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AN EXAMINATION OF THE LEGAL FRAMEWORK FOR ARTISANAL GOLD MINING IN NIGERIA

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Abstract

This paper examines the legal framework regulating artisanal gold mining in Nigeria, with particular emphasis on its adequacy in addressing environmental degradation and associated public health concerns. It evaluates the effectiveness of the Minerals and Mining Act, 2007, and subsidiary regulations in regulating artisanal mining activities and mitigating their harmful environmental consequences. Using a doctrinal legal research methodology, the study relies on primary and secondary legal sources to assess Nigeria's compliance with international best practices in artisanal and small-scale mining governance. The paper finds that despite the existence of a regulatory framework, artisanal gold mining in Nigeria remains largely informal and weakly regulated due to inadequate enforcement, insufficient institutional oversight, and limited integration of artisanal miners into the formal mining sector. It concludes that the current legal regime is ineffective in curbing illegal mining and environmental pollution and recommends the formalization of artisanal mining through structured licensing, improved institutional coordination, and the adoption of environmentally responsible mining practices consistent with principles of good governance and sustainability.

Keywords: Artisanal gold mining, legal framework, environmental protection, Nigeria

1.1 Introduction

Artisanal mining refers to mineral extraction carried out by individuals, families, groups, or cooperatives using rudimentary techniques and limited mechanization, often outside formal regulatory structures. In Nigeria, artisanal gold mining has emerged as a significant source of livelihood, particularly in rural communities where alternative economic opportunities are scarce. The growing reliance on artisanal mining reflects broader socio-economic challenges, including unemployment, poverty, and limited access to capital-intensive mining operations.

Despite its economic relevance, artisanal gold mining in Nigeria operates largely within the informal sector and has not received adequate regulatory attention. Existing mining laws provide limited guidance on the organization and supervision of artisanal mining activities,

primarily emphasizing cooperative formation without establishing a comprehensive framework for operational control, environmental compliance, or enforcement. As a result, artisanal mining continues to expand in response to increased global demand for gold and the promise of quick income, particularly among economically vulnerable populations.

This paper examines the extent to which Nigeria's legal framework effectively regulates artisanal gold mining and addresses the challenges posed by its largely informal nature. It argues that while artisanal mining contributes to livelihoods, its weak regulation raises serious legal, environmental, and governance concerns that require urgent policy and legislative intervention.

1.2 The Nature of Artisanal Gold Mining

Nigeria is endowed with substantial mineral resources, including gold deposits that are widely distributed across several states of the Federation. Artisanal gold mining in Nigeria is predominantly characterized by small-scale operations that rely on manual labour, basic tools, and limited technical expertise. These activities are typically carried out by informal groups or individuals operating outside formally licensed mining arrangements.

Artisanal gold mining activities are prevalent in both rural and peri-urban communities and are often driven by economic necessity rather than technical capacity. The sector attracts participants who lack the financial resources, professional training, or institutional support required for large-scale mining operations. Consequently, mining activities are frequently undertaken without formal land titles, proper mine planning, or regulatory approval.

Structural challenges further define the artisanal mining landscape in Nigeria. Poor transportation infrastructure, limited access to markets, and inadequate security—particularly in parts of northern Nigeria affected by banditry and insurgency—constrain the growth and formalization of the sector. These factors collectively reinforce the informal character of artisanal gold mining and complicate regulatory oversight.

This section establishes the operational and structural characteristics of artisanal gold mining in Nigeria, providing the foundation for subsequent analysis of the legal and regulatory responses to the sector.

1.3 The Legal Framework on Artisanal Gold Mining in Nigeria

In Nigeria, the mining sector is governed by a number of policies, laws and institutions. Policies are formulated to influence and determine decisions[439], actions and other matters related to the mining sector. The legal framework on artisanal mining in Nigeria, consist of the 1999 Constitution of the Federal Republic of Nigeria, Minerals and Mining Act of 2007 and the Minerals and Mining regulations of 2011. These laws were enacted to maintain order and prevent harm to persons, property and environment. Each of the afore mentioned, will be discussed below.

1.3.1 The Constitution of the Federal Republic of Nigeria, 1999

The Constitution of the Federal Republic of Nigeria stipulates in very concise term that matters relating to "Mines and Minerals" are managed in such a manner as may be prescribed by the National Assembly.[440] The constitution provides that the National Assembly shall exercise the legislative powers with respect to mines and minerals[441] . It further provides that the entire property in and control of all minerals, mineral oils and natural gas in, under or upon any land in Nigeria or in, under or upon territorial waters and the Exclusive Economic Zone of Nigeria shall be managed in such manner as may be prescribed by the National Assembly.[442] As the basic law, the constitution does not make detail stipulations on mining. This is understandable because the legislature is empowered to regulate mining activities, the executive to implement the laws enacted and the judiciary to interpret and apply the laws[443] . The federal High Court has been vested with exclusive jurisdiction on matters of mining and minerals.[444]

1.3.2 Minerals and Mining Act, 2007

Mining in Nigeria, is regulated by the Minerals and Mining Act, 2007 (hereafter MMA) as the principal legislation on mining and mineral resources. The Act came into force on 29th March

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[439] Karen H. Regional Workshop: Small-scale Mining in Africa – A Case for Sustainable livelihood, 2008 Amsterdam
Netherland, page 16 available at www.cfc_report_mining_2008_final_2_pdf accessed 11 June, 2025
[440] Section 44(3) Constitution of the Federal Republic of Nigeria 1999.
[441] ibid
[442] ibid
[443] Section 4,5 and 6 ibid
[444] Section 251 (1) (n) ibid

2007 and it sought to repeal the Minerals and Mining Act No. 37 of 1999 and re-enacted the Nigerian Minerals and Mining Act, 2007 for the purpose of regulating all aspect of the exploration of Solid Minerals in Nigeria, and for related purpose[445]. The Act is to be administered by the Ministry of Mines and Steel Development through its departments and it was passed to strengthen practices in the mining sector. It is structured into six chapters and 165 sections covering matters relating to ownership and control of minerals, prospecting, mining and quarrying, small-scale mining, possession and purchase of minerals, environmental consideration and rights of host communities, offences and penalties, as well as miscellaneous provisions[446].

On the issue of Ownership, the Minerals and Mining Act reiterates the Constitutional position that the entire property in and control of all mineral resources in, under or upon any land in Nigeria, its contiguous zones, continental shelves, exclusive economic zones or any area covered under Nigeria's territorial waters is vested in the Federal Government on behalf of the people of Nigeria.[447] The Minerals and Mining Act requires that all lands in which minerals are found in commercial quantity shall be acquired by the Federal Government and ownership of the minerals shall only be transferred to a person in accordance with the provisions of the Act.[448]

The Minerals and Mining Act, vests wide powers on the Minister of Mines and Solid Minerals to among other things[449] The Act established the Mining Cadastre Office (MCO) with the responsibility of administering mining titles and keeping cadastral registers[450]. The Act makes a far-reaching provision that *'the use of land for mining shall have priority over other uses of land*'[451] as mining is deemed by law, to be an overriding public interest within the meaning of the Land Use Act. Thus, any right of occupancy granted over any land covered by a mining lease or small-scale mining lease granted shall be subject to revocation by the Governor.[452] Certain obligations are imposed on miners by the Act. For instance, every person undertaking exploitation of minerals under the Act shall keep correct plans of operation, shall

[445] The Nigerian Minerals and Mining Act, 2007.
[446] Abdullahi, A. (2015) *A Critical Appraisal of the Legal Framework Regulating Artisanal and Small-Scale Mining in Nigeria* (LL.M Dissertation Faculty of Law Bayero University Kano)
[447] Section 1(1) The Nigerian Minerals and Mining Act, 2007.
[448] Section 1(2) ibid
[449] Section 4 ibid
[450] Section 5 ibid
[451] Section 22 ibid
[452] Section 104 ibid

keep all records of all minerals found on the area of his mineral title lease and shall supply the MCO these records and plans.[453] If any radioactive mineral is found in such area, he shall notify the Mines Inspectorate Department immediately.[454] The Act empowers the Ministry of Mines and Steel Development to issue six types of permits, licenses, and leases.[455]Permits generally convey non-exclusive use rights, while licenses provide exclusive rights for a limited purpose and leases provide exclusive ownership rights for a broader purpose. Consequently, any person undertaking mining not pursuant to any of the above permits is guilty of an offence. Under the Act, purchasers of gold are also required to apply for a license to purchase minerals. The Act specifically requires that gold obtained under a Small-Scale Mining Lease (which includes artisanal-mined gold) be sold to a licensed Mineral Buying Center.[456]

Although most of the Act is directed at large-scale, commercial mining activities, it does include a short chapter (Chapter 2) on Small-Scale Mining, following the example of its predecessor, the 1999 Decree. The Act defines artisanal mining as a subset of small-scale mining; as such, artisanal mining is included in the requirements governing small-scale mining. Both artisanal and small-scale miners can apply for a small-scale mining lease (with artisanal miners first required to form a cooperative), but there is no lease available under the Act specifically for artisanal mining activities. For a person to qualify for a small-scale mining lease, he must satisfy the following.[457]

1. Must be a citizen of Nigeria with legal capacity and who has not been convicted of a criminal offence,
2. Must be a mining cooperative or
3. A body corporate duly incorporated under the CAMA
4. Is a holder of an Exploration License.[458]

In May 2011, MMSD finalized the Minerals and Mining Regulations under the 2007 Act. The regulations include a brief section on "Artisanal and Small-Scale Mining Operation", which allows miners to register as artisanal and small-scale mining cooperatives and obtain extension services from the Ministry, including assistance in securing financial support from the Solid

[453] Section 152 ibid
[454] Section 44 (1) ibid
[455] Section 46(1) a-f ibid
[456] Section 95 ibid
[457] Section 49 ibid
[458] ibid

Minerals Development Fund[459]. As noted above, the small-scale mining lease covers both artisanal and small-scale mining activity. Each small-scale lease application must be accompanied by evidence of technical competence (at minimum, a certificate in mining or a related field) and financial capability (evidence of sufficient working capital through a bank statement or reference letter)[460] In addition, applicants must provide a land survey and a prefeasibility study. A small-scale mining leaseholder cannot engage in extensive and continued use of toxic chemicals, cannot dig more than seven meters, and cannot continually use explosives. In practice, the Mining Cadastre Office encourages small-scale (and artisanal) miners to form cooperatives in order to decrease transaction costs and formalize mining practices. Small-scale mining leases last for five years, after which the lease must be renewed.[461]

All small-scale miners must also submit a Community Development Agreement, outlining the rights and arrangement between the miner and the community representatives.[462]

1.3.3 Nigerian Minerals and Mining Regulation, 2011[463]

Nigeria Minerals and Mining Regulation 2011, is a subsidiary legislation as Nigerian legislations consist of Statutes and subsidiary legislation. Statutes are laws enacted by the legislature. Subsidiary legislation is law enacted in the exercise of powers given by statute. It is also known as subsidiary instrument or delegated legislation. It consists of rules, orders, regulations, by-laws and other instruments made under the authority of statutes. Examples of subsidiary legislations are rules, orders and regulations made by the Ministers, Commissioners under civil rule and Chief Justices[464].

> Section 21 of the Nigeria Minerals and Mining Act (NMMA) 2007 provides at Section 21 that: The minister shall subject to the provisions of this Act make Regulations. Regulations in respect of any matter required to be prescribed by Regulation under this Act and generally for giving full effect to the provisions of this Act, including prescribing, amending or withdrawing any forum that may be required under this Act.

[459] Abdullahi, A. (2015) *A Critical Appraisal of the Legal Framework Regulating Artisanal and Small-Scale Mining in Nigeria* (LL.M Dissertation Faculty of Law Bayero University Kano)
[460] ibid
[461] ibid
[462] Section 193 Minerals and Mining Regulation 2011
[463] See Obilade, A.O. *The Nigerian Legal System* (Spectrum Books Ltd., 2011) 64.
[464] Adedoyin, A. (2017) Economic Diversification Through Solid Mineral Exploitation: A Critique of the Nigerian Minerals and Mines Regulation, 2011.*Ebonyi State University Law Journal*.

The implication of this power conferred on the Minister is that all bodies, agencies, parastatal and even interested parties, person or corporation in the minerals and mining sector are bound by the dictates of the Minister, through regulations made by him.[465] The regulation was signed into law by the Minister of Mines and Steel Development in 2011[466] The purpose of the Regulation is to define the rules and processes regarding matters under the Act in order to give full effect to the implementation of the provisions of the Act.[467]Processes and provision procedure for the regulation of exploration and mining also shall be defined. The Regulation further provides that mineral title shall be granted through competitive bidding.[468] Where a mineral title holder has commenced mining operation, he shall be liable to inspection, on regular basis by agencies of the ministry.[469] Upon inspection, where agency officials find violation of the Act or its regulation, they shall enforce compliance in line with the provisions of the Act and shall have powers to arrest without warrant any person found committing or reasonably suspected to have committed an offence under the Act or the Regulation.[470]

1.4 The Regulatory Bodies

Having discussed the laws bothering on artisanal mining touching on key elements, its apparent that there are different institutions established to supervise the mining activities in Nigeria. They are the Federal Ministry of Mines and Steel Development which Administers Nigeria's Mining Law regulations [471] and the Federal Ministry of Environment. Which is the country's general environmental protection law it functions through the National Environmental Standards and Regulation Enforcement Agency (NESREA) Act, 2007[472].

1.4.1 The Ministry of Mines and Steel Development

[465] An example of the influence of ministerial power of regulation is that the Mining Cadastre Office (MCO), an agency created by the Act to be autonomous, does not have the power to make its own regulation. This even brings the validity of mineral title granted during the period when there was no regulation into doubt.
[466] Adedoyin, A. (2017) Economic Diversification Through Solid Mineral Exploitation: A Critique of the Nigerian Minerals and Mines Regulation, 2011.Ebonyi State University Law Journal.
[467] Regulation 3 Nigerian Minerals and Mining Regulation, 2011
[468] Regulation 4 Nigerian Minerals and Mining Regulation, 2011
[469] Such as the Mine Inspectorate Department.
[470] See Regulation 6 (1) (c). Nigerian Minerals and Mining Regulation, 2011
[471] The Nigerian Mineral Mining Act 2007
[472] Abdullahi, A. (2015) *A Critical Appraisal of the Legal Framework Regulating Artisanal and Small-Scale Mining in Nigeria* (LL.M Dissertation Faculty of Law Bayero University Kano)

The Ministry of Mines and Steel Development was established by the Government of the Federal Republic of Nigeria to ensure sustainable development of the nation's minerals and metal sectors. The Ministry is highly technical and project based; and most of its activities revolve around exploration and exploitation of the vast solid minerals and metal resources of the country and the enforcement of the Laws and Regulations guiding its activities. Mines Inspectorate, Mines Environmental Compliance and Artisanal and Small - scale Departments, and Geological Survey Offices are maintained in almost all the States of the Federation, including the Federal Capital Territory (FCT) Abuja for effective coverage of these activities.[473]

The Ministry consist of the following Departments;

1. The Mining Cadastre Office
2. The Mines Inspectorate Department
3. The Mines Environmental Compliance Department, and
4. Artisanal and Small-scale Mining Department.

1.4.2 The Federal Ministry of Environment

This Ministry, was established in 1999 to ensure effective coordination of all environmental matters. Its mandate includes, (a) monitoring and enforcing environmental protection matters; (b) prescribing standards and enacting regulations on water quality, effluent limitations, air quality, atmospheric protection, ozone protection, noise control, and the removal and control of hazardous substances; and (c) cooperating with Federal and State Ministries, Local Government, statutory bodies, and research agencies on matters relating to the protection of the environment and the conservation of natural resources.

1.5 Inadequacies in the Regulation of Artisanal Gold Mining in Nigeria

The Minerals and Mining Act, includes a chapter on Small-Scale Mining (Chapter2) that subsumes artisanal mining within its scope. Artisanal miners are required to form a cooperative before mining, apply for a small-scale mining lease, provide evidence of technical capacity, land surveys, and financial capability[474]. In reality, most artisanal miners operate without any

[473] Ministry of mines and steel development service charter https://msmd.gov.ng/wp-content/uploads/2021/07/mmsd-service-charter-2020.pdf Accessed 13thJune, 2025

[474] The Nigerian Minerals and Mining Act, 2007.

lease, cooperative registration, or formal documentation. The requirement for technical capacity and financial proof, while logical for investor protection, is impractical for rural miners who lack formal education, capital, or access to surveying professionals. As a direct result, miners remain in the informal economy, enforcement is limited to symbolic seizures or fines that are rarely applied and there are no effective penalties that motivate compliance[475].

The legal design conflates artisanal mining with structured small-scale mining, failing to recognize the informal socio-economic nature of artisanal miners who cannot meet these formal requirements[476]. By imposing requirements tailored to organized operators, the law effectively excludes its intended beneficiaries from formalization. In contrast, best practices in countries such as Ghana and Tanzania provide tiered licensing systems that allow entry-level, low-risk permits with minimal procedural barriers and simplified registration. This enables progressive formalization rather than immediate exclusion.

The MMA and 2011 Regulations require all miners to operate with environmental safeguards, submit operational plans, and comply with environmental standards. There is negligible field enforcement. Mines Environmental Compliance Departments exist on paper and often lack technical equipment for monitoring (e.g., water sampling kits), staff with environmental inspection training and funds for regular site visits. Consequently, activities such as open-pit digging beyond permissible depths, improper waste disposal and uncontrolled use of mercury remain pervasive. In places like *Zamfara State*, studies show severe water and soil contamination linked directly to artisanal mining activities.
The law does not provide clear enforcement triggers or sanctions tailored to artisanal mining. Unlike commercial operations, which may be subject to explicit environmental impact assessments (EIAs) and ongoing audits, artisanal operations are effectively exempt in practice. Regulatory officers lack the legal and operational tools to compel compliance. Internationally, best practices include mandatory environmental management plans with periodic audits and clear sanctions, as seen in *Peru's artisanal mining framework*, which links compliance to continued access to technical support and market licensing.

The regulatory framework provides limited incentives for compliance. Artisanal miners often operate without access to credit, modern equipment, or technical support, making adherence to environmental and safety standards economically unviable. Institutional inefficiencies,

[475] Adedoyin Akinsulore, 'Appraisal of the Legal Framework for the Exploration and Exploitation of Solid Minerals in Nigeria,' (2016) being an unpublished M.Phil Thesis submitted to the Obafemi Awolowo University, Ile-Ife Nigeria
[476] ibid

corruption, and overlapping mandates among regulatory bodies further undermine effective governance of the sector. The environmental and public health consequences of these regulatory failures are significant. Unregulated mining practices, including the uncontrolled use of toxic substances such as mercury, have resulted in soil degradation, water contamination, and serious health risks in affected communities. The inability of regulatory agencies to enforce environmental protections highlights the urgent need for a more coherent, inclusive, and enforceable legal framework. This section demonstrates that the inadequacies in regulating artisanal gold mining are not merely legislative gaps but reflect deeper structural and institutional weaknesses that must be addressed to achieve sustainable mining governance.

1.6 Conclusion

This paper identified the weakness in the legal framework on artisanal gold mining in Nigeria particularly with regards to organization of the industry, the adequate policing of mine sites all over the nation and enforcement of mining legislations which, which has culminated into the proliferation of illegal small artisanal gold mining sites in the country, thereby denying the government the benefits of economic diversification. It suggests that The Federal Government must as a matter of urgency address the security situation in the country which is rich in natural resources particularly gold. The paper suggests that there is need to synergize with the Nigerian police force to restore law and order in communities ravaged by illegal artisanal gold miners. The paper suggests that tougher legislation and enforcement, needs be undertaken to stop the current trends of indiscriminate artisanal mining particularly in residential areas and the pollution of water bodies. The paper equally suggests that There is urgent need to improve on the funding of the public mining institutions so as to ensure effective monitoring and regulation of mining activities as without funding, there can be no effective monitoring and regulation. The paper also suggests the drastic reduction of illegal mining so as to ensure the rule of law and prevent environmental pollution and further loss of lives and property.

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