

# **Battling for Survival: Mining Threatens Livelihoods and the Environment in the Dâures Constituency**

## ***Namibia Rural Women's Assembly***

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### **Introduction**

This report focuses on the effects of mining activities on local communities in the Dâures (formerly Brandberg) Constituency, an area adjacent to the Namib desert. The communities who reside there are the descendants of those who have been dispossessed during the German colonial genocide of 1904-08. They were prevented from reclaiming their ancestral land and were resettled on marginal land in what were known as Native Reserves.

In recent years mining has increasingly encroached upon the small patches of land reserved for indigenous black Namibians. The Native Reserves were developed as labour reservoirs and to redistribute ancestral lands to white settlers. The South African colonial administration that took over the territory on a League of Nations mandate in 1920, intensified this dispossession to resettle their own impoverished white farmers in the territory.

While trying to eke out a living on marginal land, disenfranchised communities are once again subjected to dispossession and displacement. They feel a sense of outrage and betrayal that this is happening in a democratic and independent Namibia. With unbridled lawlessness mining companies dispossess indigenous communities from land, water sources and public infrastructure. They violate Namibian laws and the rights of indigenous communities with impunity. Communities suffer income and livelihood losses; environmental destruction; and the loss of cultural heritage sites. They are often left with little recourse because the institutions mandated to protect their rights and interests, fail to do so and often side with the perpetrators.

The five cases in the Dâures Constituency in the Erongo region, documented in this report stand out as microcosms of social inequality and how transnational mining companies are allowed to deepen inequalities by dispossessing and displacing already marginalised communities. The operations of most of the companies mentioned in this report are shrouded in secrecy. Most do not have websites and the affected communities do not understand who they are and what they are doing in Namibia. The five cases highlighted in this report demonstrate the social, economic, administrative and environmental injustices perpetrated in the name of "development".

Community members and activists are forced to use their own meagre resources to fight for rights, they are legally entitled to. Their plight amplifies the weaknesses of our democracy, for the rule of law seem not to apply to the rich and powerful. The interests of powerful individuals and groups seem to trump the collective interests of entire communities.

## Methodology

The Namibia Rural Women’s Assembly visited different villages in the Dâures Constituency in the Erongo region in August 2023, to document the communities’ grievances about the impact of mining in their areas. Focus group discussions and interviews were held in the following locations

**Uis:** 2 focus group discussions with 12 people (8 women)

**Omunkambu:** Focus group discussion with 15 participants (4 women)

**Ozondate:** Focus group discussion with 17 people (12 women)

**Otjohorongu:** 2 focus group discussions with 12 people (5 women). In addition, 2 interviews were conducted.

Participants were all residents of villages in these areas. Most resided in the areas for their entire lives. The overwhelming majority were small-scale subsistence farmers. Some supplemented incomes with small-scale mining or community-based tourism activities. Some had previously worked as civil servants or conservationists. They all grew up in the area. A minority migrated for work elsewhere but returned to the area during retirement. The participants ranged between the ages of 22 and 85.



*Photo 1: Discussion in Uis*



Photo 2: Discussion in Uis

## Background

Mining has been the backbone of the Namibian economy for over a century. It remains one of the most untransformed sectors of the Namibian economy for it is still premised on the colonial model of extraction and export of minerals. Namibian mines are 88.1% foreign-owned compared to 11.9% Namibian-owned<sup>1</sup>.

In addition to the deposits of diamonds, gold, copper and uranium, Namibia has a rich endowment of other strategic and critical minerals. There is a new scramble for Namibia's mineral wealth as global competition for control over critical and strategic minerals intensifies. Some of these minerals are important for industrial, military and renewable energy sectors and find application in electronics, defense systems, transportation, batteries, semiconductors, electric vehicles, and advanced medical equipment. Lithium, cobalt, graphite, tin and tantalum, rare earth elements and manganese are all found in Namibia<sup>2</sup>. Some of the major pegmatite belts are found in the Dâures Constituency.

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<sup>1</sup> Republic of Namibia (2021) The Impact of Mining sector to the Namibia economy "Assessing socio-economic and environmental effects". Retrieved from <https://www.npc.gov.na/wp-content/uploads/2022/02/The-Impact-of-Mining-sector-to-the-Namibia-economy-FINAL.pdf>

<sup>2</sup> Republic of Namibia (2023) *Overview of Critical Mineral deposits in Namibia*.

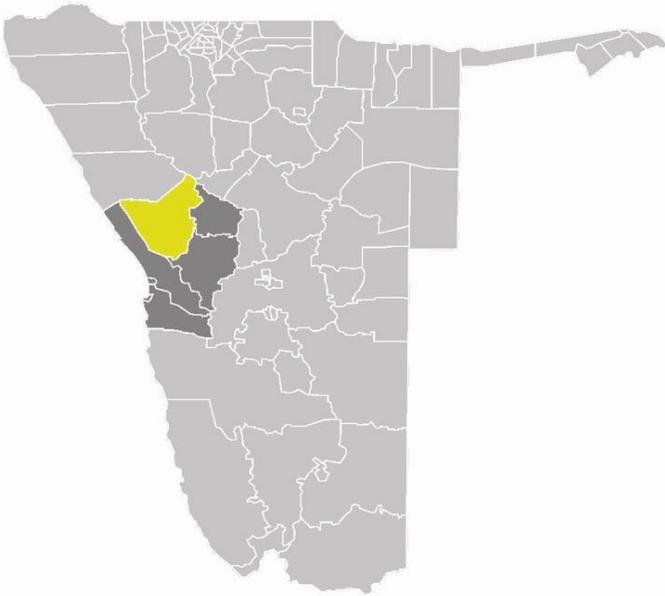
<https://miningexponamibia.com/wp-content/uploads/2020/09/Overview-of-Critical-Minerals-Deposits-in-Namibia-Geological-Survey-of-Namibia.pdf>

The name Dâures derives from the Khoekhoegowab mountain. This is with reference to the Brandberg mountain, the tallest in Namibia<sup>3</sup>. The constituency is located in a semi-desert area that range between sparse savannah, arid and hyper- arid climate zones. The landscape consists of mountain ranges, hills, sparse savannah plains and wooded river valleys. There is a vast variety of wildlife including different antelopes (kudu, gemsbok, springbok, steenbok, zebra, duiker), leopard, elephant, cheetah, jackal, ostrich, and the black rhino<sup>4</sup>.

Water scarcity and protracted droughts limit economic activities. The region relies on groundwater supplies derived from borehole drilling. Due to low rainfall, poor soils and rugged landscapes, most of the region is unsuitable for crop farming inhabitants mainly rely on livestock farming. Depending on the availability of water and grazing they farm with cattle, goats and sheep. However, this is threatened by long periods of drought. The livestock farming is supplemented with small-scale mining and tourism<sup>5</sup>.

The Dâures Constituency is home to a number of former Native Reserves, now named Communal Areas, that emerged in the Police Zone (area where the German colonial regime established direct rule) after 1915. Indigenous black Namibians who were dispossessed of ancestral lands during

the 1904-1908 genocide were settled on small patches of land within the Police Zone primarily occupied by white settlers. Between 1923 and 1926, a total of sixteen such native reserves were established<sup>6</sup>.



**Figure 1:** Dâures Constituency (Source: Alchetron 2022)

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<sup>3</sup> <https://alchetron.com/D%C3%A2ures-Constituency>

<sup>4</sup> <https://eba.eif.org/na/files/Kunene%20South%20and%20Daures%20Landscape.pdf>.

<sup>5</sup> <https://eba.eif.org/na/files/Kunene%20South%20and%20Daures%20Landscape.pdf>.

<sup>6</sup> Werner, W. (2015). Tenure reform in Namibia's communal areas. *Journal of Namibian Studies*, 18 (2015): 67 – 87.

## Case 1: Tin and Lithium mining in the area surrounding Uis

### Mining operations in the area

#### Andrada Mining

Namibia has historical piles of lithium that is extracted from tin and tantalum that have been mined in the past. Tin pegmatites are concentrated in three northeast-trending belts around Uis. The brownfield open-cast tin mine in Uis operated between 1924 and 1990, but was closed due to low commodity prices. Since 2017 a British company, Andrada Mining (formerly AfriTin Mining) restarted tin mining operations. The company has mining and exploration licences over the Damara Belt, which is Namibia's most prolific metallogenic zone. The Uis Lithium Tin Tailings Project reclaims lithium minerals from stockpiled tailings<sup>7</sup>. Andrada also extracts tin mining by-products, lithium oxide and tantalum<sup>8</sup> and the company is planning a ten-fold expansion over next few years<sup>9</sup>.

#### Xinfeng

Xinfeng is a Chinese mining company, that community members say is mining lithium illegally. Lithium mining conducted by Tangshan Xinfeng Spedumenempany Mining Co was noticed by the community members in 2022. According to the community's research, Xinfeng only have licences to mine semi-precious stones and not the lithium or the rare earth elements, they are currently mining<sup>10</sup>. Xinfeng has 10 mining claims for semi-precious stones. This places them in direct competition with community-based small scale artisanal miners, who have mining claims in the area and have been mining there for decades.

According to the community's research, Xinfeng has applied for an additional prospecting licence (application 8843), and renewal a licence (EPL 7228) in the Okombahe area. As far as could be ascertained, all these licences are pending and therefore the community is questioning the legality of their operations.

It is also alleged that the company has been granted consent to mine on mining claims that belong to other companies. This is against the law. Examples of this are, EPKL 70515 and 70516 that belongs to Townland Investments as well as EPL 7248 that belongs to Mount Brandberg Mining (Pty) Ltd. The company also applied for EPL 8397 for which Orange River Investment has applied for an Environmental Clearance Certificate.

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<sup>7</sup> Republic of Namibia (2023) *Overview of Critical Mineral deposits in Namibia*.  
<https://miningexponamibia.com/wp-content/uploads/2020/09/Overview-of-Critical-Minerals-Deposits-in-Namibia-Geological-Survey-of-Namibia.pdf>

<sup>8</sup> <https://andradamining.com/>

<sup>9</sup> <https://www.internationaltin.org/explorers-developers-group/andrada-mining/>

<sup>10</sup> <https://nbcnews.na/node/100378>.

## **Long Fire Investments**

Long Fire Investments is owned by a Namibian citizen and is a partner of Xinfeng Investments. Long Fire Investment (Pty) Ltd was registered on 24 June 2022 and received an environmental clearance certificate to mine lithium on 16 September 2022. The certificate is valid for 3 years. Long Fire Investments has 10 mining claims for semi-precious stones only.

Long Fire's Environmental Clearance Certificate (EEC) was granted for the Okombahe reserve and not for Uis. In other words, the Environmental Clearance Certificate does not align with the mining claims issued in the company's name and the place where the mining is supposed to occur. The company is allowed to mine despite it not having a mining plan or blasting ticket. Despite community concerns of malfeasance, the Minister of Mines and Energy Minister, Tom Alweendo, defended Long Fire's mining and insisted that they were awarded and registered procedurally and in compliance with the Mining Act<sup>11</sup>.

## **Ascaris Metals**

Ascaris Metals is an Australian company that concentrates on battery metals extraction. The company is part of the Uis Lithium Project with Exclusive Prospecting Licences (EPL) 7345 and (EPL) 8535 that constitute a total area of 308.12 km<sup>2</sup><sup>12</sup>. The company has recently commenced drilling just outside Uis<sup>13</sup>. The community first noticed their mining activities in the area in 2023.

## **Namclay Brick Pavers**

This company has been operating in Uis since 2007 and extracts clay from the disused mine slime dams<sup>14</sup>.

## **Information, Consultations and Consent**

Unlike with tin mining where consultations took place and an environmental management plan was presented to the community, no such consultations took place in the case of lithium mining. The local communities were not informed about the mining activities but noticed a large number of trucks transporting rocks from the area. People on the surrounding farms were concerned and asked the traditional authority for assistance. No consultations were held and no environmental impact assessment (EIA) was conducted.

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<sup>11</sup> <https://neweralive.na/posts/alweendo-satisfied-with-daures-lithium-miner#:~:text=Alweendo%20%E2%80%98satisfied%E2%80%99%20with%20Daures%20lithium%20miner%202023-05-02%20Eveline,procedurally%20and%20in%20compliance%20with%20the%20Mining%20Act.>

<sup>12</sup> <https://www.askarimetals.com/our-projects/uis-lithium-project/>

<sup>13</sup> <https://thebrief.com.na/index.php/component/k2/item/2415-askari-metals-begins-phase-i-drilling-at-uis-lithium-project-in-namibia.>

<sup>14</sup> <https://www.claybrick.org/profile/namclay-brick-and-pavers.>

The community noticed that mining companies manipulate the process and often receive support from the Ministry of Mines and Energy (MME). They noticed discrepancies in documents issued by the MME and the Ministry of Environment, Forestry and Tourism (MEFT). An environmental clearance certificate was issued for lithium mining without community consultations. The company reportedly got support from the Traditional Authority (TA) of the Daure-Daman constituency. The community therefore called for a vote of no confidence in Chief Seibeb. The local community decided to set up a committee (not formally named) to take up their concerns. The concerns raised by the community and the committee were ignored by the TA. This led to protests.

The community sent a letter in which they expressed their lack confidence in Chief Seibeb to the Minister of Urban and Rural Development on 20 February 2023. The letter was acknowledged by the Minister, Erastus Uutoni, who promised to give a substantial reply once his office received feedback from the Daure Daman Traditional Authority. A report from the Ministry of Urban and Rural and Development (MURD) is expected in September 2023. More protests will follow if the outcome of the investigation is not satisfactory. The community also asked for an investigation into the financial affairs of the TA.

The local Conservancy has authority over the local land but was also not informed about Xinfeng's lithium mining licence, despite the fact that environmental clearance requires consent from the Conservancy. Likewise, the Communal Land Board was not involved in the granting of the licence. The licence was approved with the consent of the Traditional Authority (TA), the Ministry of Mines and Energy (MME) and the Ministry of Environment Forestry and Tourism (MEFT).

The community has challenged the Minister of MME to present Xinfeng and Long Fire's Exclusive Prospecting Licences for inspection. They also want to see their Environmental Clearance Certificates, Export Permits, Stakeholder Consultation Reports and letters of consent from the Conservancy and the Tradition Authority (TA). They further want to know whether the 75,000 tons of lithium the Minister of Mines and Energy allowed Xinfeng to export have been tested and if so, if they can scrutinize the report. They suspect that minerals, other than lithium are also being extracted but without being declared.

## **Destruction of livelihoods**

### *Displacement of small miners*

The majority of the black inhabitants of the area were already dispossessed of their ancestral lands during the colonial occupation and genocide. They find it very painful that indigenous small-scale miners are chased out of the areas they traditionally minded for foreign mining companies to take over. Small miners engaged in non-mechanised artisanal mining for small amounts of tin, lithium and semi-precious stones. They engaged in survivalist activities as they received no support to grow their operations.

The new holders of exclusive prospecting licenses (EPLs) are outsiders who gain control over an area. The indigenous small-scale miners now have to seek their permission to mine from outsiders, who sometimes under dubious circumstances acquired mining rights in areas small scale miners

traditionally operated in. This has dire consequences on their livelihoods if one considers that those who were both small-scale farmers and engaged in small-scale mining lost most of their livestock during successive and protracted droughts.

### *Water problems*

The mining operations require large quantities of water and exacerbated the water scarcity in the area. The community is dismayed that mining companies use water from the pipes meant for the community without prior consultations with the community and with their prior consent. Mining companies come to use water from local water points without the consent of the community. Since 2014, these problems were reported to the TA but nothing was done. Neither the company nor the MME informed the community about the impact of mining.

Water has become unaffordable as the elders survive on the social pension of N\$ 1400 per month while water costs N\$ 500 per month which they cannot afford. The council cut's water to households if they do not pay.

### *Displacement of local farmers*

The mining companies fence off grazing areas, depriving local farmers of accessing to grazing for their livestock. No compensation or benefits are offered to local communities.

Some farms in the area no longer have water (or just salty water) while the mines have water for their operations. The mining companies do not provide solar pumps or any other assistance to the local community.



*Photo 3: Most residents of Uis live in impoverished conditions*

## Health and environmental damage

Environmental damage caused by mining has led to income losses in the community tourism sector. Xinfeng and Longfire started operations without the consent of the Tsiseb Conservancy. Xinfeng mines lithium in a sensitive breeding area for wildlife. It is also the burial site for previous generations of small miners. Since the mining operations started, different species of wildlife, including, rhinoceros, zebra, springbok, lions and cheetahs have disappeared. The Conservancy gained income from trophy hunting. Trophy hunters paid the conservancy but the contract to hunt in the area, but since the wildlife has disappeared the contract was cancelled. The animals dispersed and some moved onto farms. The Tsiseb Conservancy's Elephant Rock Camp has lost many of its visitors (and income) due to the mining operations that continue at night preventing visitors from having a rest.

Lithium mining may cause lung cancer but no information was provided to the community about the potential risks.

The blasting at mines (especially the tin mines) cause cracks in several of the township houses. Wire is used to hold the zinc roofs and prevent them from blowing off during the blasts. The mining company refused to take any responsibility and did not provide any services or infrastructure for an increase in the local population due to mining. The dust created by blasting sometimes covers the whole area and some people developed lung problems. Workers complained that the mine does not follow dust protocols, putting their health at risk. When they leave work, the mine workers are completely covered in dust. They experience tough working conditions and low salaries of about N\$ 4,000 per month.



*Photo 4: Several residents in Uis use wire to protect their homes from further damage caused by blasting*

The local brick company also operates open kilns to bake the bricks. These kilns have no filters or chimneys. Trees near the site have died and there are no filters or chimneys to limit the exposure.

Past mining companies have not done rehabilitation of the areas they mined. They left behind large unfenced craters. Already 2 children have died as a result of falling into these unfenced pits. Animals have also fallen into the craters.



*Photo 5: Large unrehabilitated mining pit on the outskirts of Uis*

Uis became a ghost town when the tin mine closed and when operations resumed, the road traffic increased dramatically and some of the roads collapsed. No improvement of infrastructure or maintenance of roads was done by the mining companies.

### **Community Benefits**

The Uis Tin Mine merely provided a school garden at a local primary school.

Some local, wealthy individuals get tenders from the mining companies which sometimes give food parcels. However, the community does not want charity but instead wants to benefit from its own local resources. The previous company operating the tin mine, Afritin, made several promises to the community like the provision of roads, hostels and schools but did not keep them once they got the ECC. The community expected the TA to develop a written agreement with the company to ensure that the promises were kept but this did not happen.

The community believes that agriculture is more sustainable than mining and wants their livelihoods protected.

### ***Employment***

Nobody from Uis is employed at Xinfeng although some positions were advertised. More than 30 Chinese are employed at the mine which is kept closed and which locals cannot access. The Chinese claim that that the chiefs gave them permission to hunt animals.

Employment at the mines bypassed the locals with the justification that higher levels of schooling and education were required. The community requested local jobs for local people at the tin mine and after protests, a training facility was established and about 70 people were employed.

The Dâures constituency has no training centre for people dealing with mining despite mining being such a prominent activity.

There are also reports of discrimination as Namibian workers employed and Long Fire Investment and Xinfeng Investments are subjected to inhuman working conditions compared to the comfortable conditions, their Chinese counterparts enjoy<sup>15</sup>.

The high levels poverty combined with an influx of predominately male labour into the area create other social problems like transactional sex. The community has seen increased levels of teenage pregnancy.

### **Governance failures, bribery and suspected corruption**

The local community believes that there is a syndicate at the MME which teams up with foreign mining investors to solicit bribes in return for exploration and mining licences. These officials may have access to geological data and then trade that information. The community has therefore asked the Anti-Corruption Commission (ACC) in April 2023 to launch an investigation and to conduct lifestyle audits of the individuals involved. They are awaiting feedback.

The environmental clearance certificate (ECC) was issued without consultations but applies to Okombahe, not Uis. The application which was submitted to the MME was for “rare metals” but the certificate was issued for lithium (industrial minerals). When the community questioned these discrepancies, the MEFT explained them as a “human error” but the community suspects corruption.

There is insufficient oversight, monitoring and enforcement of the law by the relevant government ministries. There may also be gross incompetence and/or collusion with mining companies. The community finds it difficult to otherwise understand why Namibian laws are not respected. Article 31 of the Environmental Management Act 7 of 2007 explicitly states that a person may not take on mining activities without an Environmental Clearance Certificate (ECCs). Despite this provision, companies without ECCs are allowed to do so. Article 44 of the same Act that the Minister or Environmental Commissioner may consult persons interested and affected persons. Because of the discretionary way in which the law is phrased, companies and the traditional authorities by-pass the communities that are most adversely affected by the mining operations.

The Minerals (Prospecting and Mining) Act 33 of 1992 prohibits a person from carrying out prospect of carry out mining activities in, on or under land unless they have the relevant

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<sup>15</sup> <https://twitter.com/NewEraNewspaper/status/1660556885399838722>.

prospecting licence, a mining claim or a mineral licence. It also prohibits the transfer of mining claims and licences to any other persons. This is however happening in contravention of the Act.

### *Illicit Outflows*

The community pointed out that Namibia is losing huge amounts of potential revenue. There is no competent laboratory to check which minerals are contained in the rocks which are being exported. Taxes and royalties are only calculated for lithium although several other minerals such as tin, tantalite, tourmaline, feldspar, spodumene and perlite are extracted and exported as part of the raw ore. In a petition to Xingfeng, the MME, the MEFT, the Tsiseb conservancy, the Dâures constituency office and the Daure Daman Traditional Authority, dated 3 March 2023, the community pointed out that the companies extracted minerals worth N\$ 478 million and government received only 2% of that amount (N\$ 9 million). The community demands that minerals must be processed inside the country and taxed as a whole.

### **The role of the Traditional Authority**

The community has no say how the TA operates and suspects misappropriation of funds meant for their personal benefit. The community feels that the TA should be more inclusive and should have representation of women, youth, men and the elders. This would enable a coordinated and united response to the mining ventures and the dangers they pose.

Community members expressed the view that “traditional leaders are keeping investors as their secret tool for self-enrichment, therefore consultations between the affected communities and the investors are being neglected”. They further alleged that mining companies bribe the TA to get letters of support. An individual representing the company approached the TA and paid N\$ 10,000 to the TA plus a sitting allowance of N\$ 500 per person. The community argues that the TA did not monitor mining activities, for example after blasting or when trucks “drive away our resources”.

The community members complained that the Chief is operating a separate personal Nampost savings account to bypass the TA account into which all monies should be deposited. They are further suspicious of nepotism and conflicts of interests as the chief’s daughter is operating as the secretary of the chief’s council and community funds.

### **Community responses & demands**

The community held meetings on the impact of mining in their area and appointed a committee of 11 people. This committee conducted research and visited mining sites. The Committee sent a petition to the Daure Daman Traditional Authority to urge them to stop illegal mining in the area. The petition was also sent to the Minister of Ministry of Mine and Energy, the Minister of Environment, Forestry and Tourism as well as the Dâures Constituency Councilor Mr. Kennedy !Haoseb. This petition, dated 3 March 2023 set out the demands of the youth, farmers, small miners and the community of Uis. It calls for an immediate stop to the illegal mining as Xingfeng was busy exporting 55,000 tons of lapidolite crushed ore from the area. The petition was handed over on the 3<sup>rd</sup> of March at Karlowa (about 50 km from Uis) as part of a protest organized by the community committee.

The petition expresses the community's disappointment that Xinfeng was allowed to mine despite violating various provisions of the Environmental Act (No 7 of 2007) such as the need for a valid environmental clearance certificate and consultations with interested and affected parties. The petition also states that the company engaged in illegal hunting of wildlife and that its Exclusive Prospecting Licence (EPL) was obtained under dubious circumstances. Xinfeng did not conduct an environmental impact assessment and created no platforms for community engagement to discuss direct benefits for the affected community. The community therefore demanded that an Environmental Impact Assessment is done and that mining operations have to stop until the matter is resolved amicably. The petition also questions how an environmental clearance certificate was obtained as mining is taking place in a "sensitive wildlife area" and the Tsiseb Conservancy was not informed about these mining operations. The petition also questioned "why certain companies acquire EPLs, mining licences and export permits in the blink of an eye, while ordinary citizens have to wait years to get their documents". The petition requests the MEFT to revoke the environmental clearance certificate and to send the company to approach the conservancy office for consent.

Further concerns and demands raised in the petition are that the TA does not have the right to decide on environmental management and should not be permitted to allow investors to start operations without prior consultation of the conservancy and all affected parties. Xinfeng should pay compensation of N\$ 5 million to the Tsiseb Conservancy for mining in a sensitive area without proper consultations and agreements.

The community is concerned about the lack of action by the Constituency Councilor. The petition questions why he is silent on the mining activities in the constituency and why he places no demands on the company to ensure direct benefits towards poverty eradication for the community. The community therefore called on the Dâures Constituency Office to take control of all the active mining activities and set a way forward as to how communities in Dâures can benefit from mining activities". Community members are not opposed to development in their area, but against the "exploitation of our people, land, animals and mineral resources" and vow to protect their resources with "all the power vested in us"

The community wants full disclosure and an end to the secrecy and lack of transparency that has shrouded Xinfeng and Long Fire. The Minister of MME, Tom Alweendo, visited the area. After 2 weeks he responded by dismissing the concerns of the community. The community still demands that the Minister provide proof that the companies have EPLs and mining claims for lithium. In addition, they want to peruse the Environmental Clearance Certificates, an assessment report which shows that meetings were held with stakeholders and affected parties, an export permit indicating the quantities to be exported as well as consent letters from the conservancy and TA.

In May 2023, the Parliamentary Standing Committee visited and held meetings with the community but no report was provided so far. The community wants a greater sense of urgency and want to the report expedited.

Government announced a bill that will prohibit unprocessed minerals from being exported. The community wants to see this signed into law and implemented.

The community feels abandoned by the chief who does not want to engage with the community and who only shows interest to engage with investors. They also want the Ministry of Urban and Rural Development to investigate financial irregularities at the TA. Some strongly felt that the TA should be replaced by more democratically elected institutions.

The community also wants a committee elected by the community to have influence in the TA to ensure corporate social responsibility from the companies “based on what they extract from our land”. The community members also want legally binding agreements with mining companies on the benefits to the community as many previous promises have gone unfulfilled. They also want the Land Board to be involved in decision-making on the issuance of EPLs and mining claims.

The community demands compensation from the mining companies for losses incurred. Such compensation should be based on the value of the exported resources, damage to land, houses, wildlife and the environment. Also, a laboratory should be established to determine the value of minerals before any export takes place.

The community demands skills development in alignment with the economic activities in the area. There should be a requirement that companies employ people from the area.

Small-scale miners want to be supported with tools to increase the efficiency of their operations.

The community wants information about the health impacts of mining in their area.

Companies should also assist with the establishment of community gardens.

## Case 2: Mining attempts in Omunkambu

### Illegal Lithium Exploration

A Chinese JTD Mining Group started lithium exploration in 2023. The local community became aware of it when digging started in the area and stopped it. A meeting was convened with the inhabitants of the area, the TA and the company. Upon further enquire the community discovered that most of the company's permits were expired. These included a licence from the Mining Commissioner. The letter of consent was from a councilor of another constituency who had no authority in their area. The JTD Mining Group (Pty) Ltd presented and exploration Licence EPL 6883 which expired on 7 May 2021. The letter from the Heritage Council expired in July 2022 and the EPL renewal application was submitted on 31 October 2022 and is still pending.



*Photo 6: Discussions in Omunkambu*

### Information, consultations and consent

The company had a valid environmental clearance certificate (ECC). This ECC is valid until 9 December 2024 but no community consultations took place prior to that certificate being issued. It is still not clear how the ECC could have been issued when an environmental impact assessment submitted was done in Omihana, which is another constituency and not Omunkambu.

There were very limited consultations prior to the start of the exploration and during the community meeting in April 2023, both the TA and the company were reluctant to answer the questions. After meeting the community wrote a letter to the Mining Commissioner to raise their concerns about the expired licence and the lack of consultations. They have not received any response thus far.

On 25 March 2023, the Minister of MME visited the area and stated that “mining is an important sector of our economy. It has a short lifespan and should therefore not be allowed to displace other equally important sectors which make meaningful contributions to the livelihood of our communities, such as agriculture and tourism”. The Minister was briefed by the Omatjete Local Development Committee about the lack of information provided to the local community. The Development Committee also pointed out that the TA provided consent letters to investors without broad consultations with the communities.

The Committee also recalled that a community meeting was finally held on 21 April 2023 in the presence of the TA and Mr. Yan from the JTD Mining Group. The meeting established that the company’s EPL as well as the consent form the Heritage Council had expired.

The prescribed manner of notifications of consultative meetings excludes most people from the community. Consultative meetings have to be advertised in newspapers but this medium is not accessible to rural communities like Omunkambu. The newspapers are simply not delivered on a regular basis. The community relies on local language radio stations for information. This should therefore be used to inform the community of such meetings. However, the time such announcements are made is also important, because consistent electricity is a problem. The radio transmission depends on solar energy that is only available from sunrise to sunset. Notifications should therefore take place within this timeframe.

The company had brought its own employees from other regions and the mining area was inside the community’s grazing area and thus opposed by the community. The rights of communities to water, grazing and other natural resources were not adhered to by the mining company.

The company’s consultations were held with the community of Omihana village which is outside the boundaries of the company’s EPL.

This meeting was followed by a visit of the Parliamentary Standing Committee on Natural Resources on 9 May 2023. The Committee made a written submission outlining the challenges faced by the community, including the lack of consultations, the threats to their livelihoods, especially water in an area that is adjacent to the Namib desert.

### **Role of the Traditional Authority and Politicians**

At a meeting held on 21 April 2023, the TA introduced the Chinese company and informed the community that the (mining) deal was done. Community members suspect that politics played a role as Ministers are friends with the chiefs and therefore push for mining deals to be approved by the TA.

In their submission to the Parliamentary Standing Committee on Natural Resources, the Development Committee’s pointed out that the rights of traditional communities as provided for in the Communal Land Reform Act were violated, mostly by the TAs which are supposed to administer land on behalf of the communities. As a result, there are now severe tensions between the communities, the TA and the mining investors.

The Dâures constituency councilor does not serve the community well and the community has no faith in him. The community feels abandoned as it received no response from the regional governor who received a letter outlining the community's concerns. The community feels that "people who are supposed to help us, oppress us. Higher offices send you around and refer you to councilors etc. "

Despite stating the concerns so clearly during the meetings with the Minister, the TA, the mining company and the Parliamentary Standing Committee, nothing concrete happened after these visits and meetings. At these meetings the community pointed out that mining undermines grazing, especially in times of drought. Omunkambu, like the rest of the Dâures constituency is situated in a very dry area with limited rainfall throughout the year.

The community feels that they have very little recourse. They suspect an interconnected web of collusion between powerful individuals and groups. The chiefs report to the governor who is appointed by the President and thus an integral part of government.

### **Effects of mining**

Besides the loss of grazing, the community also loses water to the mining company. Water extraction requires permission but the mining company has set up a borehole close to the community's borehole in Otjivero. The company had no permission to extract water but still went ahead. Despite protests from the community, no action was taken. The community wonders why such illegal activities are allowed in communal areas while they would not be tolerated on commercial farms.

The company brought in their own workers and no one from the community therefore benefitted from employment at the company.

### **Community demands**

The community has presented its concerns to the Traditional Authority, the Constituency Councilor, the Environmental Commissioner, the Minister of Mines and Energy, the Parliamentary Standing Committee on Natural Resources, and the Regional Governor. So far, there has been no feedback from these agencies and the community is gravely concerned about the lack of responsiveness.

The community has suggested that an inclusive stakeholder platform that includes farmers, farmers' unions, conservancies members, the TA, local development committees etc. be set up to achieve informed decision-making on mining in the area. Such an inclusive committee should be known as the Community Mining Consultation Forum (CMCF). So far there has been no response to this suggestion.

The community plans to bring all villages in the area together to jointly oppose mining ventures.

During a meeting with the Parliamentary Standing Committee on Natural Resources in Omatjete on 9 May 2023, the Omatjete Local Development Committee presented its demands in writing, including:

Law reform: Amend laws to give more power to local resource users through establishment of Land Users Associations. as is the case in Mozambique. In this way communities can assert their and group their rights to land and natural resources, i.e., water, grazing land collectively whilst being protected and empowered by the law. The community sees the empowerment local resource users as more important than ever, because their rights and livelihoods are under threat from mining activities in the area

Climate Change and Livelihoods. There is a need to rethink how livelihoods are secured for marginal communities in the area. Namibia's western and southern areas will become dryer by 2060 and therefore less inhabitable. There is a need for forward thinking and planning. Laws and programmes are therefore needed to support and resettle affected communities in more suitable areas inland.

A special levy payable by mining companies should be introduced to fund such a special settlement programme. In return, the very dry areas could then be used for strategic mining operations.

## Case 3: Mining in Ozondate

### Mining operations in the area

A Chinese company Far Print Investments, started mining granite in the area since 2022. There is no information about the company in the public domain.



*Photo 7: Discussions in Ozondate*

### Information, Consultations and Consent

Communities in the vicinity were not consulted and did not consent to these mining operations. A meeting was convened but no explanation was given on what was to be mined. The community was only informed that the company would ensure corporate social responsibility. The community has no information about mining permits, social and environmental impact assessments, environmental clearance certificates or environmental management plans. The community cannot get this information directly from the company as all contact with the company goes through the Traditional Councilor.

As a result of the climate of secrecy and lack of transparency the community has the suspicion that inducements may have been paid in order to get permission from the TA. Despite the legal obligation to consult with communities the TA gave permission for mining without consulting the community. The community fears that the attendance list for the aforementioned meeting could have been misused to construe community consent. The community members are not certain, but the MME may have granted information. They however have not had sight of exploration or mining licences issued by the MME.

The Minister of MME, Tom Alweendo, visited the area and said that the TA has no right to decide on natural resources. Alweendo said that the Ministry will tell them what will happen. To them it appears that the Mining Commissioner in the MME decides on EPLs and only works with the TA, not with the affected communities.

The community wants to be informed and consulted about proposed mining activities and suggested a broader committee consisting of the TA, Conservancies and communities to deal with mining companies. However, this proposal was rejected and there is now a “war” between the TA and the community and Conservancy.

The community does not have direct access to the TA, all communication goes through the local traditional councilor.

## **Effects of mining**

### ***Livelihoods***

The mining area has been fenced and thus the community’s livestock is prevented from entering the grazing area. Members of the community are also prevented from entering the area by the company. This reduces the available grazing to farmers and will affect the number of livestock the land can hold. This in turn affects their incomes.

### ***Water***

Mining depletes water sources. As a result of the depleted water sources, wild elephants roam the area come to homesteads in search of water and cause immense destruction to the water infrastructure. For this, affected members have not been compensated.

## **Environmental destruction and health**

The mining area falls in the community’s core game breeding area. Game disappeared from the area due to mining and the Conservancy’s income from trophy hunting has declined. A meeting was held between the Conservancy and the TA to harmonise relations. The Chinese mining company claimed not to know about the Conservancy in which they were mining.

Although no testing was done, community members suspect that water sources have been contaminated as residents have developed unexplained rashes on their skin.

Fine dust caused by blasting affects animals and humans. It settles on vegetation that animals later ingest. It also causes respiratory problems to members of the community.

Blasting occurs without prior notification and the explosions from blasting distresses animals.

## **Destruction of cultural heritage sites**

There are ancient rock paintings in the mining area. The mining company has shown no sensitivity towards the significance of these heritage sites. There is currently a destruction of these heritage sites and the TA who is legally mandated to protect it, is not doing so.

## **Damage to local infrastructure**

The road in the area was diverted towards the mining site and now creates a lot of dust in the livestock grazing area.

The company was told by the community to create infrastructure such as a road and water points.

Rural homes are built with clay and dung and the blasting at the mine creates cracks in the buildings.

The only road in the area was damaged by the trucks transporting the granite blocks. This road was not constructed for use by trucks. Members of the community also complained about the additional costs in motor car repairs as the few who own cars need to constantly pay repairs that occur as a result of the damaged road. Due to the damaged road community members have difficulty in accessing public transport. Some taxis do not want to travel the route as a result of additional repair costs. Some charge extra for wear and tear. Access to public transport presents a big problem in cases of illness and when community members need medical attention.

## **Benefits**

The community feels that all the benefits from mining go to the TA, for example in the form of computers.

Very few people from the area were employed by the mine and the community does not know why. Some workers left because the work was very hard with little pay (N\$ 3000-4000 per month). The majority of workers are from the central north and the Kavango region.

## **Community demands**

On 2 September a meeting was scheduled with the TA and the affected communities to discuss how the company can assist the communities. The community is unsure how the company will respond and feels that they have become beggars when dealing with the company. The community wants a binding agreement on the company's social responsibility.

The community is not sure if they can oppose or stop mining activities. They are not sure of their rights, including the right to say no. They were told that the resources belong to the government and only the government can decide how to use them. They see this as a constraint because "Government is standing on our toes" and the community does not know its rights regarding the issuing of EPLs.

The community wants to see the creation of an inclusive committee to deal with mining. This committee should ensure the community gets concrete benefits from mining, like a tarred road to Omaruru, boreholes, electricity supply as well as additional classrooms for the school.

The community is divided on how best to deal with mining. They are not sure about their rights to stop mining and thus consider demanding benefits instead of stopping mining altogether. However, several participants stated that they preferred not to have mining in their area because of livelihoods and environmental concerns. They also want the rehabilitation of mining sites.

Members were very clear that the TA, particularly, their traditional councilor is not adequately representing their interests. They are tired of the constant conflicts within the TA and the wasteful expenditures related to that. They believe that the TA's resources are being used to fight personal and factional battles and used to pay lawyers' fees that emanate from these conflicts. The TA are unelected and do not have limited terms. The community wants the right to recall the current TA.

## **Case 4: Illegal mining in Okamase**

Very similar to Ozondate and Omunkambo, concerns were also raised by the nearby community of Okamase. On 25 June 2022, Dr Vetja Mekupi Haakuria, wrote a letter to the Erongo Land Board in Swakopmund. Dr Haakuria is a community member of the Ohungu Conservancy, and represents a large clan consisting of the Haakuria, Kavendjii, Jatamunua, Tjaherani, Kaahanga and others who live living in the area. In his letter he outlined the background of the community's objections as follows:

### **Dispossession and displacement**

The letter traces the family history to demonstrate the family's dispossession and displacement as a result of the 1904-1908 genocide. *"I am a community member of Ohungu Conservancy residing in Omaouozongaku. Our family has lived in the area since 1910, when my great grandfather and great grandmother Kakoto and Tueritjiua Haakuria returned from Ondonga Kingdom where they had fled to during the genocide of 1904 – 1908."*

### **Livelihoods**

The letter further outlines how the land sustained livelihoods in the area. The area has ample water sources which the community derives from wells they dug with their own hands. These wells served as a buffer against droughts. Local farmers used the area for grazing during dry seasons. *"Okamase has served the surrounding communities sustainably for all those years until today as a buffer area during droughts. The area has numerous hand-dug wells belonging to our communities as they relocated to Okamase during dry seasons for livestock grazing. As a buffer area, Okamase has a very important role in this drought-prone area."*

### **Wildlife conservation and environmental protection**

The Okamase area has officially been designated as the core breeding area for wildlife in the Ohungu Conservancy. As per the Conservancy Act, the core breeding area is off-limits for human settlement as well as mining operations. Only environmentally sensitive operations like lodge operations are permitted outside the core breeding area of the conservancy. There is currently a leasehold for a lodge establishment just on the outside of the core breeding area. This leasehold has a lifespan of 25 years. The community has foreign investors who have expressed interest in a tourism project. The project had been delayed by the Covid-19 pandemic. They have since revived discussions and negotiations are ongoing.

The area has beautiful mountains and with rich floral and faunal diversity. The pristine landscape makes Okamase ideal for tourism activities. The mountains are an important climate regulator that influence rain patterns in the areas adjacent to it. Most of the tributaries that feed into the Ugab River and that snake through the area have their origin the Okamase mountain range. These include the Omaouozongaku, Otjongundu, Otjiuapeke, Otjingore, Otjomukona and Otjivero rivers. The community fears that contamination in the Okamase area will have far-reaching, adverse and knock-on effects on all the communities downstream of all these rivers who depend on this water for drinking (both animal and human).

## **Objections to mining in the area**

The letter raises several objections to mining in the area:

1. Mining operations at Okamase will destroy the grazing and water resources in that area
2. The company will fence-off the area, making this important buffer zone inaccessible to communities who are dependent on it for grazing
3. There have been no consultation with the affected communities regarding the mining operations and how these will affect them.
4. The mining operations at Okamase will forever destroy its tourism potential
5. The benefits of mining operations have a short live span, however, after the marble resource is depleted, the community will have to live with the pollution of their water and destruction of the vegetation etc.
6. Mining operations are prohibited in a tourism designated area as per the Environmental Act.
7. There is already a leasehold permit for an eco-lodge in the area where mining operations are currently being conducted.
8. EPLs are subject to the Environmental Act which is enshrined in the Namibian Constitution. As such, EPLs do not override the Environmental Act.
9. Consultation about the project at proposal stage should have involved the whole community and not just the Chief of the area as has clearly happened in this case.

The Erongo Land Board only responded after a year. In August 2023, it claimed that it received Dr Haakuria's letter only on 13 June 2023. The Land Board's response stated that the issues raised in the letter were discussed at a Land Board meeting on 27-28 June 2023. The Land Board concluded that the matters raised fall outside the scope of the Land Board and that they should be discussed with the MME and the MEFT as the custodians of "mining and natural resources in the country".

## Case 5: Mining in Otjohorongo

### Mining in the area

Granite Mining started about 15 years ago with different companies operating in the area during different periods of time. These include Best Cheer Investment Namibia (PTY) which stopped mining in 2020. They removed their operational equipment overnight and left the area without any rehabilitation after they become aware that the community was preparing a case of environmental damage to heritage sites. Ongejama Mining CC stopped mining in 2021 after the community blocked the renewal of the Environmental Clearance Certificate (ECC) also due to the damage caused to heritage sites. While the company removed all operating equipment from the site, it is still guarded by a caretaker and the company tries to convince the Traditional Authority (TA) to support its application for a renewal of the ECC. Two other companies, Dimension Stone Mining and Ekungungu, operated in the area where most cultural heritage sites are located. They continued operations into 2023 despite a report by the National Heritage Council stating that the Environmental Impact Assessment (EIA) did not consider the heritage component as required by the Environmental Management Act of 2007 and its regulations (2012) as well as the National Heritage Act (27 of 2004) and its Regulation 106 (2005). Once the companies were reported for operating with an expired ECC, operations seized but they left behind destroyed mountains and grazing areas that have still not been rehabilitated.



*Photo 8: Community members are outraged by the destruction caused by mining companies*

The community is concerned about how these companies will be held liable for the environmental destruction and livelihood losses they have caused. There is a nebulous web of owners and operators that is steeped in secrecy. In some instances, formal license holders are Namibian

citizens, but operations are run by foreign nationals, mainly Chinese. The community is of the opinion that the Namibians (from outside the Otjohorong area) are fronting for these foreign companies. This requires further investigation and more transparency. There is also the suspicion that the same company may be using different local proxies to obtain licenses. In some instances, mining started without community consultations or without Social and Environmental Impact Assessments, as required by law.

Authority and decision-making on mining licenses are dispersed across different agencies and Ministries. Community members have to go through tedious and costly procedures to access information and lodge complaints as they are fobbed-off by one agency after the next. For example, Traditional Authorities may authorise entry into the area (often without proper community consultations). The METF gives environmental clearance and the MME issue mining licenses. There is a complete lack of transparency and accountability. The community is left with many questions that are often simply ignored by the authorities.

### **Information, Consultation and Consent**

In 2018/19 community meetings were convened by environmental consultants. Only few community members were invited. There was no full disclosure of the social and environmental impacts of mining. Because the law is not clear on what constitutes community consultations and how they ought to be conducted, the process is open to abuse. There was no response to community questions about the validity of mining licenses. Instead, the TA referred the community to the MME. The TA sees itself as the custodian of the land and interprets this as ownership and control over the land. Internal conflicts within the TA are exploited by mining companies, who with divide and rule tactics, back one faction against another to do their bidding.



*Photo 9: The company blocked the road to the mountain with boulders*

In March 2020, an environmental consultant, employed by one of the mining companies claimed that the mining company was only involved in exploration activities and not in actual extraction because they did not have a mining license. Community members however saw large granite blocks trucked out of the area to Walvis Bay for export to China. Questions about who granted permission to extract and transport granite without licenses and permits remain unanswered. The community also questions the independence of environmental consultants, who conduct environment impact assessments paid for by the mining companies which expect assessments in their favour. This leaves questions about the objectivity, reliability and accuracy of their assessments.

The issue of how community consent is obtained requires further investigation. There are concerns about the fraudulent use of attendance lists to contrive consent. These lists are at times undated and people who attend information meetings have concerns that their signatures, which simply denote attendance, are used to construe consent, when this is in fact not the case.

### **Destruction of Livelihoods**

The mining operations are in midst of the community's winter grazing land. The community relies on livestock farming and grazing is paramount to their livelihoods. The local track to the grazing area has been appropriated for the exclusive use of a mining company and is blocked by big granite boulders. This effectively blocks access to grazing areas. A caretaker, appointed by the company refuses the community access to their own land. In addition, fine dust generated in cutting and grinding processes cover the cover the area like blanket of snow on windy days. The dust then settles on vegetation that is ingested by livestock. Some cattle also get lost in the mining area as the traditional passages are blocked. This has resulted in the death of some cattle for which no compensation was received.



*Photo 10 : The fine dust created by cutting and grinding poses health risks*

Community members want to preserve the environment and heritage sites for future generations and to develop sustainable agriculture and tourism projects. As a result of mining operations, some of these sites are destroyed and some are inaccessible.

### **Water**

The mining company drilled its own borehole next to the community borehole. This was done despite the Minerals (Prospecting and Mining) Act 33 of 1992 explicitly stating that this can only be done with the permission of the Environmental Commissioner. It is not clear if such permission was sought or granted. The company has depleted scarce water resources in the area because its mining operations required a constant water supply to cool the blades used to cut the rocks. The community had to pay for water from the company borehole and when the company ceased mining operations, it closed the boreholes within the mining area with cement.

Natural waterways such as a stream was simply blocked with earth to provide a road for the transportation of granite blocks. During the rainy season this stream filled a nearby dam. The company refused to build a bridge over the stream to allow for the natural water flow which fills a community dam downstream.



*Photo 11: The mining companies blocked community access to this water hole*

### **Environmental destruction**

Namibia's Environmental Management Act 7 of 2007 establishes the office of the Environmental Commissioner with Environmental Officers to control activities that may have significant effects on the environment. In the case of Otjohorong, mining was allowed to continue despite the environmental destruction with no consideration for rehabilitation.

As a result of the open cast mining used for extraction, there are now over 10 huge unprotected mining pits that were cut into the pristine mountains. They pose danger to humans and animals as they are several metres deep and unfenced. Tracks from chemicals used for mining are visible down the mountain and led to water holes and the stream below. The fine dust deposits cause respiratory problems. The company has left large boulders, considered waste and unsuitable for export, strewn all over the area. These block access to recreational sites as the community used the mountains for walking and hiking. It also blocks access to cultural heritage sites.

The community has to travel about 75km to the town of Omaruru to visit the hospital and to purchase supplies. The mining company has used this road for its heavy trucks which damaged the road without rehabilitation.

Community members are not informed when blasting will take place and animals are therefore distressed by the blasting while the community experiences noise pollution during blasting.

### **Rehabilitation of the Environment**

The Environmental Management Act 7 of 2007 holds any person who has caused environmental harm liable for rehabilitation. It explicitly states that a person who causes damage to the environment must pay the costs associated with the rehabilitation of damage to the environment and to human health. It is not clear why this law was not enforced in Otjohorongo. The mining sites remains unrehabilitated while the community calls for rehabilitation have gone unanswered. It is not even certain if the damage is reversible and if the open mining pits that were cut into the mountain can ever be rehabilitated.



*Photo 12: Unrehabilitated mining area*



*Photo 13: A large unfenced area, the size of a football field, several metres deep, was supposed to be used for rehabilitation but was left unused by the mining company when it left.*

In August 2023, the community reported to government that the rehabilitation did not happen. Also, the unrehabilitated oil ponds were just covered with some slabs. One large oil pond is partially concealed by granite boulders that were dumped in and around it. The community fears that the oil will find its way into water supplies.



*Photo 14: Oil pond partially concealed by granite boulders*

## **Destruction of a cultural heritage sites**

The entire mountain is home to centuries old rock paintings and engravings. It is also a repository for archaeological artefacts. Some of the engravings have already been damaged or destroyed. The company has even been so brazen as to attach a notice board to a rock with ancient engravings. This occurred despite stakeholder meetings with officials from the National Heritage Council of Namibia (NHC), the Ministry of Mines and Energy and the Ministry of Environment, Forestry and Tourism in February 2020 during which a joint monitoring archeological assessment was recommended. A final report was produced in October 2020 and a second stakeholders' meeting was convened in November 2020 which resolved that that all the Environmental Clearance Certificates and Mining Licenses in the area will be withdrawn.

## **Benefits**

The promised benefits of jobs and increased incomes to the community have never materialised. There were no legally binding agreements with which the community could hold companies accountable for their promises. Only about 8 members of the community were employed in the mine, mainly, in low paying jobs, for example as cleaners. All other company employees were brought in from outside the community. No skills were transferred to community members.

The companies did not source any inputs or services from the community to stimulate local economic development and income generation. The promised social investments in education and infrastructure were not realised. Only when the community questioned the lack of legal compliance did one of the companies assist with the construction of a school hostel. The community is of the opinion that this was not proportionate to the wealth the company extracted from resources in the community.



*Photo 15: Mining left a trail of destruction*

## **Role of the Traditional Authority**

The community believes that the TA is complicit in the deception. It knew about the mining operations but did not see the need to consult with the community or to inform them about it. The TA sees itself as the custodian of the land and interprets this as ownership. However, the TA is often divided and various traditional houses differ with each other. This gap is used by mining companies to their own benefit who use the strategy of divide and rule. The TA is not fulfilling its mandate to protect the natural resources and the cultural heritage.

## **Governance, oversight and enforcement failures**

Mining in Otjohorongo is riddled with governance failures at various levels. There was a lack of oversight and law enforcement by agencies tasked to do so. In terms of the Traditional Authorities Act 25 of 2000, traditional authorities are tasked with the promotion of the welfare of the community. They should also ensure that the natural resources of the community are used on a sustainable basis and that cultural sites are preserved. This did not happen and so far, the TA has not been held accountable for this dereliction of responsibilities.

In terms of the Environmental Management Act 7 of 2007 the Minister of Environment, Forestry and Tourism has the function of ensuring compliance with the Act and the Environmental Commissioner is responsible for issuing Environmental Clearance Certificates and for inspections to monitor compliance with the Act. Community members question how environmental clearance certificates could have been issued to some of the companies and how such massive environmental destruction could have occurred without any monitoring and enforcement of the Act.

The Minerals (Prospecting and Mining) Act 33 of 1992 directs the Mining Commissioner to take into account the need to conserve and protect the natural resources in, on or under the land to which the application relates or to any adjoining or neighbouring land. The Commissioner can also cancel registration certificates in cases of noncompliance. It is therefore not clear if and how the office of the Mining Commissioner exercised this mandate in Otjohorongo and how it allowed noncompliance and environmental destruction to continue over such a long period of time.



*Photo 16: Unrehabilitated mining site*

### **Community actions**

Following community intervention, the mountains where mining took place were declared a heritage site in 2021 due to the rock paintings found there. In a letter of 3<sup>rd</sup> February 2021, the Director of the National Heritage Council of Namibia (NHC), Erica Ndalikokule, confirmed that the NHC was approached by the Otjohoronggo community about the destruction of heritage sites by mining operations. The letter further stated that mining licences and EECs were issued without considering the heritage component in contravention of the law. The letter also confirms that stakeholder meetings were held with officials of the NHC, MME and MEFT on 16<sup>th</sup> of February 2020 during which a joint monitoring archeological assessment was recommended. This will establish all the facts. A preliminary joint report was produced in March 2020 and the final report in October 2020. A second stakeholders' meeting was convened on 23 November 2020 and "it resolved that all the Environmental Clearance Certificates and Mining Licences in these areas will be withdrawn". This applied to Gross Okandjou Farm where Royal Unity Mining CC operated and Otjohoronggo Granite Hill where Adptabiz Investments CC and Ongeyama Mining CC were destroying heritage resources.

In May 2021, the NHC wrote to Immanuel Tjipepa, the ward councilor of Okamaere, stating that the Otjohoronggo Granite Hill in Reserve 150 would be placed under a Provisional Protection order as the site's heritage resources were "in danger from ongoing exploration and mining operations". In response the councilor expressed his full support for this measure.

The community also wrote to the Environmental Commissioner and the Deputy Environmental Commissioner visited to inspect the site in response to community complaints about mining in the

area, the Deputy Environmental Commissioner visited the mining site in October 2022. She witnessed the environmental destruction and compiled a report. Although the community repeatedly requested a copy of the report, they have not been granted access. The experiences of the community suggest that the TA does not support the community attempts to hold government officials and mining companies accountable.

Despite the decision to halt the mining operations in 2021, they only stopped in June/July 2023 after reports from the Deputy Environmental Commissioner and the National Heritage Council. Since then, a caretaker is on site but the community does not know under what conditions he is employed. The caretaker moved in from Otjimbingwe and is the only person on site since the Chinese left.



*Photo 17: What next for the Otjohoronggo community?*

### **Community demands**

The community demands their right to prior and informed consent to mining operations on their communal land. It demands the rehabilitation of the damaged area by the mining companies. This rehabilitation must benefit the community in the form of jobs, bricks, crushed stones and tarred roads. The community further wants:

- Access to information. They want to see the environmental assessment reports, environmental management plans, environmental clearance certificates, mining and prospecting licenses and transport permits. Thus far, the MEFT has refused to provide some of these reports because some officials claimed that they are not public documents.
- Direct community representation in all discussions relating to mining plans, social responsibility projects. rehabilitation etc. Communities must be alerted to all aspects and

repercussions of mining operations instead of limiting consultations to the traditional authority. Community views and demands as expressed by elected and accountable representatives must be central to any licenses being issued.

- Access to financial information, specifically, the financial and banking accounts of the traditional authority, to ensure that inducements have not been exchanged for mining consent.
- Information about who owns the hundreds of granite slabs that were left behind which were mined after the expiry of the ECC.
- Access to the waste and machinery left behind by the companies, strewn across the landscape.
- Justice and accountability. Those who either through gross incompetence, dereliction of duties or collusion allowed violations of the law and crimes against the environment to take place with impunity, should be brought to book.
- An end to mining and that those negatively affected by past mining be resettled.
- The law to be amended and made explicit about communities' rights to consultation, participation, decision-making and to benefits.
- Full disclosure of the impact of mining and the right to say no to mining if it harms their collective interests and the environment.

Where mining is permitted, the community wants legally binding agreements on the benefits to communities with regard to jobs, skills development, training, income streams and infrastructure development.

## Conclusion

Across the Dâures constituency communities that are affected by mining are engaged in struggles for their very survival. These struggles centre around access to land, grazing, water, environmental protection and the protection of cultural heritage sites. These resources are crucial to their livelihoods and the survival of future generations. They often face these struggles alone as institutions tasked to protect them, instead undermine and sideline their rights and interests.

There is a perpetuation of injustice, for communities who in the past faced extermination, genocide and dispossession are once again faced with dispossession and displacement. Some of the rights they are fighting for are entitlements granted by law, but that are not enforced. This points to weaknesses in our democratic order, as wealthy and powerful groups are able to transgress and circumvent Namibian laws with impunity.

There are big gaps in the current laws which mining companies are able to exploit with dire consequences for local communities. There is thus a need for the reform of laws that govern mining in the country. The current laws give traditional leaders and government officials discretionary powers to consult communities about mining in their communities. The laws do not prescribe how these consultations should be conducted. This vacuum has led to many abuses of the process. The current laws do not unambiguously establish communities' rights to free, prior and informed consent in mining decisions that directly affect their lives. The mining law is very eloquent about the rights of mining claims and licence holders, but it remains muted on the rights of affected communities. There is thus an urgent need for law reform to lay down such rights unambiguously.

There is a culture of secrecy and a lack of transparency in the awarding of mining licences, environmental assessments and environmental clearance certificates. Such secrecy is in conflict with the democratic principles of transparency and accountability. The culture of secrecy facilitates abuses of power, lawlessness and malfeasance. The Access to Information Act, 2022 (Act No. 8 of 2022) grants citizens access to information held by public entities without delay and free of charge. In the mining cases cited in this report, this has not been the case. Public officials have refused to give communities access to information or to provide copies of prospecting licences, environmental clearance certificates, transport permits, export permits, stakeholder consultation reports, environmental management plans, and letters of consent from Conservancies and Tradition Authorities. This is in conflict with the Access to Information Act that specifically directs public institutions to proactively disclose information. To break this culture of secrecy there is a need for rules and procedures that give concrete expression to the Act so that information can be proactively and freely accessible on websites and other public platforms.

From the cases cited in this report it is clear that governance failures exist on the part of traditional authorities, political office bearers, civil servants and mining companies. There is a lack of law enforcement, a lack of transparency and oversight and a lack of accountability. It is not clear if this is accidental or by design. Institutions mandated to enforce the law, fail to do so with no or little accountability or remedial action. In the exercise of their duties many office bearers and officials have shown a bias towards mining companies and have shown contempt and disdain towards the affected communities. They have often acted against the interests of these communities. It is also

not clear if this comes as a result of instructions from powerful individuals or groups with vested interests or whether officials act on their own initiative. These matters require further investigation. Communities have proof of discrepancies and wonder if this is as a result of gross incompetence, the dereliction of duties, collusion or corruption. In the interest of administrative and social justice, such an enquiry should be conducted by an independent body or retired judge.

In all cases traditional leaders have played dubious roles. They are seen by the communities as complicit to the ruthless and at times illegal exploitation of resources they are mandated to protect. This indicates a greater need for community oversight over traditional authorities' decision-making. The law should make such oversight mandatory. Sections of the affected communities question the value of unelected and undemocratic traditional authorities, who do not represent their interests and who seem to rather act in their own personal interests. In some instances, they have even refused to meet with the communities they are supposed to represent. There is a need for law reform so communities can legally recall traditional leaders where they act unlawfully or against the interest of communities.



*Photo 18: Communities are left with destruction and without benefits from mining*

The cases cited in this report show that indigenous communities' livelihoods are being destroyed by transnational mining companies. Communities' land, grazing, water sources and roads are affected by mining which deepens poverty and inequality. Community members do not know where to begin to claim compensation. There is a need for a body that adjudicates such losses and can order compensation.

Although the law orders compensation and the rehabilitation of sites degraded and destroyed by mining companies, the law is not enforced. There is a need create a rehabilitation fund that legally

obliges companies to pay rehabilitation deposits into the fund prior to the commencement of mining operations. This fund can then be used for the rehabilitation of abandoned mining sites or the resettlement of people adversely affected by mining.

The independence of social and environmental impact assessments is in question because the mining companies pay consultants to conduct such assessments. In cases where mining has destroyed the environment, cultural heritage sites and caused health and social problems, questions were raised about the competence and integrity of assessors. In order to balance conflicting claims and interests, government should also conduct its own assessments and give central consideration to affected communities.

Communities see no or very little benefits from mining. Where there are benefits, they accrue to local elites like traditional leaders and a few business people. Communities benefit very little from the wealth that is extracted from their areas. In most instances they do not have the tools and processes to accurately measure what is extracted. This may lead to under-declaration of mineral wealth extracted. This translates into an under-assessment of revenue due to the fiscus which in turn constitute illicit financial outflows.

Communities derive very little benefits in the form of jobs, skills or technology transfers. There is also little investment in community development and public infrastructure development. While they are not opposed to development, they question the nature of this development that deepens poverty and inequality and that destroys the environment. This will only change if livelihood concerns are taken seriously by law makers, policy makers and enforcement agencies. Currently, mining interests to dominate the development discourse. The right to meaningful informed, prior consent by affected communities must take centre stage to prevent the type of problems currently experienced by communities in the Dâures constituency.