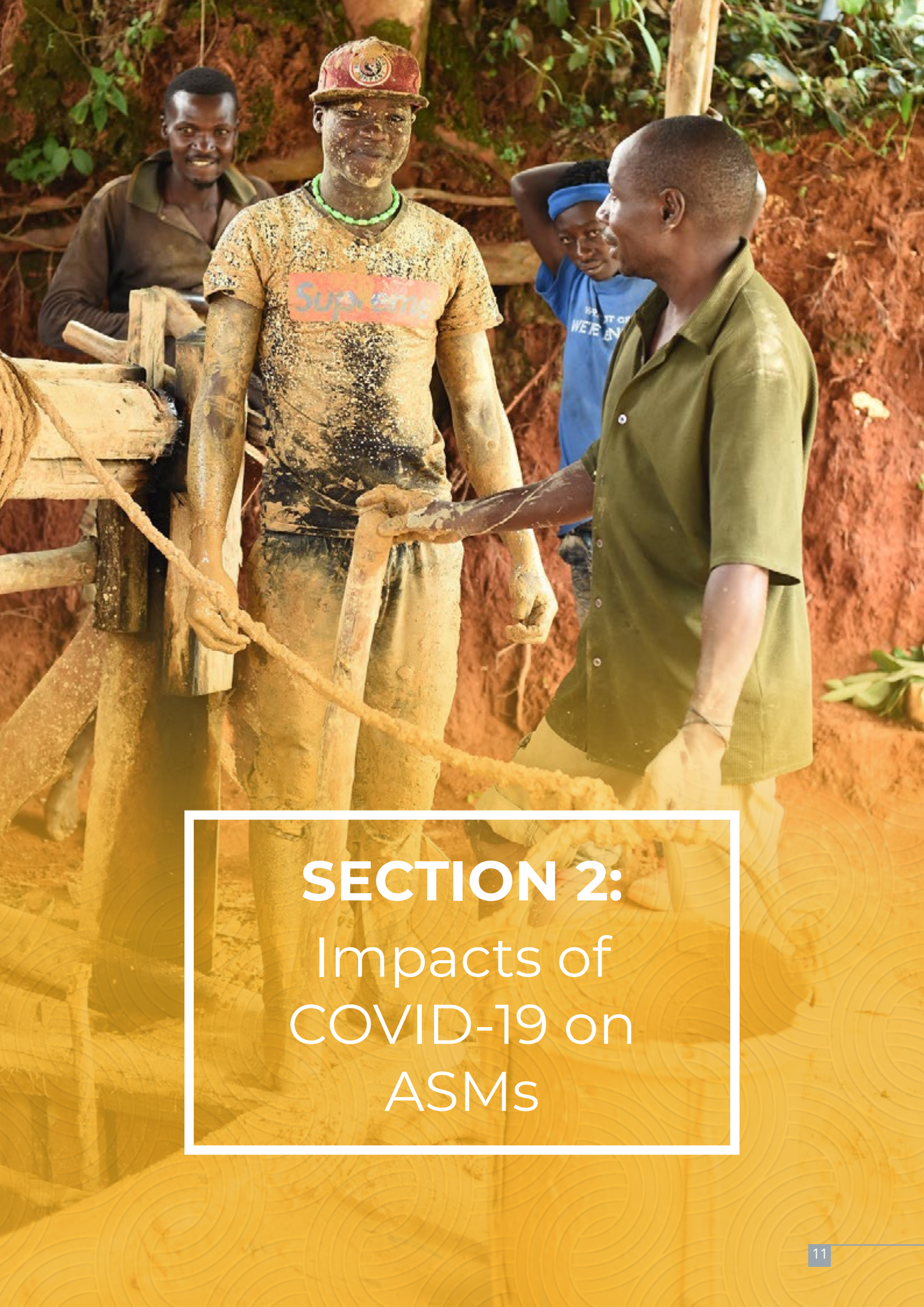
The requirement of face masks however did not work for ASMs carrying out excavation operations miles underground as the air there is thin. Further, in Taita Taveta, there were challenges with respect to access to water and soap. One year later in October 2021, 77.6% of respondents reported that they were adhering to the same safety measures. 100% of the respondents had adequate information and knew how to report cases of COVID-19 detected and the measures to take. Further, only 26.5% of the respondents indicated that there was a stigma associated with COVID-19 when it comes to working at the sites.

Reduction of ASM's at sites affected productivity as well as reduced the income earned. In some cases like in Kakamega, there was a rise in the crime rates. In Taita-Taveta, in June 2020, mining operations for a majority of ASM's came to a halt.

However, one year later, 52.9% of the respondents reported thoughts of wanting to change or leave mining work due to COVID-19. Many of the ASM's reported that despite the obstacles, the work remained lucrative enough as a source of livelihood for them, their families and their communities.

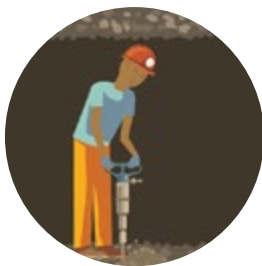


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SECTION 2:

Impacts of COVID-19 on ASMs



COVID-19 and Youth Miners

Ordinarily, in Kakamega, 50 or more people would be working at a mine site, mostly made up of male youths. They were deemed to be strong enough to carry the ore in its raw form up to the surface. However, the pandemic limited this exercise to only 15 persons per shift, which is roughly only a day's work.

The limited number left the youth idle on other days, seeing them work once or twice a week so that others are not driven out of work. Given that the numbers have been limited at the mine site, miners in Taita-Taveta and Kakamega complained that limited production, which was also impacted by the curfews. For example in Kakamega, miners explained that the curfew meant that they could not mine at night as they used to before. This remained the same as of October 2021.



Access to Banking Facilities

The majority of miners have active bank accounts; only 31.4% don't have bank accounts individually or in a group. Miners expressed a challenge in accessing bank facilities, most of them had inactive accounts as a result of COVID-19. The miners engaged had funds that have been used up since the pandemic broke out; additionally, group savings had also been used up or depleted since the outbreak.



Impact of COVID-19 on women

Conversations with miners in Kakamega and Migori indicated that women's livelihoods have drastically been affected by the pandemic. Previously before the outbreak, women were involved in processing ore at the mines, where they would either break the larger pieces into smaller pieces and also end up using mercury to sift then amalgamate the gold as the final output.

The pandemic, therefore, reduced the overall number of miners at a site, which also had its toll on the number of women who work there. In some instances, men would assert their authority and take over the jobs that were reserved for the women. This has led to a reduction in income as the new norm.

Before the pandemic, women would also supplement their mining activities by selling wares at mine sites such as food, utensils, second-hand clothes and other household items. With government directives with respect to intercounty movement during lockdown. Additionally, the pandemic has also affected the spending decisions of the miners, having them hold back on purchasing non-essential items.

Other women used to sell foodstuffs such as maize, beans and Ugali at mine sites; they have also been affected by the pandemic. The reduction of numbers at the mine site has led to a reduction in income for the women feeding the miners. Some food items such as maize and beans also become scarce

The men at mining sites were involved in manual mining processes with simple tools without using mechanical energy or in some instances with little mechanical energy. Women were involved in the lighter tasks such as processing gold using mercury, sieving and sifting through the ore to obtain gemstones. The absence of machinery relegated women to the less important roles at the mine site and is also a barrier for them owning such resources.





Impact of COVID-19 on Commodity Prices

Globally COVID-19 has had a colossal impact on commodity prices in the extractives industry, with oil markets being the most affected by unprecedented trends such as sellers paying buyers to offtake their crude oil in order to mitigate their storage costs. Brent fell to USD 18 a barrel, the lowest price the market has seen in years. Over 80% of the global economy was on lockdown, with countries struggling to curb the spread of coronavirus. China, the world's major commodity consumer, had its economy come to a halt which also contributed to the loss in commodity prices. The slowdown in worldwide travel left a significant proportion of the airline industry grounded and workforce slashed, reducing the demand for petroleum products.

Metal prices fell far less than oil due to their indirect relationship with economic activity. Gold has historically been viewed as a haven in times of crisis from more traditional volatile investments like stocks, as it is less volatile than other asset classes. It is known to preserve wealth, its physical properties make it a reliable store of value, it is widely available to trade, finite in supply, is not corrosive and is rare enough to be considered valuable. Despite this, however, the price of gold has lost some ground in the global market. The gem and jewellery industry is heavily dependent on trade, there has been a severe fall in exports which has brought the industry to a standstill.

Our interactions with ASMs informed us that since COVID-19 broke out, prices dropped significantly to an all-time low of Kshs 2,000 per gram of gold. Presently, however, gold is at an all-time high as indicated by the ASMs, it is retailing at Kshs 5,500/- per gram. Our observation with respect to the stark difference in the price change is this can be attributed to several factors. The lockdown measures and curfews played a part, here there was a reduction in numbers at mining sites across the country, from 50-100 persons in a day to only 10-15 persons at a mine site. Miners would previously work for 24 hours in shifts, however, the introduction of the curfew measures reduced the productivity of mines, which in turn has reduced the supply of gold. Additionally, Western Kenya had recently experienced different weather conditions, with heavy rains, leading to flooding of mine shafts.

The reduced personnel, coupled with the limited time due to the curfew made it difficult for miners to pump water out of their mine shafts and work at the optimal levels they were used to. The reduction in the supply of gold as a result of the aforementioned factors has increased the demand, resulting in the high prices currently being witnessed in Kakamega and Migori.

Commodity prices

Mineral		Gold	Tsavorite	Ruby
Pre-COVID Price (\$)	Local price	25	922	1107
	International price	53	1550	1830
	Price difference	28	628	723
COVID Price (\$)	Local price	50	92	461
	International price	71	188	1750
	Price difference	21	117	1289
Current Impact on Economic Output		Low	High	High

Mining activities in these counties are still going on, with no deaths reported or incurred as a result of COVID-19. The Ministry of Petroleum and Mining has allowed all prospecting and mining activities to continue, however, they are to be conducted in accordance with guidelines and directives issued by the Ministry of Health and National Security Council and this has been the case at mine sites.

Miners in Kakamega, Migori and Taita-Taveta indicated that they had not received any donations of any kind from the government nor their elected leaders leading to some private companies providing food items and donations to miners during this period. In Kakamega, the sponsors (these are private individuals who often tend to get into prospecting agreements with miners over their land as they fund the whole operation) have been seen to provide aid to the miners.

On the other hand, there has been a sharp decline in the prices of gemstones witnessed in Taita-Taveta. Previously a medium-sized ruby weighing between 1Kg and 5Kg would fetch about Kshs 30,000/- however, presently the same ruby is now worth Kshs 10,000/-, large rubies worth 5kg and above would have pre-COVID-19 fetched a price of Kshs 120,000/-, however, the same is currently worth Kshs 50,000/- and below. Red Garnets, Amethyst and Kyanite are sold seasonally and on a demand basis, there is no specific market for them. Before COVID-19, a carat of Tsavorite would sell at a price ranging from Kshs 80,000- 100,000/-, however, the same carat now only fetches a price of Kshs 10,000-15,000/-. Our engagements with ASM miners in Taita Taveta revealed that they are completely demoralised by the depressed market, as they are hardly making any sales. Those that are buying, dictate the price knowing that the market is depressed and that the miners are desperate to sell. Most buyers are brokers or middlemen, who are taking advantage of this period to buy gemstones at low prices to sell them when the market prices improve, at a higher price. Our observations made in Taita-Taveta is that there has been a large shift from small-scale mining because of the depressed market to alternative sources of earning a living. Miners are now rearing livestock as a means of survival. Those that have opted to carry out agricultural or livestock activities for commercial purposes have done so unsuccessfully as they have little knowledge about that industry, weather conditions have also not been favourable and there's little or no start-up capital to commence such activities. The National Government's attempts to cushion its citizens from the impact of COVID-19 has seen the reduction of VAT from 16% to 14%; this has partially made a difference for miners in so far as mobile services and petrol prices are concerned. Conversations with miners indicate that prices on essential items, however, did not drop and in some cases had risen as witnessed in Kasighau in Taita-Taveta and Kakamega.

We observed that the majority of ASM groups (68.6%) did not have access to local or international markets with most of them raising complaints about middlemen or brokers who dictate prices. Miners felt short-changed by the brokers and expressed their preference for direct access to foreign buyers.



68.6%

of ASM groups did not have access to local or international markets



Impact of COVID-19 on Children



Globally and in urban areas there has been a shift with respect to education from being present at school to online learning. Online learning through Zoom, Google classroom and Cisco Webex has been successfully picked up in some places, with the government urging educational facilities to roll out online learning classes. There is a large rural population that has been excluded from participating in distance learning, these are the poor students who cannot afford the cost of access to digital platforms. COVID-19 has exposed the unequal socio-economic makeup of education in Kenya.

In Western Kenya, due to the closure of schools, reduced numbers of miners at mine sites and an attractive price of gold presently, miners ended up being accompanied to mine sites by their children. The children would have to engage in mining work to ensure that more gold was produced at the end of the day.

Sources in Kakamega informed us that since the number of women at mine sites has also reduced and the workload on individual women miners has increased. There has also been an introduction of child labour at the mine site, children are known to fit into small spaces deep down in the mines and are also assisting in the processing of ore for their families. The children engage in child labour at the mine site, the wages for the work done are earned by the mothers which feed the larger family setup, as they help their mothers process the ore faster. These children are also exposed to hazardous conditions, such as mercury fumes when they assist their parents to amalgamate the gold, where ordinarily this would have been carried out by several women.

Child labour at the mine sites has been attributed to the lack of access to education, weak enforcement of labour laws, the lack of women's empowerment, poverty and insufficient social protection for the poor all exacerbated by the pandemic. It is anticipated that many cases remain unreported.

Not much had changed on this topic by October 2021.

Health and Safety Impacts of COVID-19

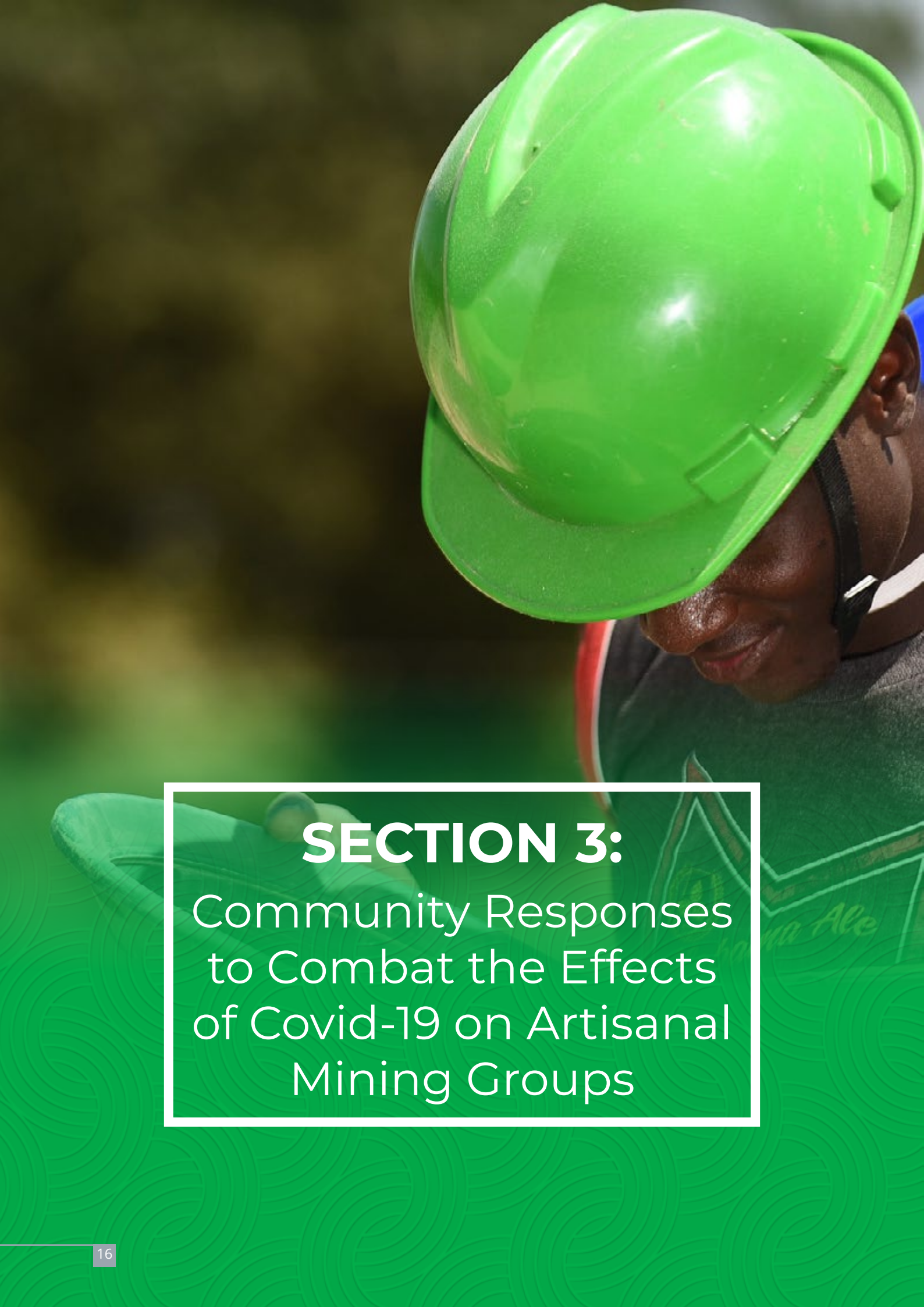


Miners in Kakamega informed us that there has been a shortage in supply of mercury, which has largely been attributed to the travel measures put in place by the national government curtailing movement between counties. Despite Kenya being a signatory to the Minamata Convention, mercury is still widely used amongst gold miners in Western parts of Kenya to amalgamate gold. Miners are more often than not oblivious to the risks of using mercury.

COVID-19 and Human Rights Abuses



Conversations with miners and officials in Taita-Taveta revealed that police used force towards miners in the Mkuki area to force them to vacate mining sites to observe curfew directives one year later miners informed us that there have been few or no reported incidents of police abuse and who have allowed miners to go ahead with their normal operations.

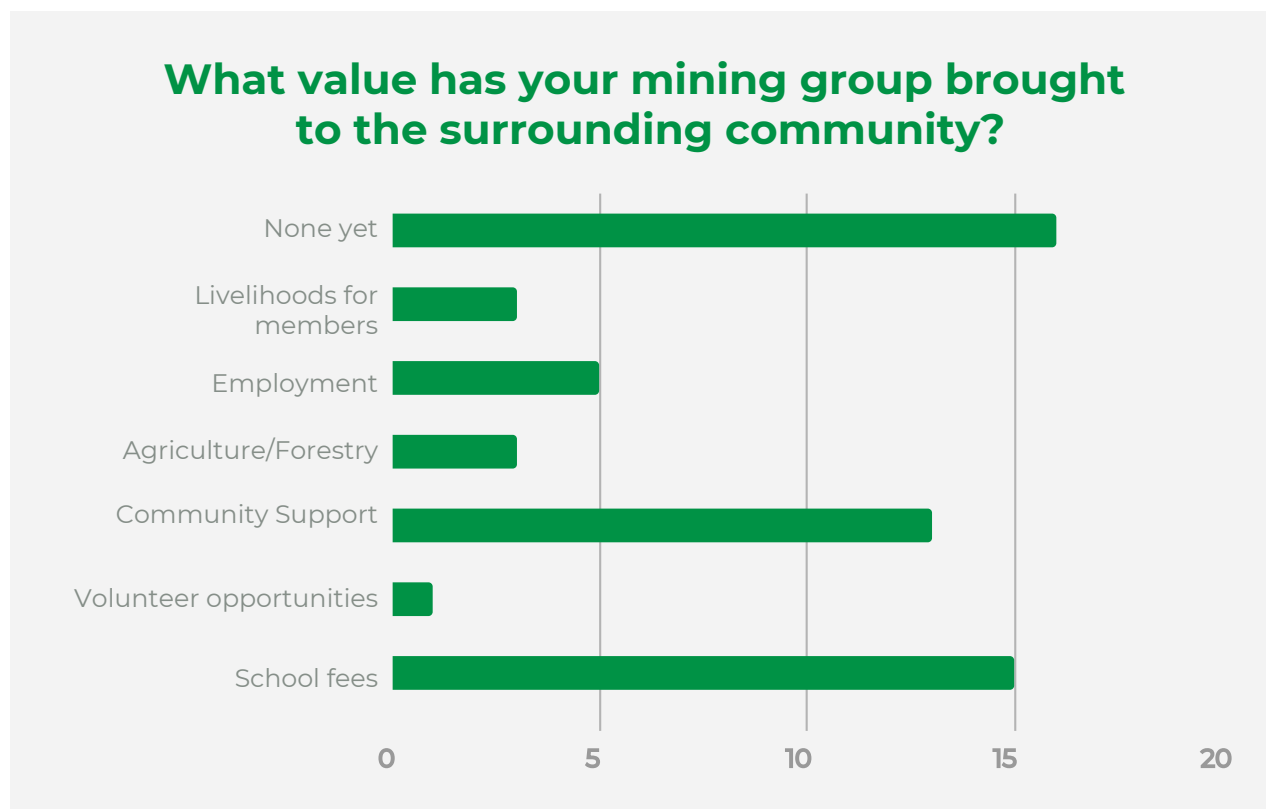


SECTION 3:

Community Responses
to Combat the Effects
of Covid-19 on Artisanal
Mining Groups

By June 2020, COVID-19 had disrupted the livelihood of local communities significantly; some lost loved ones not just due to the pandemic but through other causes. But they were unable to observe cultural burial practices due to COVID-19 restrictions on numbers allowed at gravesites.

An interesting observation ASMs across the three counties was that mining groups, when fully operational, actively sought to improve their own livelihoods and those of the surrounding communities. The respondents noted that their efforts to improve this remained the same as of October 2021 though many of these restrictions have been lifted.



In Western Kenya, it was common to find that they were keen on bringing about some sort of development or improvement of livelihoods for their surrounding communities. This was either through y paying school fees for those that were less fortunate or through the construction of a classroom.

Additionally, members of the communities gather funds together through small fundraisers and use the funds to build homes and toilets. In Taita-Taveta few groups have engaged in CSR activities for their surrounding communities.

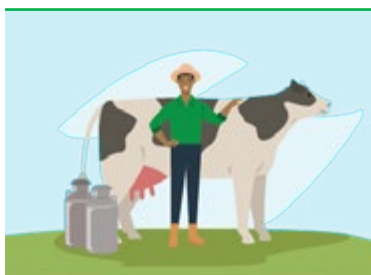
Still, miners remained resilient throughout the pandemic, they informed us of some measures they have taken to try and cushion themselves from the effects of the pandemic.





Crop Cultivation

The reduced numbers of shifts and miners at mine sites have resulted in them resorting to other means of survival, one such means is subsistence agricultural farming. Most miners we've spoken to have indicated that the pandemic has forced them to farm but only for sustenance, as they still harbour their preference for mining based on its returns. As indicated, this had reduced one year later and there was a revert back to mining activities.



Livestock Farming

In Kakamega, miners also resorted to livestock farming, which has seen them rearing cattle, pigs and poultry. Livestock farming helped miners provide for their families. A few do it for commercial purposes.

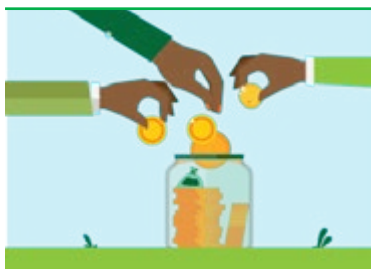
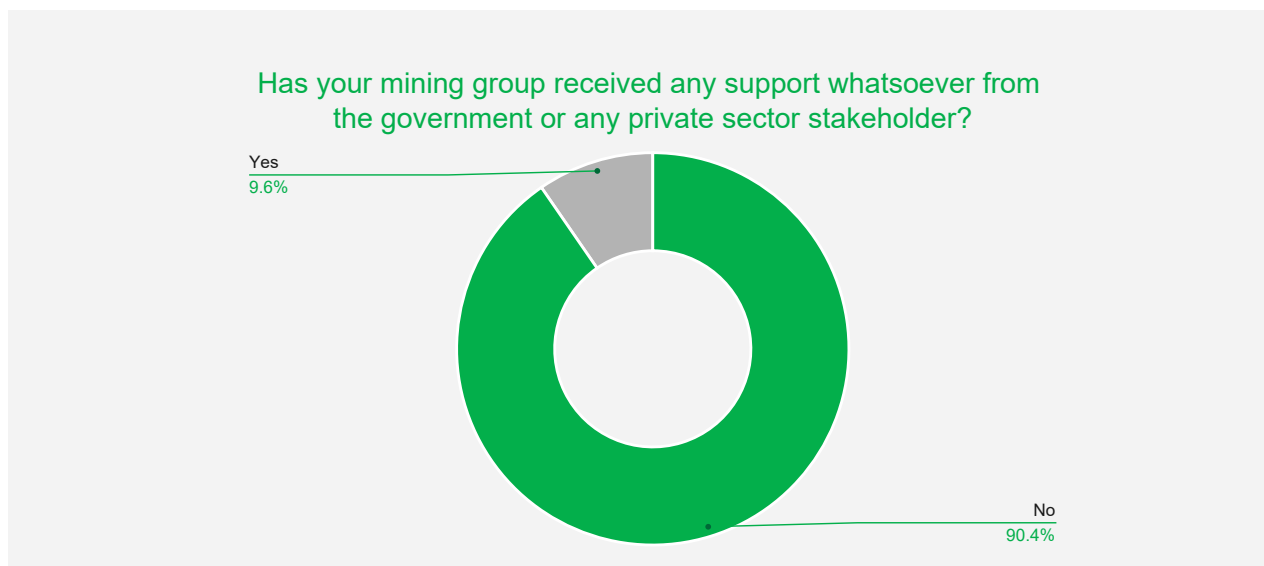


Table Banking

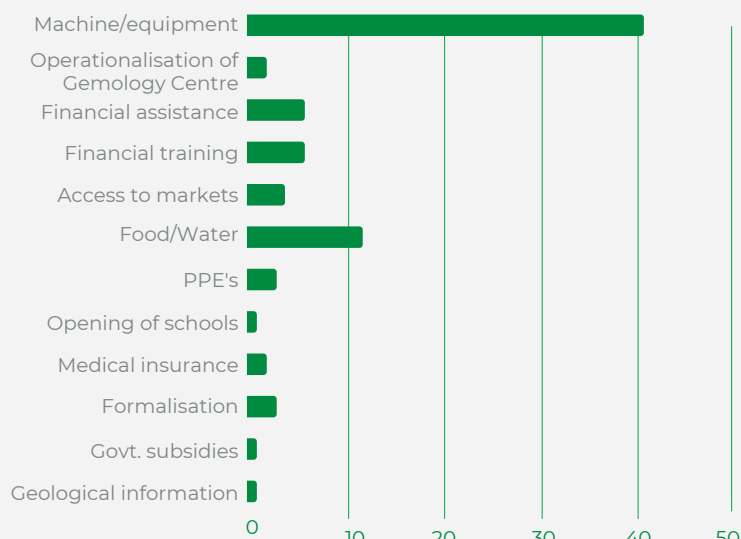
Miners in Kakamega informed us that some of them had picked up on table banking⁷ structures that existed before but have become more active now as a way of coping with the pandemic.



Miners informed us that they have not received any support from the national or county government, only few reported having received awareness information from the Ministry of Health with respect to COVID-19. A few mining groups reported having received support from private organizations or NGOs, in so far as PPE's. We sought to find out what support mining groups would like to receive from either government or private stakeholders.

⁷Table banking is a group based funding system where members of that group make periodic payments to a group kitty of which members can borrow. The group holds regular meetings where issues are addressed, fines are paid, loans are given and defaulters are confronted. Table banking is common amongst women however, mixed gender and men only groups also exist.

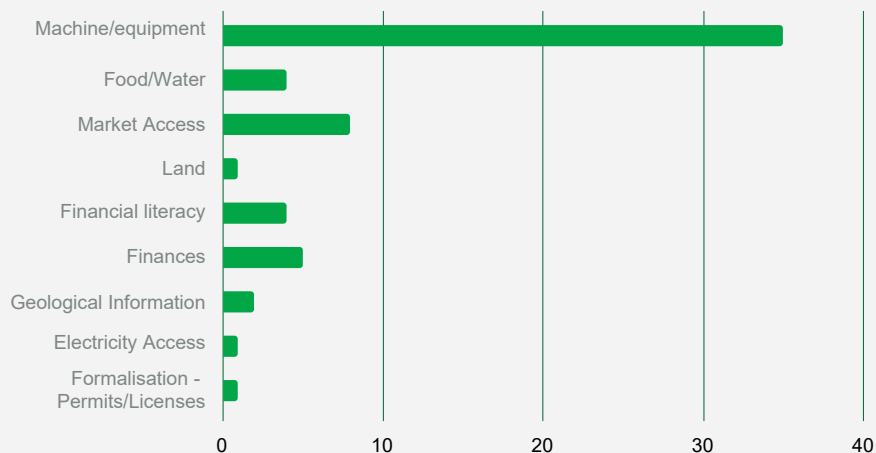
What support would your mining group like to receive?



The majority of the respondents identified that machinery and equipment were the most important needs to them. This was still the case when interviews were conducted in October 2021.

Markets were the second most important need to their groups. They cited a lot of interference by middlemen and cartels, or brokers in so far as determining product prices. Mining groups felt that given the chance, if they could sell their minerals directly to local or international markets, this would give them a better vantage point and fair value for their minerals.

The most important need for mining groups right now.



Mining groups then identified finances as the third most important need for them, followed by financial literacy, then food and water.

Geological information though a need, together with access to electricity, formalisation (issuance of licenses and permits) came in as some of the last priorities but equally as valuable.



SECTION 4: Recommendations

The following are a raft of recommendations for state actors to implement during this period. The list is in no way exhaustive.

1. The National Government needs to simplify the process of acquiring ASM permits to encourage uptake.

2. There is a clear and demonstrated need for scaling up of this work to collect citizen generated data of all artisanal small scale miners and a programme of work to better engage and support them.

3. The National Government needs to fully harness, open and utilize the value addition gemology centre in Voi.

4. The National Government through the Ministry of Petroleum and Mining should allow for the exemption of ASMs from lockdown measures/ curfew restrictions in order to ramp up and upscale production at mine sites with the increment of more shifts. Such exemptions should be permissible as long as government directives and guidelines are observed.

5. The National Government should offer incentives to encourage export promotion activities.

6. The National Government through the Ministry of Labour and Social Protection together with the Ministry of Petroleum and Mining should ensure provision of financial support towards ASMs, as the current financial scheme appears to have excluded them.

7. The National Government through the Ministry of Health and in conjunction with the Ministry of Petroleum and Mining should ensure the provision of free screening, testing (PPE) and quarantine facilities at mine sites for ASMs.

8. Miners need direct access to international mineral markets and information, such prices should be enforced by the Government to encourage buying of mineral resources from ASMs at better prices.

9. The National Government should ensure transparency, fairness and accountability by conferring ownership of mineral rights for ASMs on a "first come, first serve" basis.

10. The National Government through the relevant Ministries should ensure the provision of access to water and sanitation facilities at mine sites.

11. The National Government together with the County Government should support the formation of formal enterprise groups and formalize traditional funding systems e.g. hire purchase.

12. The Ministry of Petroleum and Mining should encourage and promote free access to mining equipment for ASMs affected by limited mining equipment, inputs and to alleviate supply chain problems.

13. All stakeholders should facilitate the employment and involvement of women in mining development.

14. The National Government through the relevant ministries should encourage the use of alternative technologies and methods of amalgamating gold other than mercury.

15. The National Government should encourage banks and financial institutions to ease restrictions for ASMs who are keen on accessing credit facilities and invest in the sector

16. The National Government should work on enforcing regulations against child labour and imposing stiff penalties on those miners who employ their children.

17. The National Government should also promote education for children in mining areas and support promoting productivity enhancement programmes, which would reduce the need to employ children.

18. Banks should develop mine finance expertise and establish mobile and commercial banks in these mining areas.

19. There is a need for financial literacy, training and the promotion of a savings culture amongst miners through awareness programmes.

20. Regular inspection of mining sites should be conducted by County Government health and safety staff.

Conclusion

Our engagements with the artisanal miners before the outbreak of COVID-19 revealed the significance of this sector in so far as its potential once fully harnessed towards contributing to the growth and development of the country's economy and its developmental goals. What also became evident from our engagements is that ASMs lacked the agency or voice to be involved directly in decisions about themselves so far as the growth of their industry is concerned.

Our scoping trip revealed that the country has vast natural resources and a vibrant ASM sector with a lot of potential, faced with key issues and challenges that ought to be addressed, including governance of the mining industry, the provision of clarity of roles between the national government and the county governments, the health and safety of ASMs - given that Kenya is a signatory to the Minamata Convention⁸ - and the provision financial literacy for ASMs to ensure better management of newfound wealth.

What became evident was that there is a lack of actionable data on ASMs, which makes it hard for them to address their grievances or participate adequately in the direction of their development. This is evident given the disconnect of policies and strategies with the realities on the ground.


The COVID-19 pandemic hit Kenya hard, more so for the ASM sector as the ongoing nationwide curfew and lockdown measures had grounded activities in many mines to a halt, which greatly affected miners' livelihoods. To observe the government's social distancing guidelines enforced during the outbreak, miners had to work in shifts, leading to reduced numbers of ASMs in the mines. The result of the reduced numbers in the mines had the unexpected effect of reducing the supply of gold in Western Kenya, leading to high demand and favourable prices in the local market.


However, the miners who were left out of mining activities were locked out from the benefits of this price spike. In the case of gemstones in Taita-Taveta County, COVID-19 saw the crash of the local market. If there was any buying happening, it was the broker who largely determined the price. Moreover, miners still experienced a lack of direct access to local and international markets, in addition to other challenges such as lack of access to machinery, loss of income for women, and harassment by law authorities as a result of the implementation of curfew measures. Miners attempted to cushion themselves through alternative means, such as agriculture, livestock rearing and table banking with little or no success, especially during this period.

The report, therefore, makes a call for the government, private sector, non-governmental organisations, donors and partners to address the plight of ASMs especially during the COVID-19 period. These ASMs are organised in groups and keen on partnerships that will uplift them and improve their livelihoods. It is not enough to have a legal framework in place without addressing the key issues affecting ASMs. To have a long-lasting impact on the sector, tapping into the potential of the ASM sector will, in turn, build the economy and improve their livelihoods and those of their dependents. There is a need for a holistic approach towards addressing the plight of ASMs, for the Government and other stakeholders to pick up on the recommendations proposed.

⁸<https://www.mercuryconvention.org/en>



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