

Mining Laws and Standards Sensitization Toolkit (Pictorial Edition)

**Theme: Strengthening Capacity of Citizens and
Local Authorities on
Basic Mining Laws:
A Case Study of the Wassa East and
Prestea Huni Valley Districts of Ghana**



Background

The law is system of rules which a particular country or community recognizes as regulating the actions of its members and which it may enforce by the imposition of penalties. It is indeed a key instrument for development in any modern society. The mining law is a set of laws dealing with the legal requirements affecting land, minerals and mining. It covers basic topics including land and mineral ownership and who can work in the industry. Additionally, it relates to the conduct of those who engage in activities in industry. Thus far, mining is affected by a number of regulations regarding the health and safety of miners and communities as well as the environmental impact of mining. In Ghana as in most developing countries citizens' understanding of mining laws is generally less than satisfactory. For many years, a common assumption in Ghana has been that, the legal terrain and especially the arena of mining laws is the exclusive turf of book-long or well educated individuals. This is also because legal documents are rarely accessible to ordinary people. Where and when such documents are even available, they are written in technical languages that can only be interpreted by legal luminaries. For the ordinary citizen therefore, the legal arena is a taboo area. Not surprisingly, ordinary people shy away from legal matters even when their rights have been violated or their environments are been abused and degraded by mining companies or mine operators. This attempt towards a simplification of the Ghana mining laws into a training toolkit for the ordinary citizen is therefore a timely exercise.

The mining law toolkit has become more relevant in the in the light of the recent heavy destruction of the rainforest and cash crops as well as the heavy pollution of water bodies by miners in search of mineral resources especially gold and diamonds. In recent times, the activities of some small scale and artisanal miners also known as *galamsey* operators; has resulted in the wanton disregard of mining laws and regulations with deleterious consequences on the rain forest and water bodies. The activities of small and medium scale miners as well as

illegal artisanal miners have attracted a national outpouring of condemnations against their activities.

Over the years, citizens and local authorities in natural rich resources districts have often been confronted with the daily challenge of managing and reaping the maximum benefits of the activities of mining firms their communities while minimising the negative effects of the impact of mining. This module is consolidated into a training manual aimed at building the capacity of citizens and local authorities especially district assemblies and traditional authorities to be able to tackle the daunting challenges posed by mining.

The Ghana Mining Laws Toolkit has been prepared with the support of the **West Africa Governance and Economic Sustainability in Extractive Areas (WAGES)** initiative. Jointly implemented by the World University Service of Canada (WUSC) and the Centre for International Studies and Cooperation (CECI) in Burkina Faso, Ghana and Guinea, the project works in partnership with communities, local government, mining companies, and other stakeholders to enable communities, particularly women and youth, to maximize the socio-economic benefits from extractive resource investment in West Africa. The project's principal areas of focus include local governance, sustainable and inclusive economic growth, and regional knowledge-sharing on development best practices in mining areas. The expected results of the project include: increased employment opportunities for community members, especially youth and women; ii) strengthened capacity of sub-national governments and local institutions to leverage opportunities arising from natural resource development, especially the extractives sector; and iii) increased informed dialogue on local economic growth and governance strategies in regions with natural resource development activities, within the three target countries and across West Africa. This five-year project is funded by Global Affairs Canada (GAC) through the ExCEED fund of Canada.

In **Ghana**, the project is implemented in the Western Region, more

precisely in the Prestea-Huni Valley District and the Wassa East Districts.

The toolkit is a resource document aimed at enhancing the knowledge of local authorities and citizens on basic mining laws and regulations in Ghana. It seeks to acquaint operators in the mining industry about the rules of the game. Of particular interest, is how citizens' knowledge of the basic mining laws will lead to the maximization of benefits while minimizing the negative effects and common pitfalls associated with the extractive mining sector? Additional information materials have been developed out of the toolkit that include an abridged simplified pictorial version and posters.

About WUSC and CECI

World University Service of Canada (WUSC) is a Canadian non-profit organization with a mission to foster human development and global understanding through education and training. WUSC works through a network of professionals, students, volunteers, faculty, and community leaders who, together, provide opportunities to some of the world's most disadvantaged youth. WUSC programs and services improve access to and quality of education, expand employment opportunities and foster empowerment for youth. Currently, WUSC works with and through our southern partners – government, civil society and the private sector. Learn more at www.wusc.ca

Centre for International Studies and Cooperation (CECI) is a leader within an international network of partners combating poverty and exclusion. Its main area of expertise is in the building of development capacity of local partners in four main areas: sustainable economic development, food security, human security and emergency response, and gender equality. Present in several countries, the CECI contributes to improving the conditions of thousands of people and changing lives, every day. Learn more at www.ceci.ca

Regardless of age and level of education, it is your right to know your mining laws



The importance of knowing your mining laws

- a) Your Knowledge of mining laws will enhance transparency and accountability in the mining sector;
- b) Your knowledge of mining law will help your District Assembly to live up to their responsibilities as host institution to mining companies;
- c) Your knowledge of mining laws will make mining companies, small scale artisanal miners and *galamsey* operators behave responsibly;
- d) Your knowledge of mining laws will help minimise environmental degradation and water pollution.

Role of Citizens in Mining Communities



As citizens of mining communities, it is our responsibility to:

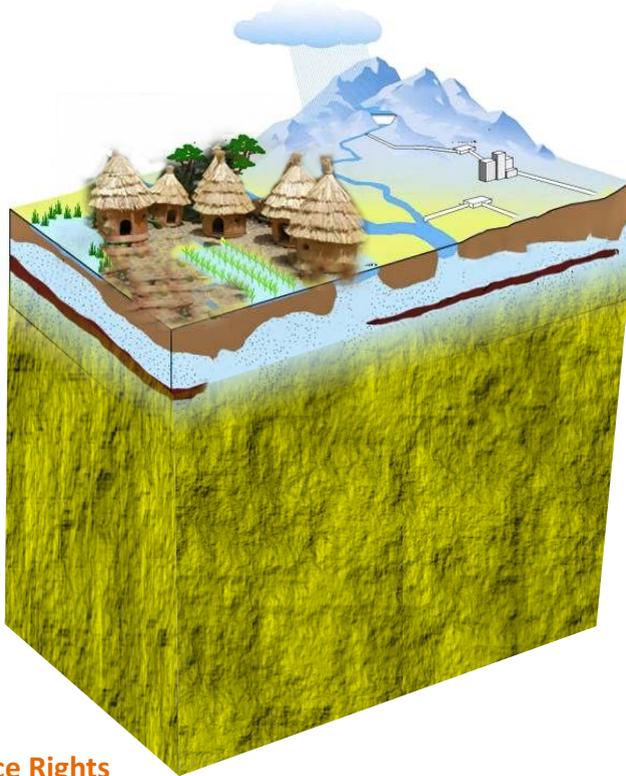
- a) Obey the constitution and laws of Ghana;
- b) Respect the rights of fellow human beings;
- c) Respect animal and environmental rights;
- d) Avoid negative practices that constitutes stumbling block to societal progress;
- e) Avoid practices that contribute to depletion of the rainforest and environmental degradation;
- f) Avoid practices that endanger human and aquatic lives such as pollution of water bodies and main sources of drinking water to communities;
- g) Report crime and other illegal mining activities that pose threat to lives and property to appropriate authorities.

For more information, see Chapter Six of the 1992 Constitution





Local Citizens have Surface Rights and Only the State has Underground Rights



Surface Rights

This refers to the ownership of property and assets that are limited to the **surface of the earth**.

Underground Rights

This is the **right** of ownership, control and grant of permission for the exploitation, and production of any minerals lying below or on the surface of the ground.

Only the State Can Grant Mining Permission



Grant of Permission to Mineral Rights

The Minister of Lands, Forestry and Mines has to authority to grant exclusive mineral rights and these powers are expressed in **Sections 4, 5 and 6 of the Minerals and Mining ACT, 2006 (ACT 703)**.

Ownership of land not enough qualification for a person to engage in mining activity, it requires a mineral right.

It means that “Despite a right or title which a person has to land in, upon or under which minerals are situated a person shall not conduct activities on or over in Ghana for search, reconnaissance, prospecting, exploration or mining for a mineral unless a person has been granted mineral right in accordance with this Act”. See **Section 9 (1) of the Minerals and Mining Act, 2006 (ACT 703)**.

Citizens' participation in local content can be enhanced through knowledge of the mining cycle



Local Content

Knowing the Mining Cycle is important for citizens' participation in local content

- Because of its highly technical nature only citizens with requisite skills can participate in design phase of a mining concession;
- The generality of local citizens with or without skills can participate in the construction phase through direct or indirect engagement with mining companies in their communities;
- Local citizens can participate in the operational phase by offering themselves for employment in mining concessions;
- Citizens can participate in the abandonment and land reclamation phase through sand filling, tree planting and other activities.

See General Regulations 2013, LI 2173

Effective dialogue, equity fairness and adequate compensation are the tools for lasting peace in mining communities



Employing children in mining activity violates their rights



Section 507 (1) of the Minerals and Mining (Health Safety and Technical) Regulations L.I. 2182 stipulates that: “

A person shall not be employed in a mine, unless that person is at least eighteen years old.

2) A person shall not work in an underground mine unless that person is at least twenty one years old”

- Ghana's Children Act prohibits mining work for anyone under the age of eighteen (18) years;
- The Children's Act, 1998 Act 560, describes a child as person below the age of 18 years;
- The law states that: “No person shall engage a child in exploitative labour”, (See Section 87 (1) of the Children's Act.
- Labour is exploitative if it deprives the child of its health, education and development.
- Children, who work in small scale artisanal gold mining are the risk of ill-health or accidents from collapsing pits, flying rocks, exposure to dust and toxic chemicals such as mercury.



Cyanide



Mercury



- Environmental degradation refers to actions taken by people that cause the planet earth or its systems (air, water, etc.) to become damaged or harmed in some way. Example is deforestation of the rain forests
- The pollution of rivers also has significant effects on the activities of the Ghana Water Company in its mandate to provide safe drinking water to citizens.
- - a) Chapter six of the 1992 Constitution places an obligation on every citizen as a duty to protect and safeguard the environment for national prosperity;
 - b) Under the country's environmental laws, it is an offence to undertake any activity that is likely to impact significantly on the environment without obtaining the necessary environmental permit;
 - c) Environmental pollution refers to decline in the capacity of the environment to sustain natural systems, thus directly harming welfare.
 - d) The Polluter pays principle applies to those responsible for environmental damage must be held liable for the repair caused both to the physical and human environments. They must also be held responsible for the costs of preventive measures to reduce or prevent further pollution and environmental damage (See Section 9 of the Statutory Instruments Act, 1959 (No. 52).



Adherence to Mining dress codes

The Minerals and Mining Health, Safety and Technical Regulations require that persons working in high risk areas of processing plant shall wear the following:

- a) Chemical resistant suits with hood;
- b) Eye protection equipment in the form of a full face shield, as a minimum requirement, and close fitting goggles;
- c) Cyanide compliant respirators;
- d) Elbow length rubber gloves; and
- e) Rubber safety boots.

See especially Section 223 of Minerals and Mining Health, Safety and Technical Regulations of 2012 (L.I. 2182).



Ensuring Safety at Mining Sites

To ensure safety at mining sites “the manager of a mine shall post safety signs in the mine, give guidance and protect persons on the site of the mine in areas in which machinery and installations are a source of danger”. See section 302 of Minerals and Mining Health, Safety and Technical) Regulations, of 2012 (L.I. 2182):

Section 470 (1) of the Regulation states that:

(2) The holder of a mining license for a small scale mine which

*a) employs more than thirty individuals; or
b) uses explosives shall ensure that work within the mine is*

i) done under the supervision of a sufficient number of individuals each of whom holds a certificate of competency as a blast-man or another qualification approved by the Chief Inspector of Mines, and

ii) undertaken in a manner that does not expose the workmen to hazards”.

