

# Mining Laws and Standards Sensitization Toolkit

## **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





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## ABBREVIATIONS AND ACRONYMS

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<b>CBOs</b>	Community Based Organisations
<b>CHRAJ</b>	Commission on Human Rights and Administrative Justice
<b>CSOs</b>	Civil Society Organisations
<b>EITI</b>	Extractive Industry Transparency Initiative
<b>GCM</b>	Ghana Chamber of Mines
<b>GDP</b>	Gross Domestic Product
<b>EPA</b>	Environmental Protection Agency
<b>EU</b>	European Union
<b><i>Galamsey</i></b>	Illegal artisanal mining
<b>GSD</b>	Geological Survey Department
<b>IEA</b>	Institute of Economic Affairs
<b>ILO</b>	International Labour Organisation
<b>ISODEC</b>	Integrated Social Development Centre
<b>LEG</b>	Livelihood and Environment Ghana
<b>MLNR</b>	Ministry of Lands and Natural Resources
<b>NGOs</b>	None Governmental Organisations
<b>PAMP</b>	Produits Artistiques Metaux Precieux
<b>PMMC</b>	Precious Minerals Marketing Co. Ltd.
<b>PPP</b>	Principle of Polluter Pays
<b>PWYP</b>	Publish What You Pay
<b>RAP</b>	Resettlement Action plan
<b>SSM</b>	Small Scale Mining
<b>TAs</b>	Traditional Authorities
<b>TWN</b>	Third World Network
<b>UNDEF</b>	United Nations Democracy Fund

**WACAM**

Wassa Association of Communities Affected by Mining

**WUSC**

World University Services Canada



# Know Your Mining Laws



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## 1 INTRODUCTION AND BACKGROUND TO THE MINING LAW TRAINING TOOLKIT

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### 1.1 Background

The law is a 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 being 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 naturally rich resource districts have often been confronted with the daily challenge of managing and reaping the maximum benefits of the activities of mining for 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 District.

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 materials have been developed out of the toolkit that include an abridged simplified pictorial version and posters.

## **1.2 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](http://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](http://www.ceci.ca)

# Module 1

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## 2 Module Objectives and Outline

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At the end of this module, participants will have built an appreciation and understanding of the following:

- The relevance and importance mining Laws in Ghana
- Challenges surrounding citizens' understanding of mining laws in local communities
- Key stakeholders in the mining industry
- Role of government as facilitator of all mining activities
- Role of district assemblies as host institutions
- Role of mining companies
- Role of chiefs by custom and by law
- Role of citizens in mining communities

The module's specific objectives are to:

- Improve the capacity of knowledge of citizens in mining communities on basic mining laws
- Enhance capacity of the District Assemblies to perform their real functions as host institutions to big mining companies and small-scale miners
- Improve on environmental management and mining practices in the local communities

### 2.1 The Relevance and Importance of Mining Laws in Ghana

Evidence across the world shows that without mining laws and effective regulations, mining companies and small scale artisanal mine operators will consistently not behave responsibly. The nature of mining also implies that without laws and regulations, the propensity to cause harm to humans, animals and the environment is very high. In Ghana, the inability of governments to properly regulate and supervise activities in the mining industry has provided fertile grounds for the heavy destruction of the rainforest and large-scale pollution of water bodies<sup>1</sup>. That miners fail to reclaim lands and abandon open pits and trenches in mining areas also shows lack of understanding, enforcement, or respect for mining laws.

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<sup>1</sup> See especially Kippenber 2016.

Mining laws are relevant for the following reasons:

- i. They provide rules for which mining companies and mine operators behave responsibly;
- ii. They provide safeguards for human life and property;
- iii. They protect the environment and other natural resources from degradation;
- iv. They ensure that local content rules are adhered to by mining companies;
- v. They ensure that companies and mine operators live up to their tax obligations;
- vi. They provide legitimacy for the allocation of mineral royalties to relevant stakeholders in the country etc.

There are a number of mining related laws and regulations that have been put in place to promote and regulate the extraction and marketing of various minerals in the country. Presently, the key mining laws in Ghana include:

- a) Minerals and Mining Act, 2006 (Act 703);
- b) Mineral and Mining (General Regulations, 2012 (L.I. 2173);
- c) Minerals and Mining (Support Services) Regulations, 2012 (L.I. 2174);
- d) Minerals and Mining (compensation and Resettlement) Regulations, 2012 (L.I. 2175);
- e) Minerals and Mining (Licensing) Regulations, 2012 (L.I. 2176);
- f) Minerals and Mining (Explosives) Regulations 2012 (L.I. 2177);
- g) Mineral and mining (Health, Safety and Technical) Regulations, 2012 (L.I. 2182) and;
- h) The 1992 Constitution<sup>2</sup>.

## 2.2 Key Stakeholders in Mining

The key stakeholders in the mining industry include the government and its agencies, such as the Ministry of Lands and Natural Resources (MLNR), the Geological Survey Department (GSD), The Parliamentary Select Committee on

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<sup>2</sup> Other Ghana mining laws that are no longer in use include Additional Profits Tax Law 1985 (PNDCL 122), Diamonds Decree 1972 (NRCD 32), Diamonds [Amendment] Law 1989 (PNDCL 159), Gold Mining Products Protection Ordinance (Cap 149), Mercury Law 1989 (PNDCL 217), Minerals and Mining Law 1986 (PNDCL 153), Minerals and Mining Amendment Act 1994 (Act 475), Precious Minerals Marketing Corporation Law 1989 (PNDCL 219), Rivers Ordinance (Cap 226), Small-Scale Gold Mining Law 1989 (PNDCL 218), State Gold Mining Corporation [Acquisition of Assets Amendment] Decree 1968 (NLCD 218), Diamond Mining Industry Protection Regulations 1927, Minerals (Offshore) Regulations 1963 (L.I. 257), Minerals Regulations 1937, Minerals Regulations 1962 (L.I. 231), Minerals Regulations 1963 (L.I. 253), Mining Regulations 1970 (L.I. 665), Mineral (Royalties) Regulations 1987 (L.I. 1349), Prospecting and Digging License Regulations 1950 and Transactions in Gold Regulations 1947.

Mines and Energy, The Environmental Protection Agency (EPA), Minerals Commission, District Assemblies, Traditional Authorities, Communities affected by mining, the Mining Companies, Small Scale Artisanal Miners and *Galamsey* operators. Other key players include the Chamber of Mines, and the Precious Minerals Marketing Company Ltd. (PMMC).

### **2.3 Role of Government in the Mining Industry**

The government is the overall facilitator of all mining activities in Ghana. Fundamentally, the government creates the enabling environment for mining to take place, through the formulation of laws, regulations and right policies. Government is responsible for the provision of infrastructure and services including water, electricity and good road and rail linkages to the mining communities. The Ministry of Lands and Natural Resources (MLNR), through the Geological Survey Department (GSD), the Minerals Commission, and Precious Minerals Marketing Co. Ltd. (PMMC), oversees all aspects of Ghana's mineral sector. The Environmental Protection Agency (EPA) is an agency of the Ministry of Environment, Science Technology and Innovation dedicated to improving, conserving and promoting the country's environment and striving for environmentally sustainable development. Others include Parliamentary Select Committee on Mines and Energy that was specially created to deal with mining and energy related problems. The Environmental Protection Agency (EPA) is responsible for the protection of air, soil, water and citizens from pollution by mining activities.

The Ministry of Land and Natural Resources (MLNR) is responsible for policy while the Ghana Survey Department (GSD) is responsible for providing reliable and up-to-date geologic information and serves as the repository for the country's geo-scientific data. The Minerals Commission, through its Inspectorate Division institutes and enforces environmental, health, and safety standards in the country's mines and ensures that mining companies and all mining-related activities comply with Ghana's mining and mineral laws. The Minerals Commission has offices in Bolgatanga, Assin-Fosu, Asankrangwa, Tarkwa, Bibiani, Dunkwa and Akim-Oda apart from its head offices in Accra.

The Precious Minerals Marketing Co. Ltd (PMMC) is responsible for promoting the country's precious minerals and jewelry industry. It holds fairs, exhibitions and other publicity activities to sell Ghana's minerals in Ghana and abroad.

## 2.4 Role of District Assembly

At the sub-national level, the District Assembly (DA) is the key host institution to mining companies and small scale mine operators. The District Assembly, by its closeness to operators in the mining industry, plays a very important role of monitoring and supervising the activities of mining companies and small scale miners. One of the foremost roles of the District Assembly is that it discusses the application of a mining company that is brought forward by the minister in charge of mining. This discussion is done in a form of dialogue with affected communities and thereafter, a report is compiled on the outcome of the dialogue. District Assemblies are also in charge of activating District Environmental Committees to carry out environmental impact assessments of mining in their respective communities. The assessment by District Assemblies also takes into consideration the health, social and economic impacts on the communities in which the mining activity will take place. Furthermore, District Assemblies must be in control of mining activities in their constituencies in order to ensure compliance of mining laws and regulations.

It appears that most District Assemblies lack the capacity to play meaningful roles as host institutions to mine operators. Conversely, small scale miners and *galamsey* operators continue to operate with impunity. **Sub – Part 2 of the Children’s Act** mandates District Assemblies to protect children from exploitation and human right violations. Paradoxically, under- aged children work in small scale artisanal mines and in dangerous *galamsey* pits under the watchful eyes of parents and district assembly members. There is an ever increasing need to build capacity of District Assemblies on mining laws to ensure that the right things are done in the mining sector.

## 2.5 Role of Mining Companies

The mining sector plays a very important role in the Ghanaian economy and has contributed significantly to the country’s economic development since the colonial period. The sector’s contribution to gross foreign exchange is only matched by the cocoa sector. In spite of their contribution to the national economy, the activities of mining companies have also brought negative environmental and socioeconomic impacts to bear on the economies of local communities. Large scale mining concessions by their nature invest substantial amount of capital in their activities, thus their potential for wealth creation through the application of capital, technology and labour to the extraction of mineral resources is very high.

Today, large mining concessions compete side by side with medium, small scale artisanal miners as well as *galamsay* operators. Ironically, there is a thin line separating most mine operators when it comes to compliance with mining laws and regulations. Mining companies are generally expected to behave responsibly and distribute wealth by channeling economic benefits in the form of wages, taxes, local content and living up to corporate social responsibilities. Unfortunately, however, this is not the case as most mining communities in Ghana are amongst the most deprived in terms of infrastructural development. Furthermore, mining companies are expected to exhibit environmental stewardship through responsive management of impacts on land, water, air, flora and fauna. In practice however, this is often not the case as many mine operators are the biggest polluters of water bodies in Ghana.

Mining companies and indeed mine operators are expected to enhance community development through stimulation of social changes related to employment, education, health, and general well-being. This can be achieved through regular dialogue with local authorities and communities and the building of mutual trust amongst key stakeholders.

## **2.6 Role of Chiefs by Custom and by law**

Chiefs and traditional authorities play very important roles in the decentralised governance process in Ghana. Traditional authorities (TAs) or chiefs remain the first points of call in the hierarchy of community entry. They also play important roles in resolving local conflicts. The chieftaincy institution dates as far back as over five hundred years and it predates colonial rule. In Ghana, chiefs have played and continue to play useful roles as custodians of stool lands and enforcers of local customs and norms. In Ghana, bypassing the local chief in any social, economic or political endeavour could lead to failure. Chiefs represent the traditions, customs and beliefs of ethnic groups which makes them well connected to the grassroots. The closeness of communities to chiefs and chieftaincy institutions implies that they are often more revered than public and state institutions. Sometimes citizen's allegiance to chiefs and traditional authorities supersede that of the state. This is not far-fetched because the chief is socially closer to the individual in times of grief and happiness than the distant government and its representatives.

By law, the 1992 Constitution of Ghana recognises the chieftaincy institution and its traditional councils as entities established by customary law. The constitution also recognises the establishment of a National House of Chiefs made up of elected representatives of Regional Houses of Chiefs and specific terms of reference, which emphasises the advisory nature of their roles. The constitution insulates chiefs from



partisan politics, though not from appointment to public office. The constitution defines a chief as "a person, who, hailing from appropriate family and lineage, has been validly nominated, elected or selected installed as a chief or queen - mother in accordance with the relevant customary law". Chieftaincy is the embodiment of the cultural and customary essence of the people. In many communities, including those of Bogoso, Prestea and Sekyere Nyame Bekyere, chiefs play important roles in mobilising communities for development. In recent times, however, the unsatisfactory roles of chiefs in *galamsey* activities appears to be eroding public confidence in their authority. The erosion of public confidence on the role of some chiefs stems from problems emanating from the misuse of mining royalties and their meddling in the allocation of lands to illegal miners.

## 2.7 Role of Citizens in Mining Communities

Citizens here include small scale artisanal miners and *galamsey* operators. In many societies the criteria for measuring good citizenship is obedience to national laws and regulations as well as respect for fellow humans and the environment. The concept of good citizenship<sup>3</sup> eschews habits, behaviours and lifestyles that are injurious to other humans, animals and the environment. A good Ghanaian citizen must therefore play the role of:

- I. Obedience to the constitution and laws of Ghana;
- II. Respect the rights of fellow human beings;
- III. Respect for environmental rights;
- IV. Avoid negative practices that constitutes stumbling block to societal progress;
- V. Avoid practices that contribute to depletion of the rainforest and environmental degradation;
- VI. Avoid practices that pollute water bodies, the main source of drinking water to communities;
- VII. Report crime and other illegal activities that pose threat to lives and property of other citizens.

Thus far, responsible citizens in mining communities must work to ensure responsive and law abiding.

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<sup>3</sup> For further information on the roles and responsibilities of citizens see Chapter 6 Of the 1992 constitution.

## 2.8 Role of Civil Society

For many years, Civil Society Organizations (CSOs) in Ghana have been at the forefront of the effort towards educating communities and socially excluded groups on how to tackle mining –related problems . Civil society groups , along with their coalitions and networks have been assisting communities and individuals whose rights have been violated by mining companies and mine operators. For many years, local NGOs such as the Centre for Public Interest Law ( CEPIL) have been providing free legal services for deprived communities and poor individuals whose legal rights have been violated. Other prominent CSOs working around mining and human rights related issues include:

- I. Integrated Social Development Centre (ISODEC);
- II. Third World Network (TWN);
- III. Livelihoods and Environment Ghana (LEG);
- IV. Wassa Communities Affected by Mining (WACAM);
- V. Extractive Industry Transparency Initiative (EITI);
- VI. Publish What You Pay (PWYP) etc.

Today, the emerging challenges from the mining industry make it imperative for civil society organisations to intensify the work of educating communities on the mining laws and practices that violate these laws and regulations. There is the ever increasing need for civil society to continue the role of building capacities of stakeholders to ensure that sanity prevails in the mining sector. Additionally, Civil Society Groups with their coalitions and extensive networks need to intensify work towards improving livelihoods in mining communities. Above all, civil society must play the important role of assisting mining communities to build sustainable post-mining economies.

## 1.2 Summary of Module 1:

- a) There is a general lack of knowledge about mining laws in the mining districts which call for the need for education in this area;
- b) Educating citizens on mining laws will make stakeholders in the industry behave responsibly;
- c) All stakeholders in the mining industry need to play their proper roles to ensure that sanity prevails.

# Only the State Can Grant Mining Permission



## Module 2

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### 3 INTRODUCTION

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#### 3.1 Module Objectives

This module seeks to build the capacity of participants towards appreciating and understanding the following:

- 2.1 Legal basis and institutional arrangements of mining in Ghana;
- 2.2 Minerals as property of the republic;
- 2.3 Acquisition of land for mining;
- 2.4 Power to grant mineral rights;
- 2.5 Qualification for grant of mineral rights;
- 2.6 Minerals and mining licensing.

#### 3.2 Legal Basis and Institutional Arrangements for Mining in Ghana

##### 3.2.1 Laws Governing Mining in Ghana

**The 1992 constitution of Ghana** provides the legal basis for the management of natural resources of the country including solid minerals. For instance, article 257 (6) vests all public lands in the

President of the Republic on behalf of and in trust for, the people of Ghana. This provision has been reproduced in **Section (1) of the Minerals and Mining ACT, 2006 (ACT 703)** which stipulates that: “every mineral in its natural state in, under or upon any land in Ghana, rivers, streams, water courses throughout the country, the exclusive economic zone and any area covered by the territorial sea or continental shelf is the property of the Republic of Ghana and is vested in the President in trust for the people of Ghana”. In support of this, Article 268 (1) of the 1992 constitution says that: “Any transaction, contract or undertaking involving the grant of a right or concession... for exploration of any mineral, water or other natural resources of Ghana, shall be subject to ratification by parliament”. It is necessary to mention that this is not always the case as section 268 (2) of **the Minerals and Mining ACT, 2006 (ACT 703)** states that “where parliament by not less than two thirds votes can exempt particular class of contract or transaction”.

### 3.2.2 Compulsory acquisition of land

Under the Ghana mining law, the state can acquire land compulsorily for mineral acquisition.

**Section (2) of the Minerals and Mining ACT, 2006 (ACT 703) states that:**

*“Where the land is required to secure the development or utilization of mineral resources, the president may acquire the land or authorise its occupation and use under applicable enactment for the time being in force”*

On availability of land and application for mineral right **Section (3) of the Minerals and Mining ACT 2006, (ACT 703) states that:**

*“Land in the country may be made the subject of an application for a mineral right in respect of a mineral specified in the application, other the land which is*

- a) The subject of an existing mineral right in respect of specified mineral, or*
- b) Expressly reserved by or under this Act or any other enactment from becoming the subject of mineral right.*

Under the mining law, the Minister of Lands, Forestry and Mines grants exclusive mineral rights and these powers are expressed in **Sections 4, 5 and 6 of the Minerals and Mining ACT, 2006 (ACT 703).**

### 3.2.3 Mining Activity Requires Mineral Right

Any mining activity that is conducted without a mineral right under the Ghana

Mining Law is an illegal activity. Nevertheless, the absence of written procedures and documentation of the traditional governance system implies that sometimes the roles of chiefs come into conflict with those of government and state institutions. Chiefs and traditional authorities are often engaged in activities and practices that are the exclusive preserve of the national institutions and government. Citizens' lack of knowledge of Ghanaian laws and especially mining laws also encourages people to think that chiefs own lands and mineral resources and can choose to do whatever they want with these resources. This general belief across the country has given rise to indiscriminate selling of mining lands to small scale miners as well as *galamsey* operators. Furthermore, there is also the erroneous belief once a chief allocates land that contains minerals a person can go ahead to mine on it without a mining license or permit.

**Section 9 (1) of the Minerals and Mining Act, 2006 (ACT 703)** states categorically that mining activities require mineral right. It further states 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”*

In recent times, however, the powers of many chiefs in natural resource rich communities are gradually being eroded in view of lack of transparency and accountability in mineral royalty governance.

### 3.2.4 Qualification for Grant of Mineral Right

**Section 10 of the Minerals and Mining Act, 2006 (ACT 703)** talks about the qualification of a person for the grant of mineral right in Ghana, It states that:

*“Unless otherwise provided in the Act, a ministerial right shall not be granted to a person unless the person is a body incorporated under the Companies Code 1963 (act 179), under the Incorporated Private Partnership Act 1962 (Act 152) under enactment in force”.*

The aforementioned ACT talks of the qualification for large - scale mining companies in Ghana. Nevertheless, the provision for qualification for small scale mining licensing is contained in section 83 of Act (703) which states that:

*“A license for small – scale mining operation shall not be granted to a person unless that person*

- (a) Is a citizen of Ghana,*
- (b) has attained the age of eighteen years, and*
- (c) Is registered by the office of the Commission in an area designated under section 90 (1)”.*

It is interesting to note that most artisanal small scale miners operate in contravention of these laws as most of their activities are unregistered and are conducted clandestinely and illegally. Access to land is not enough qualification or guarantee to mineral rights. Therefore, for a person to qualify to engage in lawful or legitimate mining activity, such a person has to apply for a mineral right.

### 3.2.5 Application for Mineral Right

**Section 11 of the Minerals and Mining Act, 2006 (ACT 703) provides guidelines and direction for how to apply for a mineral right and stipulates as follows:**

*“An application for a mineral right shall be submitted to the Minerals Commission in the prescribed form and shall be accompanied with a statement providing,*

- a) particulars of the financial and technical resources available to the applicant for the proposed mineral operations;*
- b) an estimate of the amount proposed to be spent on the operations;*
- c) particulars of the programme of proposed mineral operations, and*
- d) particulars of the applicant’s proposal with respect the employment and training*  
*in the mining industry of Ghana.*

**As with large scale mining, the application requirement for small scale mining is contained in section 201 of the Minerals and Mining (Licensing) Regulations LI 2176.**

Thus far, mining activity in Ghana requires proper documentation, adequate financial resources and technical know – how. It is hazardous to enter into the mining activity without proper financial and requisite skills. Lack of requisite knowledge of mining laws poses danger to the individual, community, and the environment which should be strongly discouraged.

### 3.2.6 Grant of Mineral Right

The law governing the mineral sector in Ghana is the Minerals and Mining Act 703 of 2006. Under the provisions of the law, no person is authorized to conduct reconnaissance, prospecting, exploration, or mining in Ghana unless the person

has been granted a mining license. This is the case whether the person owns or holds title to the land on or under which there is a mineral.

**Section 13 (1) of the Minerals and Mining Act, 2006 (ACT 703)** provides guidelines for the grant of mineral right in a very succinct manner. It states that:

*“The Minister shall within sixty days on receipt of recommendation from the Commission make a decision and notify the applicant in writing of the decision on the application and where the application is approved, the notice shall include details of the area, the period and the mineral subject to the mineral right”.*

*(2) “The Minister shall, not less than forty days prior to making decision under subsection (1) give notice in writing of pending application for the grant of mineral right in respect of land to a chief or alloidal owner or the relevant District Assembly”.*

*(3) A notice given under subsection (2) shall*

*a) State the proposed boundaries of land in relation to which the mineral right is applied for, and*

*b) be published in*

- I. a manner customarily acceptable to the area concerned, and*
- II. Gazette and exhibited at the office of the District assembly within whose district, a part of the area is situated.*

*(4) The applicant shall within sixty days of receipt of notification of approval notify the Minister in writing of acceptance of the offer of the grant.*

*(5) The Minister upon receipt of the notification of acceptance of the offer, grant the mineral right to the applicant.*

The Ghana mining laws are very clear on the procedures to be followed before any person can acquire mineral or mining rights in Ghana.



### 3.3 Summary of Module 2:

- a) All public lands in Ghana are vested in the President on behalf of the people.
- b) It is only the state that acquire lands compulsorily for mining purposes;
- c) Mining activity requires mining rights, and access to land from a chief is not enough guarantee to commence mining activity;
- d) Application for mineral rights is an important procedure for anybody who want to engage in mining;
- e) Grant of mineral right by the Minister is an important step in the mining industry in Ghana that should not be overlooked.

# Citizens Participation in Local Content



## Module 3

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### 4 PLANNING FOR MINING

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Module 3 seeks to build the capacity of participants towards the appreciation and understanding of the processes that go into planning for mining through the following:

- Licensing rights;
- Mining construction phases and how communities can take advantage of such opportunities;
- Local content and related opportunities.

#### 4.1 Planning for Mining: Types of Rights and Stages of Mining

##### 4.1.1 Licensing rights

For any mining related activity to commence, there is need to have a mining right. In Ghana, four types of mining rights have been identified. The scope of licensing is designed to cover the stages in the mining process which include reconnaissance, prospecting and minerals extraction. The first two stages require the issuance of licenses while a mining lease is negotiated and issued at the final stage.

##### a) Reconnaissance License

Reconnaissance is the first stage of a mining operation in the country. A reconnaissance license may be granted for an initial period of not more than 12

months towards conducting reconnaissance activities which (may include geochemical, geophysical, geological and photo- geological surveys) and other ancillary or incidental activity. The legal framework, however, precludes activities such as drilling or excavation. A holder of this license may extend the period of the license for only once and covering a period of not more than 12 months. The license covers an area of between a block (21 hectares) and 5000 blocks. **Section 5 (1) of the Minerals and Mining (Licensing) Regulations, 2012 (L.I. 2176), focuses on the application for reconnaissance license.**

## b) Prospecting License

A prospecting license provides the exclusive right for a holder to investigate finds and value of specific minerals. The license covers a period of not more than three years and it may be extended for a further three years. The eligible land area for prospecting does not exceed 750 contiguous blocks. A holder of a prospecting license may make boreholes and excavations necessary for the prospecting exercise. Other ancillary or incidental activities necessary for prospecting are allowed by law.

Table 1: Types of Mining rights

LICENSE TYPE	RECONNAISSANCE LICENSE	PROSPECTING LICENSE	MINING LEASE	RESTRICTED LEASE
PURPOSE	Regional exploration not including excavation and drilling	Search for minerals and evaluation	Extraction of minerals	Building and industrial minerals
AREA	Blocks of 21 hectares, not exceeding 5000 contiguous blocks	Not exceeding 750 contiguous blocks	Not exceeding 300 contiguous blocks	Provisions relating to mineral rights apply
DURATION	12 months renewable	3 years renewable with reduction in the area to not less than half	30 years or less depending on mine life. Renewable	15 years or less depending on mine life. Renewable

Source: Ghana Mineral Commission (2009)

### c) Mining Lease

A mining lease authorises the holder to conduct such activities as mineral operations, including mining for specific minerals, erecting equipment, plant and buildings to conduct other ancillary or incidental activities for the purpose of exploiting the minerals concerned. Depending on the lifespan of a mine, a mining life may cover a period of up to 30 years and is subject to renewal. Land area covered does not exceed 300 contiguous blocks. **Section 39 (1) of the Minerals and Mining ACT, 2006 (ACT 703) talks about the application for lease by holder of reconnaissance license or prospecting license in a very detailed manner. Additionally, Section 189 (1) of the Minerals and Mining (Licensing) Regulations, 2012 (L.I. 2176), talks about application for the extension of mining lease where and when necessary.**

### d) Restricted Lease

A restricted license or lease may be issued for the various stages of the mining process (reconnaissance, prospecting and production). It may bear similar characteristics with the regular ones except that it covers a relatively shorter period. Table 1 above summarizes the types of mineral rights.

## 4.2 Mine Construction Phases and Decision Making

Once investors found minerals in commercial quantities and obtain the go-ahead from the government to mine, their activities go through four distinct phases: design, construction, operation and abandonment. Each phase has different dynamics in terms of which decisions, who makes these decisions and how the nation and communities can influence such decisions in their favour. These phases are important because they are the phases through which economic and other financial benefits can be reaped by the community in which a mine is located.

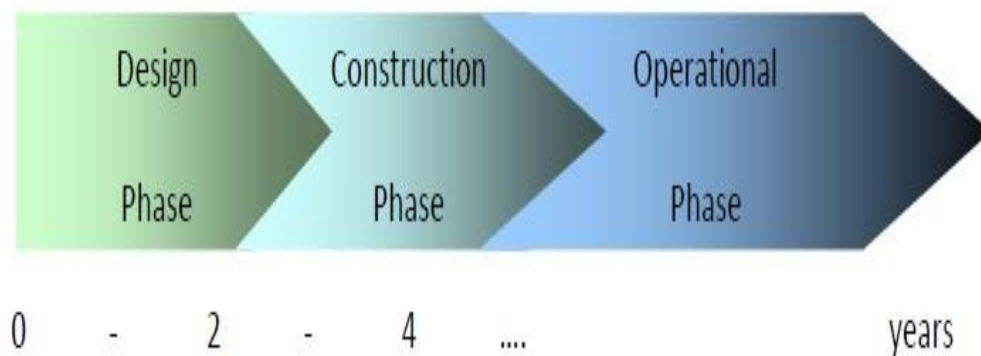
### I. Design Phase:

- Decisions are influenced by the license holder;
- Standardisation has a direct impact on procurement with the specification of specific manufacturers for the mechanical and component requirements of the operation;
- Client: an independent design team will adhere to strict guidelines and direction from the client, requiring that the design is standardised where possible with other operations;
- Practice of standardisation aims to minimise risk exposure where possible in an otherwise high risk sector by ensuring that the mine design is proven with an ability to produce to known productivity targets.

## II. Construction Phase:

- Through attempts to minimise exposure to risk the large mining corporations in most cases make decisions in distant head offices that effectively limit opportunities for such revenues to enter into local economies;
- Aside from those pre-determined procurement decisions the main contractor controls the decisions in respect to where to procure less specialised and more generic materials required for the actual construction project;
- Full control over the appointment of sub-contractors to conduct elements of the project on their behalf, and the standard system to which construction will conform.
- Where local sub-contractors are engaged by the main contractor the level of revenue generation for the local economy is further limited by the contract type awarded to the sub-contractor and standard specification for the project.

Figure 1: Mine construction phases and duration



## III. Operational Phase:

- Many procurement decisions taken on operational mines are pre-determined either in the design phase or the construction phase by decision makers and organisations that are detached from the local procurement environment or by global corporate procurement contracts;
- Such decisions create barriers that exclude procurement from local sources and inhibit the development of local capacity;
- This requires tackling both government and senior management employees of mines;
- Main contractors and their key procurement staff should be the main targets of lobby and engagement.

#### IV. Abandonment Phase:

This is when minerals have been removed and land has to be reclaimed and returned to its original state as far as possible. Here it may require the use of heavy equipment, nevertheless if community members were not trained in the earlier phase to operate earth moving equipment, they may have little scope to participate.

Tree planting and other light activities could be avenues for community participation in land reclamation.

Figure 2:



Source: Newmont Study Report (2012)

Interestingly, “eggplant” investors see local content and local employment as a burden and sometimes do not do anything at all, or do it half-heartedly. In contrast, “earthworm” investors try to put back what they have reaped from the community.

#### 4.3 Local Content and Maximizing Benefit from Mining

In Ghana, local content refers to: The maximization of benefits of local resource wealth generation on a comprehensive local content platform by maximizing the use of local expertise,

goods and services, job creation for people, businesses and financing in all aspects of an industry's value chain and retention of the benefit within Ghana. **The legal provisions of local content are expressly provided in General Regulations 2013, L.I 2173.**

Local content has a number of objectives to partly address the different challenges of the mining sector and some of them are as follows:

- Accelerate growth of indigenous involvement in the mining sector for skills and finance;
- Create opportunities for individual citizens to invest in mining for profit;
- Enhance development of national technical and commercial mining skills;
- Facilitate the increased use of competitive national goods and services;
- Expand the commercial co-operation between national and foreign companies;
- Strengthen the national financial markets by floating shares in mining.

#### **4.4 Local Content Strategies:**

Serious investors who desire to be “earthworms” to the communities and country in which they operate use broadly three key strategies to leave net positive benefits:

- On-Project (provide capacity to nation and communities in and around current project);
- Project-link strategies (provide business-wide core management and procurement; functions could be inward and outward linkages) and;
- Off-Project strategies-alternative income generation potential for participants to operate even outside their own environment to further make use of their acquired skills.

To maximize benefits to communities affected by mining and the nation as a whole, serious countries take a “Transaction Chain” view of the investment. Transaction Chain Analysis is the investigation, vertically down the chain of obligations and incentives that links together trade rules, national and local public economic policy, investment agreements, joint venture agreements, and international and local procurement rules and contracts.

This requires that the Ministry of Mines, National Development Planning Commission (NDPC) and District Assemblies map the full suite of supply-side opportunities to enhance local content involving all key stakeholders such as:

- (i) The existing capabilities of the mining services sector;
- (ii) The level of dependency for local procurement on lead contractors (as opposed to human resourcing and local supply chains being managed directly by the operator); and



- (iii) The extent to which national (or local authority) economic development plans align with the core competencies and assets of extractive industry operations.

#### 4.5 Typical Local Content Development: Supply – Chain Developed by Newmont-Ghana

Newmont Ghana has a dedicated section within SCM, working very closely with ESR on local content issues, as part of a broader social responsibility commitment. This aims to maximize the opportunities for local content at community, regional and national levels in accordance with the Newmont Ghana Local Content policy.

Newmont is taking a lead role within the mining industry in Ghana to develop and execute a long term sustainable policy for the development of Local Suppliers and Contractors, and to increase the country's manufacturing base.

The Newmont Module, though not perfect, is worth emulating by other mining concessions. It sets out standard business practices that ensures checks and balances to protect the company, and individuals working on behalf of the company, from legal liabilities, civil suits and fraud. The practice also assists in upholding values of trust, integrity and respect as a company and as a member of the local and international business community. It also ensures that the company complies with all laws and regulations that they are obliged to observe both locally and internationally. For the local community Newmont offers opportunities through the following procedures and steps in local business registration. It encourages stakeholders through the following steps:

Step 1: It encourages business people and entrepreneurs in the local community to register and obtain necessary certificates which include:

- i. Business Registration Certificate
- ii. Certificate to Commence business
- iii. VAT registration certificate (if applicable)
- iv. Tax Clearance certificate issued by IRS.
- v. Birim North District Assembly Registration Certificate

Step 2: Obtain and complete Local Business Information form (LBIF)

Step 3: Validation of documents with the District Assembly and Register General's Department to ensure genuineness

Step 4: Supply Chain Office will register the business in NGRL's Suppliers Database

Table 2: Local content target for Ahafo and Akyme mines

Local Content at Mine Sites- Targets	
<u>Ahafo</u>	<u>Akyem</u>
2011 Target: US\$ 8.9M Achieved: US\$ 6.7M (24%)	2011 Target: US\$ 3.0M Achieved: US\$ 11.5M (283%)
2012 Target: US\$ 8.9M	2012 Target: US\$ 6.0M
Q1 Target: US\$ 2.2M Q1 Achieved: US\$ 2.6M	Q1 Target: US\$ 1.5M Q1 Achieved: US\$ 2.8M
Africa Region 2012 Local Content Target: US\$18.5M	

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## 4.6 Local Content Obligations of a Mining Rights Holder

**Section 50 (1) of the Minerals and ACT, 2006 (ACT 703)** talks about recruitment and training of **Ghanaians and stipulates that:**

“In pursuance of a localization policy, each holder of a mining lease shall submit to the Commission a detailed programme for the recruitment and training of Ghanaian personnel as prescribed”.

(2) “The programme to be submitted under subsection (1) shall be a condition for the grant of mining lease”.

(3) For the purposes of subsection (1) “localization” means a training programme designed towards the eventual replacement of expatriate personnel by Ghanaian personnel”. This implies that:

- Company shall employ (and shall give preference to employment of) qualified Ghanaian citizens for skilled, technical and admin and managerial positions, but;
- Company shall have right at all times to choose their employees freely and without restrictions.

## 4.7 Goods and services

- Company shall, to the maximum extent possible and consistent with safety, efficiency and economy, when purchasing goods and services for operations, give preference to materials and goods made in Ghana and services provided by Ghanaians provided that such goods and services are equal in quality, terms, delivery, service, quantity and prices to or better than goods and services obtainable outside Ghana

- Company may freely contract with such persons as may they desire and nothing in this section shall require company to act upon other than commercial considerations-section 11

#### **4.8 Summary of Module 3:**

- a) Mining requires rigorous planning and licensing rights;
- b) A typical mining has four phases;
- c) The mining phase or cycle has opportunities for communities;
- d) Local content and opportunity for local communities, Newmont example;
- e) Recruitment and training programme of Ghanaian personnel as condition for the grant of mining lease.

# Compensation and Resettlement



## Module 4

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### 5 COMPENSATION AND RESETTLEMENT OF MINING COMMUNITIES

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This module introduces the rationale, nature and feature of compensation for resettlement of communities in mining enclaves. On completing this module the participant should be able to understand what compensation and claims are all about and should be able to:

- Understand why the subject of compensation is important to and;
- Appreciate why proper and sustainable resettlement is very crucial to displaced people in mining communities and also why;
- Fulfillment of environmental obligations by mine operators is crucial to local mining communities and the nation as a whole.

The subject of compensation and resettlement is a very complex one and worse still, if it is an involuntary one (Aubynn, 2002). In any case of involuntary resettlement of people, there is always the problem of providing alternative housing of equal value. Thus far, compensating and resettling displaced people is always full of tensions. By its nature, surface mining covers large tracts of land and has the potential of displacing large populations and communities. The Newmont Ahafo project, for instance, covers 2,426 hectares displacing roughly 10,000 people in 10 communities. In Ghana, where the majority of the people are engaged in agriculture, mining activities becomes stumbling blocks to land

management and farming. Research on displacement and resettlement associated with mining operations consistently shows high levels of poverty and impoverishment among resettled people (Adam *et al*, 2015). Host communities to mining are also often exposed to human rights violations and delays associated with compensation (Owen and Kemp, 2017).

The **Minerals and Mining (Compensation and Resettlement) Regulations, 2012 (L.I 2175)** provides the framework for handling compensation and resettlement issues in Ghana. It is worth mentioning that the information concerning human rights violations in mining communities is well documented in Ghana. Records show that sometimes farm lands have been forcefully acquired by multinational corporations from peasants without compensation. In recent times, farmers in mining communities are increasingly being lured by artisanal miners with monetary offers to sell farmlands bearing cash crops such as cocoa and cashew. The resultant effects have been exacerbation of poverty in mining communities as such monies are fritted away in lavish funerals and extravagant lifestyles. Koranteng (2005) asserts that “mining communities with weak technical and financial capacity are confronted with the problem of having engagements with multinational mining companies that have enormous resources”.

International best practices<sup>4</sup> suggests that there must be effective consultations between communities and mining companies before compensation and resettlement comes into effect. Poor or lack of proper consultation with communities results in the violation of human rights in host communities with attendant conflicts. It is worth mentioning that very often mining companies fail to calculate the full cost of resettlement and therefore tend to defer allocation of resources.

## 5.1 Claims for Compensation

The law entitles a person whose property has been affected by mining to make claim for compensation. **Section 73 (1) of Minerals and Mining Act 703 for instance stipulates that:**

*(1) The owner or lawful occupier of any land subject to a minimal right is entitled to and may claim from the*

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<sup>4</sup> Cernea's Impoverished Risks and Reconstruction Module for Resettlement is widely used by the World Bank and the International Finance corporation's Performance Standard 5 (IFCPS5) on land Acquisition and involuntary Settlement. The Module provides minimum standards for protecting displaced communities from unknown resettlement risks.

*holder of the mineral right compensation for the disturbance of the right of the owner or occupier, in accordance with section 74,*

- (2) A claim for compensation under subsection (1) shall be copied to the Minister and the Government agency responsible for land valuation.*
- (3) The amount of compensation payable under subsection (1) shall be determined by agreement between the parties but if the parties are unable to reach an agreement as to the amount of compensation, the matter shall be referred by either party to the Minister who shall, in consultation with the Government agency responsible for land valuation and subject to this Act, determine the compensation payable by the holder of the mineral right.*
- (4) The Minister shall ensure that inhabitants who prefer to be compensated by way of resettlement as a result of being displaced by a proposed mineral operation are settled on a suitable alternate land, with due regard to their economic well-being and social and cultural value, and the resettlement is carried out in accordance with relevant town planning laws”.*

Regarding time for granting compensation notice, **Section 1, (1) of the Minerals and Mining (Compensation and Resettlement) Regulations, 2012 (L.I 2175)** states that:

*“A holder of mineral right shall within fourteen days after the grant of mineral right, give notice to a person;*

- a) who claims a right or an interest in land over which mineral right has been granted under section 5 (1) or 82 (1) of the Act or;*
- b) whose right or interest in any land is affected in any manner by the grant of a mineral right;*

*Section (2) further states that “the notice shall be posted in public places including markets, churches, mosques and schools in the affected community and;*

*(3) Within sixty days from the date of the notification to the affected person may submit in writing a claim for compensation to the holder of the mineral right;*

*Section (5) further states that “where a claim for*

*compensation is not made within the stipulated time, the Minister shall authorize the Government Agency responsible for valuation to value the land affected. In mining communities across Ghana including those in the Wassa East and Prestea Huni Valley, illiteracy rates are high and in view of this, most of the aforementioned legal procedures are hardly followed. The haphazard nature of filing claim sometimes outside the confines of the Minerals and Mining law provide fertile grounds for abuses of land title holders.*

## 5.2 Assessment of Compensation

**Section 2, (1) which deals with Assessment for Compensation under the Minerals and Mining (Compensation and Resettlement) Regulations, 2012 (L.I 2175), states that:**

*“A person who claims compensation in relation to land which is subject to a mineral right or a person whose interest in land is affected by the grant of a mineral right may engage the services of a qualified person for the purpose of assessing and determining the amount of compensation payable”.*

The use of services of qualified or accredited persons is very problematic. At the district level such persons may include the District Valuation Officer, sometimes school teachers and trusted persons who may not have the requisite negotiations skills. Big companies sometimes infiltrate the ranks of qualified and accredited person to woo them on the side so that compensation claims can be reduced. The assessment of assets is quite a subjective exercise and lack of negotiation skills makes indigenous people and host communities vulnerable to exploitation by large companies and small scale mine operators.

What an individual property or land owner puts in his or her claim for compensation is as important as the claim itself. On what should be contained in the claim for compensation **Section 2 (3) of Minerals and Mining (Compensation and Resettlement) L.I 2175 states that:**

*“The claimant and holder of mineral right may appoint a committee to negotiate the amount of compensation and any amount that is agreed on shall be in the form of a written agreement approved by each claimant before the compensation is paid”.*

Ironically, the payment of meager compensation to land title owners often results in dissatisfaction and conflicts. As at the time of conducting the field study for this



report, the value of a commercial tree such as cocoa, with a productive life of twenty five years in Wassa East, stood at fifty Ghana Cedis (GHS 50). Sometimes cocoa trees are classified as (a) small (b) medium and (c) matured and could be priced differently depending on the negotiation skills of the farmer. Furthermore, depending on the negotiation skills of a person or group, the value of an acre of land could range between GHS 10,000 to GHS 30,000.

A study by the Ghana Chamber of Mines (GCM, 2008) regarding the provision of guidelines on compensation and resettled communities found that 84% of recipients claimed that the value of their compensation packages was far less than the losses they incurred in terms land, building structures, immovable assets and incomes. The study also found that citizens of resettled communities think that compensation should go beyond cash payment to include allocation of alternative lands. Cernea (2008) suggests a holistic and sustainable policy approach to resettlement that goes beyond compensation in the form of cash.

### 5.3 Determination by High Court

Regarding dispute settlement bothering on compensation and resettlement, Section (5) of the L.I 2175 states that:

*“Subject to the Act, a claimant who is dissatisfied with the compensation determined to be payable may apply to the High Court for review of the determination by the Minister”.*

Invariably, disputes are to be first referred to a Minister for determination of compensation payable as in **Section 2 (6) of L.I 2175 and 73 (3) of ACT 703 before the above provision must be invoked.**

### 5.4 Compensation Principles

**Section 74 (1) of the Minerals and Mining Act, 2006 Act 703 clearly states the types of compensation the owner or lawful occupier of land may be entitled to, which include the following:**

- a) Deprivation of the use or a particular use of the natural surface of the land or part of the land,*
  - b) Loss or damage of immovable properties,*
  - c) In the case of land under cultivation, loss of earnings or sustenance suffered by the owner or lawful occupier, having the due regard to the nature of their interest in the land,*
  - d) Loss of expected income, depending on the nature of crops on the land and their life expectancy,*
- But no claim for compensation lies, whether under this Act or otherwise*
- e) In consideration for permitting entry to the land for mineral*

- operations,
- f) *In respect of the value of mineral in, on or under the surface of the land or*
  - g) *For loss or damage for which compensation cannot be assessed according to legal principles in monetary terms”.*

## 5.5 Time for Payment

With regard to the time for the payment of compensation Section 4 (1) of the Minerals and Mining (Compensation and Resettlement) Regulations, 2012 (L.I 2175), states that:

*“The holder of mineral right shall not later than three months after the amount of compensation payable has been determined, pay that compensation to the persons who are entitled to the compensation”.*

*Section 4 (i) also the holder who fails to pay the determined amount of compensation within the time specified in sub-regulation (1) be liable to pay the interest of ten percent on the amount of compensation for each month that compensation remains unpaid”.*

*Section (5) Determination by High Court: “Subject to the Act, a claimant who is dissatisfied with compensation determined to be payable, may apply to the High Court for review of determination by the minister”.*

Although these legal provisions are available, most farmers and displaced people are often not aware. Even where farmers are aware of such provisions, they are afraid to challenge mining companies because of their huge financial resources and connections . It is however , important to encourage claimants to seek redress, especially regarding issues of compensation and resettlement.

## 5.6 Resettlement and its requirements

Resettling or adjusting to life in a new location can be a very traumatic experience for most families in rural communities. The legal requirements for resettlement are very explicit.

**Section 6 (1) of the Minerals and Mining (Compensation and Resettlement) Regulations, 2012 (L.I 2175),** which deals with resettlement states that:

*“subject to the Act, where the operations of a holder of a mining lease involves the displacement of inhabitants, the inhabitants shall be resettled by the holder on suitable alternative land and the resettlement shall have regard to the economic wellbeing and socio-cultural values of the persons to be resettled, with the objective to improve the livelihoods and standards of living of those person”.*

The provision of alternative economic livelihood is quite challenging. In some Newmont settled communities, families were provided with three sheep; two females and a male for rearing. Nevertheless, economic hardships soon compelled most families to sell the animals. Some communities were also trained on mushroom farming without marketing skills and soon there was mushroom glut without buyers in the local communities. The training for alternative economic livelihood should be holistic and comprehensive and should encompass not only production but marketing and sustainability skills.

**Section 7 of the Minerals and Mining (Compensation and Resettlement) Regulations, 2012 (L.I 2175),** talks about Resettlement provisions states that:

*“The holder of a mining lease shall”:*

- a) Engage in prior consultation with District Assembly, Chiefs and inhabitants to be resettled on the impending resettlement activities;*
- b) Collect analyse and document information on socioeconomic and environmental conditions of the inhabitants to be settled;*
- c) Prepare a plan for the overall development of the resettlement area which shall include the measures, policies and strategies to guide the future development of the area; and*
- d) Prepare a strategic action plan which outlines specific projects and programmes with action plans, guidelines and institutional arrangement for execution”*

## **5.7 Implementation of resettlement plan**

**Section 11 (1) of the Minerals and Mining (Compensation and Resettlement) Regulations, 2012 (L.I 2175),** states that

*“A district planning authority shall after approval of resettlement plan submit the plan to the Minister*

- (2) The Minister or person authorised by the Minister shall take necessary action to give effect to the resettlement plan;*
- (3) The cost for implementing the plan shall be paid by the holder of the mining lease and that holders shall be responsible for meeting obligations imposed on the holder of the mining lease in plan;*
- (4) An activity or operation under a mining lease shall not be undertaken by a holder of mining lease unless the inhabitants to be displaced by the proposed mining community have been resettled.*
- (5) Where the holder of mineral right decides not to proceed with mining operations, the abandonment or surrender of mining lease shall be without limiting any liability or obligation incurred by the holder prior to the date of surrender or abandonment”.*

A resettlement Monitoring committee under section 12 (1) comprising of DCE, District Engineers, Town and country planning officer, an assembly member, two persons nominated by inhabitants, a man and a woman, a regional land officer, representative of the mining lease holder and a representative of the Minister.

## 5.8 Environmental Obligations of Contract Miners

Since 2000, the Ghanaian environment has witnessed significant deterioration in the wake of small scale artisanal mining activities. Deforestation and the pollution of water bodies have been the major environmental abuses. It is estimated that an average of 125,400 hectares of forest cover in Ghana was lost between 1990 and 2010 (Twerefou, 2015). Estimates of the cost of annual environmental degradation by the World Bank (2006) and European Union (EU 2012) indicate that it is about 10% of GDP.

An independent peer review of the MDGs in September 2015 rated Ghana “F”. The report further revealed that Ghana’s performance in the management of the environment and the biomass has been very abysmal.

**Section 6 (1) of the Minerals and Mining (Support services) Regulations 2012 (L.I. 2174) talks about environmental obligations: It stipulates that:**

*“A person registered to provide contract mining services under the regulations shall comply with the mining and environmental laws and Regulations”. It states further under*

- (2) “A person engaged by a small scale mining license holder to provide contract mining services shall be held jointly and severally*

liable with the license holder for the restoration of any damage caused to the environment as a result of their activities”.

It is worth mentioning that the area of enforcement of environmental obligations by miners has been very weak, resulting in poor management of the environment by especially small scale artisanal miners and *galamsey* operators.

## 5.9 Summary of Module 4:

- a) Compensation and resettlement for mining communities are complex processes that should be handled with the uttermost care;
- b) Government agencies and competent people should be involved in compensation and resettlement;
- c) Need for dialogue and engagement with communities before resettlement and compensation can be meaningfully carried out;
- d) Environmental obligations must be fulfilled by companies and small scale mine operators.

# Employing children in mining activity violates their rights



## Module 5

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### 6 ENSURING HEALTH, AND SAFETY OF MINING COMMUNITIES

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This module introduces the participant to health and safety regulations in the mining industry. In particular, it deals with health and safety requirements of the mining industry in Ghana. The module is expected to assist the participant to understand what safety in mining is all about in regards to:

- Health of mine workers and communities;
- Age of mine workers;
- Safety signs in a mining concession;
- Mining dress codes; and in the
- Management of cyanide and poisonous substances used in the mining industry.

#### 6.1 Health Safety and Technical Regulations, 2012 (L.I. 2182)

Mining is one of the most hazardous professions in the world. In view of this, issues of health and safety cannot be taken for granted. The protection of health and safety of individuals, groups and communities should therefore be paramount requirements of the mining industry. Paradoxically, the protection of Ghanaian

citizens from toxic chemicals , especially mercury and cyanide , from contaminated water bodies and food is less than satisfactory . It is interesting to note that in March 2017 , Ghana ratified the **Minamata Convention** that has banned the use of mercury in mining across the world . By this ratification , any acquisition and use of mercury in Ghana is illegal. Although banned internationally, mercury<sup>5</sup> is a chemical widely used by small scale artisanal as well as illegal miners throughout Ghana (Kippenber , 2017). Mercury is very injurious to the brain and has other severe health implications and can easily kill yet it is the most popular amongst Ghanaian miners . In spite of its ban, mercury is readily available in all mining towns across Ghana . According to the Economist (2013) Ghana has the highest mercury emissions in West Africa.

Good health and safety mining practices requires the following:

- Maintenance of health and safety plans;
- Empowerment of skilled health and safety advisors to monitor mining activities;
- Enforcement of health and safety standards and procedures;
- Building capacity of small scale and artisanal miners on safety standards and procedures;
- Use of health and environmentally friendly chemicals in mining;
- Conduct of regular auditing of health and safety practices; and
- Sanctioning mining companies, groups and individuals violating health and safety procedures.

The perennial tragedies experienced in mining communities in Ghana today would be drastically reduced if health and safety standards were strictly adhered to by small scale and artisanal miners. Unfortunately, direct mining in water bodies by illegal miners and small scale mine operators has caused heavy pollution of water bodies and is threatening aquatic and human lives. James Lyon (2010) describes water as “mining’s most common casualty”.

Water pollution through mining has become a systemic human rights violation in Ghana <sup>6</sup>. According to the report of CHRAJ (2008 ), 22 out of 28 mining communities had polluted rivers. Water bodies are becoming increasingly acidic through the discharge of chemicals and metals from mining activities . Rivers in mining areas in general have witnessed a depleting fish stock. Furthermore, heavy metals and

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<sup>5</sup> The Minamata Convention on Mercury is a global treaty to protect human health and the environment from the adverse effects of mercury. It was agreed at the fifth session of the Intergovernmental Negotiating Committee on mercury in Geneva, Switzerland on 19 January 2013 and adopted later that year in October 2013 at a Diplomatic Conference (Conference of Plenipotentiaries), held in Kumamoto, Japan.

<sup>6</sup> See Koranteng and Hannah on the “Menace of Mining and water Pollution” \*(2017)

chemicals have penetrated the food chain through fish and other aquatic species posing health risks to communities across the country. Some of the most commonly reported diseases in the Wassa East and Prestea Huni valley mining areas include respiratory, eye and waterborne diseases such as tuberculosis (TB), pneumonia, eye pigmentation, typhoid and malaria.

## 6.2 Application (Small Scale Mining)

Section 469 (1) of the Mineral and Mining (Health and Technical ): “Regulation 469 to 492 applies to small scale mining only”.

(2) The Chief Inspector of Mines may establish different classes of small scale mining operations and make the classes established subject to all or any of the provisions of these Regulations.

(3) The Chief Inspector of Mines in determining which provisions of these Regulations are applicable to the classes established under sub-regulation (2) shall take into considerations

- a) the health and safety risks at the mine at which the mining operation is undertaken;
- b) the size of the mining operation conducted by the small scale miner;
- c) the number of employees working at the mine; and
- d) the nature of mining operation.

## 6.3 Competence of Small Scale Miners

The nature of mining is such that not every individual or group can engage in it. Every little activity in the mining industry requires skill and competence for the sake of human and environmental safety. **Section 470 (1) of the Regulation states that:**

*“A person may be granted a license to operate a small scale mining operation if that person has the proven knowledge required for small scale mining or that person has appointed another person who has the required knowledge to be in charge of small scale mining operation*

*(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”.*

## 6.4 Age of Workers in a Mining Concession

The issue of child rights is not specific to Ghana, it is indeed a worldwide phenomenon. The International Labour Organisation (ILO, 2014) report estimates that over one million children are illegally engaged in mining activities across Africa. The report further shows that over Ten thousand (10,000) Ghanaian children are engaged in small scale mining (SSM) activities. In Ghana, the minimum age of workmen in the mining industry is clearly stated in the Minerals and Mining **(Health Safety and Technical) Regulation L.I 2182**.

*Section 507 (1) 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”.*

It is noteworthy to mention that 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. Thus far, employing children in mining activities violates both Ghanaian and international mining laws.

**Section 87 (1) of the Children’s Act**, states that *“no person shall engage a child in exploitative labour”*. It further explains that labour is exploitative if it deprives the child of its health, education and development. Paradoxically, a third of Ghana’s children between ages 5 to 14 are working according to ILO.

In Ghana, children who work in small scale artisanal gold mining face the risk of ill-health or accidents from collapsing pits, flying rocks, exposure to dust and toxic chemicals such as mercury. Children in particular risk ill-health and permanent disability emanating from exposure to dust and toxic vapour from mercury used for mining gold. This is evident at minesites as the washing of mineral is done by children and women carrying babies.

In spite of the development of an action plan and the inauguration of a steering committee against child labour by the government, artisanal and small scale miners are largely unaware of such effort and therefore to employ underage children. Small scale mine operators generally pay poor wages to their employees and see children as the easiest prey in this business. The exploitation of children by mine operators not only increases household poverty, it also robs children the opportunity of obtaining an education.

There is therefore the important need for systematic child Labour monitoring in the mining areas by the Mineral's Commission and the Ghana Chamber of Mines to ensure that such abuses are nipped in the bud. There is also the need for the imposition of penalties and especially fines for mines using child labour.

## 6.5 Safety Signs at Mining Sites

**Section 302 of Minerals and Mining Health, Safety and Technical) Regulations, of 2012 (L.I. 2182)** states that, "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". Although the posting or mounting of safety signs is a compulsory requirement in the mining industry in Ghana, lax monitoring of mining activities implies that safety sign requirements are often abused by a majority of small scale artisanal and *galamsey* miners. Although it is noteworthy that some large mining concessions such as Golden Star, Gold Fields, Aglo – Gold, Sankofa, Newmont, etc. appear to adhere to safety regulations, the majority of unregistered scale miners do not have safety signs. The clandestine nature of *galamsey* and other small scale mining activities implies that safety signs are not adhered to.

On trenches and mining pits **Section 80 of Minerals and Mining Health, Safety and Technical) Regulations, of 2012 (L.I. 2182)** states that:

*"The manager of an exploration programme shall":*

- a) During the excavation of trenches and pits, stockpile topsoil separately; and*
- b) Post warning signs or erect fences around its and trenches to prevent a person from falling inadvertently into the excavated trenches and pits".*

Lack of safety signs near open mine trenches and pits has resulted in the death of tens and hundreds of unsuspecting pedestrian farmers in *galamsey* pits. Open pits have become breeding grounds for mosquitoes constituting health menace and upsurge of reported cases of malaria in many mining communities.

In recent times some of the reported cases of deaths in unmarked mining pits include the following:

- i) Two women drown in abandoned *galamsey* pits, July 24<sup>th</sup> 2015 at Akem Bomaa Eastern region, The Pulse Newsletter;
- ii) BECE candidate drowns in abandoned *galamsey* pit (CITI FM online) Thursday 23rd March, 2017;

- iii) A 21-year-old man slips and dies in abandoned *galamsey* pit at Ejisu Juaben Daily Graphic 02 May 2017;
- iv) Uncovered *galamsey* pit plunge Amansie West into malaria endemic area 19<sup>th</sup> May 19, 2017 (source: myjoyonline.com) etc;
- v) *Galamsey* Disrupt Gridco's work: Daily Graphic 22th May 2017.

**Regulations 110** under the Minerals and Mining Act, 2006 (ACT 703) Sections (2) **Sub – section (R) talks about “the protection of pits, shafts and other dangerous places’**. There is therefore the need to enforce signpost rules for mining pits and trenches by small scale and artisanal miners to ensure safety of lives of individuals and communities.

## 6.6 Mining Dress Codes (Personal Protective Equipment)

It is worth reiterating that mining is a hazardous endeavor and in view of this, adhering to strict dressing codes is imperative to the safety and lives of workers. On personal protective equipment which deals with dress code in the Ghana mining industry, **Section 223 of Minerals and Mining Health, Safety and Technical ) Regulations, of 2012 (L.I. 2182)** states that:

*“Personal protective equipment” will “be used by a person when entering a high risk area in the processing plant” which include;*

- 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.*

The ironic twist is that in the artisanal and small scale mining operations, dress codes are hardly adhered to. Conversely, the generality of small scale miners and especially *galamsey* operators in Ghana are poorly equipped for the mining activities in which they are engaged. Our visit to mining sites at Sekyere Himan in the Wassa East District and in the surrounding communities of Bogoso and Prestea revealed that the majority of small scale miners operated bare-chested, without facial shields and carried their daily activities with unprotected feet and hands. Interestingly, some of the mine workers also do not see these poor dressing habits as posing a danger to their health. There is therefore the need for education and capacity building in this field in order to save the health and lives of artisanal mine workers.

## 6.7 Management of Cyanide and Poisonous Substances

Cyanide is a highly toxic compound that is used in mining mainly gold and silver. Cyanide helps to dissolve these metals and their ores. Over the years, the management of mining waste has posed significant challenges to local authorities and communities in mining areas. In particular, the series of cyanide spillages in mining communities has resulted in negative consequences. Cyanide spillage in water kills fish and other aquatic life. In Ghana, cyanide spillage became noticeable with the inception of open mining in the 1990s.

**Section 219 (1) which deals with Management of Cyanide under Minerals and Mining Health, Safety and Technical Regulations, of 2012 (L.I. 2182) states that:**

*“A person who engages in the procurement, transportation, storage, use and disposal of cyanide products for gold processing purposes shall appoint a qualified person to be responsible for any activity that involves the cyanide product”,*

Unfortunately, small scale and artisanal miner with no skills of handling cyanide products now have access to the product in mining communities. The negative effects of cyanide spillages or wrongful disposal are well known and documented.

Over the years, some of the notable incidences of cyanide spillage in Ghana include the following:

- The cyanide spillage of Billington Bogoso Gold in 1991;
- An accident involving a truck conveying sodium cyanide to Billington Bogoso Gold at Samahu in 1994 causing cyanide to spill into the environment;
- Cyanide spillage of Teberebie Goldfields on 18th June 1996 causing cyanide solution to flow into Angonaben stream, a tributary of the Bonsa River;
- The cyanide spillage of Ashanti Goldfields Company, Obuasi Mine, which occurred in 1999 and affected many communities and two major rivers, Supu and Fina. The incident resulted in the relocation of some communities around Obuasi;
- Cyanide spillage of Goldfields Ghana Limited (GGL) on October 16th, 2001 which polluted river Asuman;
- Cyanide spillage of Satellite Goldfields Limited into wetlands at Akyempim on 28th October, 2001;
- The cyanide spillage of Goldfields Ghana Limited (GGL), which occurred on 18th May, 2003. GGL claimed that the spillage was contained and did not spill into the environment;

- The cyanide spillage of Bogoso Gold Limited (BGL), a Canadian Company, which occurred on Saturday 23rd October, 2004. The spillage was from the new tailings dam of Manse. The affected rivers flow into the big river Ankobra. The cyanide spillage affected Dumase town, and other communities like Goloto, Juaben, Kokofu, Egyabroni; and
- The Newmont Ghana Gold Limited (NGGL) Ahafo Mine spillage in October 2009 from a processing plant at Kenyase into river Asunua, which flows into river Subri etc.

The endless list of open spillages in Ghana's mining history calls for proactive action by the EPA and the Ghana Chamber of Mines. Most importantly, it requires training and building of capacity of mine operators and their employees on the proper management of cyanide and other poisonous chemicals and substances used for mining. Above all, safe mining practices show that the adoption of alternative and environmentally friendly mining practices is the best option for sustaining mining in Ghana.

**Regulations 110** under the Minerals and Mining Act, 2006 (ACT 703), Sections (2) **Sub – section (n) talks about “the restriction of mineral operation in or near a river, dam, lake, forest or stream”;**

Section (4) states that: *“without limiting the generality of subsection (10), regulations made under this section may provide for matters concerning environmental protection, health and safety including”:*

- a) Ensuring the safety of the public and the safety and welfare of persons employed in mines and carrying on of mineral operations in a safe, proper and effective manner”;*
  - b) Preventing the employment of incompetent persons in charge of machinery;*
  - c) Preventing injury to persons or property in a mining area by chemicals;*
  - d) Regulating the use of explosives in mineral operations, and*
  - e) The powers and procedure of the Inspectorate of Mines with respect to matters of health and safety in mining areas particularly as regards small scale mining.*
- (5) “Despite the Statutory Instrument Act 1959 (N052) Regulations made under this Act may impose a penalty not exceeding the cedi equivalent of US\$ ten thousand.

## 6.8 Permits and licenses for the use of explosives

Section 169 of the Minerals and Mining (Explosives) Regulations 2012 (L. I. 2177) stipulates that:

*“A person shall not use explosives unless the person has*

- a) An approved operating plan in accordance with regulation 8, 9 and 10,*
- b) An approved operating license in accordance with regulation 22”.*

In practice however, small scale artisanal miners and *galamsey* operators seldom obey these rules. During the field work for this report around Prestea Huni Valley District, we encountered a number of citizens’ complaints about the illegal use of explosives by unqualified persons without precautions at mining sites. This lack of precaution by small scale miners constitutes threat to the safety and lives of communities with rampant cases of flying objects hitting innocent people and homes.

**Section 175 (1) of the Minerals and Mining (Explosives) Regulations 2012 (L. I. 2177)** talks about Precaution at blast sites. The bigger mining companies appear to comply with this law. The Golden Star company for instance had notice boards at the centre of communities to announce dates and time of use of explosives. It is important to note that the enforcement of these laws depends on authorities at sub-national and national levels. Consequently, mining laws have to be enforced to ensure that justice prevails in the mining sector.

## 6.9 Summary of Module 5:

- Working below age 18 years is an offence in the mining industry;
- Safety signs must be placed in all mining concession;
- Mining is a hazardous occupation and the health of mine workers and communities must be of paramount concern for all;
- Adherence to mining dress codes is an important requirement in the mining industry; and
- Management of cyanide and poisonous substances the mining industry must follow legal procedures and standard norms.

# Mining is Hazardous Occupation, Respect the Mining Dress Codes



## Module 6

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### 7 SURVEY INSTRUMENT AND DESIGN

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#### 7.1 Introduction

This study, which attempts to simplify the Ghana Mining laws into a toolkit for the purposes of educating citizens in mining communities of Wassa East and Prestea Huni Valley Districts, examines the current state of citizens' understanding of the Ghana mining laws. In particular, it examines citizens' understanding of the roles of key stakeholders, including government and chiefs in the mining industry. Basically, it examines how citizens' understanding or lack of it impacts their behaviors and conduct in relation to the mining activities in which they are engaged. The study also explores how the level of understanding of mining laws affects the handling of ecological environment and water resources in general. Furthermore, the study looks at how lack of knowledge of the 'mining cycle' and 'local content' rules have deprived local communities of livelihoods and economic opportunities from the more organised large and medium scale mining concessions.

#### 7.2 The Study Area

The study area is the Wassa East and Prestea Huni Valley districts of the Western Region. The importance of the area according to Akabza (2000) lies in the fact it is



habitat to a significant proportion of Ghana's vanishing rainforest. The two districts are also hosts to one of the highest concentration of gold mines in Africa. A significant proportion of the area is under surface mining. Lassey (1999) observes that about 60% of the area "is either being mined or under mining concession." Some of the rivers, including the Pra and Manse, which traverse the mining communities of these districts, are amongst the most heavily polluted rivers in Ghana and indeed the West African sub-region. In recent times the intensification of activities of *galamsey* operators in low grade mining fields abandoned by multinational mining companies has resulted in the heavy pollution of water bodies in the Wassa East and Prestea Huni valley districts. The quality of domestic drinking water has deteriorated so badly that many households in mining communities now rely heavily on sachet water for domestic purposes.

According to the 2010 population and housing census, the Prestea Huni Valley District has a population of 159,304 people representing 6.7% of the total population in Western region. Similarly, the Wassa East District has a population of 81,073. The private informal sector is the largest employer providing employment to approximately 92% of the people in these districts. The Akyempim in Wassa East is host to the Golden Star Mine while Bogoso and Prestea communities are hosts to a number of Mining Companies including Golden Star, Gold Fields, AEL Mining Services, Sankofa, New Century Mines and Anglo - Gold Tarkwa. Competing for space with these mining companies are small scale artisanal miners and *galamsey* operators. Increasing human population and mining activities resulting from indiscriminate sale of lands by traditional authorities has amounted to the relocation of large communities with negative effects on livelihoods.

### 7.3 Sampling

The Akyempim, Bogoso and Prestea communities were purposely sampled. In addition, other mining communities including Sekyere Himan, Sekyere Nyame Bekyere, and Bondaye were included in the survey. These communities were selected because of the heavy presence of big mining companies as well as the activities of small scale artisanal miners and *galamsey* operators. It is also important to mention that this mining environment is host to the generation of the heaviest mining waste in Ghana, a situation that has the potential of causing irreversible destruction of the ecosystem if not promptly tackled.

The survey was conducted for 260 randomly selected households within the catchment areas of the big mining companies as well as small scale artisanal and *galamsey* activities. Of this figure, 180 respondents were selected from the Wassa



East District, while the remaining 80 respondents hailed from the Prestea Huni Valley District. The questions were mostly close – ended, nevertheless a few open – ended questions were added for the purposes of qualitative analysis.

In addition, Key informants were interviewed which included District assembly official , chiefs and traditional authorities , Assemblymen , and identifiable key persons in youth and women’s groups.

Some Members of the WUSC District Steering Committee, Community Based Organisations (CBOs) opinion leaders, leadership of Ghana Water Company, Operators of Small Scale Mines, artisanal and *galamsey* miners were also interviewed.

Table 3: Sampled Communities

Community	Frequency	Percentage
<b>Akyempim</b>	91	35
<b>Sekyere Himan</b>	53	20.38
<b>Sekyere Nyame Bekyere</b>	36	13.85
<b>Bogoso</b>	30	11.54
<b>Bondaye</b>	30	11.54
<b>Prestea</b>	20	7.69
<b>Total</b>	<b>260</b>	<b>100</b>

In addition , two focus group discussions were carried out in each of the districts . The men and women groups were met separately to avoid male dominance and interference in the discussions.

## 7.4 Profile of Respondents

The issues relating to the profile of respondents were structured around sex, type of settlement, educational background and occupation. A breakdown of the sample size of 260 respondents revealed that 143 were females representing 55 %. Similarly, 117 respondents were males representing 45%. Interestingly, 80% of respondent were from rural settlements while 20 % were from urban communities . The educational background of respondents also revealed that 33.46% had basic education , 33.08 had up to secondary education and 14.62% had tertiary education while 18.85 % had no education . On occupation of respondents , 80% were engaged in the informal sector compared to 20% engaged in the formal sector. The findings on occupation are in consonance with the 2010 census figures from the two districts.

## 7.5 Data Collection Method

A number documents, reports and related literature were reviewed for this study. In addition, the entire collection of Ghana's mining laws were reviewed and summarized for this report. Other relevant literature including the constitution of Ghana and previous studies conducted on mining in Ghana were reviewed. The survey instrument was developed and imputed offline using the KoBoCollect GPS coordinates on the field. When internet service is available, the field agent sends data to the KoBoCollect toolbox. The platform aggregates the data ready to be exported in different forms including excel and word format.

Three field assistants were briefed on the use of the data collection tool which was installed on their android mobile phones before the commencement of interviews in the mining communities.

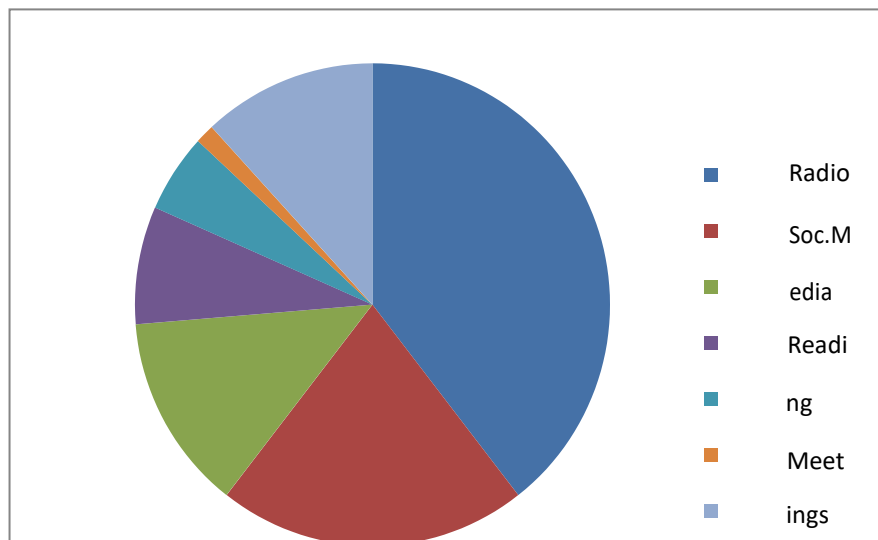
## 7.6 Data Analysis

Most of the data collected from the field were quantitative. Nevertheless, rigorous statistical analysis is not the subject of this report. Indeed, the main focus of the report is on the simplification of the Ghana Mining Laws. Consequently, the analysis is focused on citizens understanding of the mining laws and the manner they conduct themselves in the mining sector. The interviews were collected on the field, saved on the phone and sent to a software collation point. At the end of the survey, the data was generated on a desktop.

## 7.7 Level of Knowledge on Mining Laws

Citizens' level of knowledge on Ghana mining laws in the Wassa East and Prestea Huni Valley Districts informs the reason for the development of this simplified version of the Ghana mining laws toolkit. It is worthy of note that nearly 207 respondents, representing 80% of citizens interviewed, confirmed that they had no knowledge whatsoever of the Ghana mining laws. About 52 respondents, representing 20%, said they had some knowledge of some basic mining laws. Interestingly, the biggest sources of information and knowledge on Ghana Mining Laws was the radio, representing 11.54%. Social medium contributes up to 6.15% of source of information on Ghana mining laws. Personal reading represented 3.85% while the Ghana Chamber of Mines and the Environmental Protection Agency (EPA) together contributed less than one% (0.38) as their source of information on Ghana mining laws. Civil Society Training or education on mining laws contributed to only 1.54%. Overall, only 4% of respondents confirmed they had received some modicum of training or capacity building on the Ghana mining laws.

Figure 3: Citizens' Source of knowledge on Mining Laws



Source: From field data

Available evidence overwhelmingly points to the fact that the relevant institutions such as the Mines Commission, the EPA and civil society groups have to scale up work of educating citizens in the mining communities on the Ghana mining laws.

## 7.8 Compliance to Mining Laws

Respondents were also asked whether or not small scale artisanal and *galamsey* operators complied with mining rules and regulations, approximately 93% saw them as none compliant to mining laws. They cited small scale artisanal mining – related problems such as environmental degradation, water pollution, labour abuses, and lack of safety precautions at mining sites as their reasons. Only a paltry 7 % were of the view that small scale artisanal miners complied with mining rules. These respondents were of the view that only a few small scale miners violated mining rules. Respondents, however, suggested the need for education as well as enforcement of mining laws and regulations as a way of ensuring compliance.

## 7.9 Benefit of Mining to the Communities

On the question of 'do you think that mining has benefitted your community?' the majority of respondents, approximately 62.31% indicated that their communities have not benefitted from mining activities in view of the high cost of living and the upsurge of social vices. Only 37.31% indicated that mining had brought benefits. Nevertheless, they think that the benefits were for individuals and groups, rather than the community. They cited the creation of employment for thousands of unemployed youth, the trade boom for the business community, and a large number of new gas filling stations being commissioned by mine operators.

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## 8 Conclusion and Recommendation

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One of the key conclusions of this study is that citizens' knowledge of mining laws is generally less than satisfactory. This less than satisfactory knowledge of mining laws translates into poor handling of natural resources with deleterious effects on the ecological environment, human lives and livelihoods. A number of reasons are responsible for this. First, access to legal materials on mining is quite challenging. In cases when the documents are even available they are quite expensive and often beyond the reach of the poor. Although access to legal documents may be much easier for public institutions and the middle class, they are often beyond the reach of the poor. The attempt to simplify the mining laws into a toolkit for capacity building in natural resource rich communities could not have come at a better time.

The study also concludes the need to enforce child rights in mining areas where minors are being exposed to health and other risks. There is urgent need for relevant stakeholders to conduct systematic child labour monitoring in the mining areas to ensure that child abuse in mining areas is nipped in the bud. The study also concludes that international refineries including Metalor and PAMP Switzerland, Kundan India, Rand Refinery South Africa, Emirate Gold and others must be obliged to use human rights criteria including child labour in artisanal mining in buying gold and other mineral from Ghana and other West African countries. Consequently, human rights due diligence should be an important requirement for the purchase of gold in Ghana and indeed the whole world.

We agree along with CHRAJ that state institutions with regulatory and monitoring responsibility for the mining sector have not performed optimally due to capacity, political and socio-cultural constraints. This therefore calls for the intensification of surveillance and monitoring in the monitoring of activities of large mining concession as well as the small scale artisanal mining and *galamsey* operations across the country, to ensure that the right things are done.

### 8.1 Areas in Need of Advocacy Intervention

- a) It is important to mention that Ghana currently does not have adequate provisions in the Minerals and Mining Act to protect water bodies and hold mining companies to stringent environmental standards. The polluter pays principle is not enforced in Ghana. The only exception of the application of the polluter pays principle was applied to Newmont Ahafo Mine in 2009 where a cyanide spillage compelled the government to impose a fine of US \$5 million dollars on the company.

Unfortunately, **Section 17 of the Minerals and Mining Act, Act 703 of 2003** grants that a mineral rights holder upon receiving requisite approvals or licenses under the **Water Resources Commission Act, 1996 (Act 552)** "may for the purposes of or ancillary to the mineral operations, obtain, divert, impound, convey and use water from a river, stream, underground reservoir or watercourse within the land the

subject of the mineral right”. This gives mining companies and artisanal miners leeway to pollute water bodies with impunity. It is a necessary requirement that companies and mine operators that pollute water bodies are held accountable and compelled to clean up their mess. Additionally, the Polluter Pays Principle (PPP) must be applied to offenders. The enforcement of penalties for erring mining companies and small and medium scale mine operators will compel them to do the right things. The current situation where some leading mining companies freely distribute sachet water to communities for domestic use is not only unsustainable but also unacceptable.

- b) Furthermore, the issue of land reclamation after mining deserves serious advocacy attention. Although the recent ban on illegal mining or of *galamsey* activities by the government may be seen as a timely intervention, the forceful ejection of miners from mining sites has also left behind in its trail a lot of hastily abandoned pits and trenches across the Wassa East and Prestea Huni Valley districts. Apart from the immediate dangers these pits and trenches pose to unsuspecting pedestrians, they also serve as breeding grounds for mosquitoes that spread malaria across the mining communities.
- c) The management of cyanide, mercury and other poisonous substances used in mining leaves much to be desired. It should also be made known that mercury, which is widely used in mining communities across Ghana, is a banned substance both internationally and locally. The ratification of the ban on mercury by the Ghanaian government implies that the use of mercury in the country is illegal and therefore must attract sanctions to users of the product. Advocacy effort should focus on the health dimensions of the use of mercury and cyanide in mining communities. Effort must be geared towards educating the public and especially small scale artisanal miners and *galamsey* miners about the dangers these chemicals posed to humans and the environment.
- d) Furthermore, miners must be educated on the right dress codes for their profession and also about the need to ensure safety signs in mining areas. Advocacy effort must also be geared towards land reclamation. Citizens must be educated on economic and health benefits associated with land reclamation in their communities. Government and indeed local authorities must also be sensitised and reminded about their roles towards enforcing rules on land reclamation after the end of a mining activity.
- e) Advocacy effort must also focus on child rights. There is urgent need for sustained advocacy campaigns against child labour in artisanal mining and *galamsey* operations around Prestea, Bondaye, Achempim and Sekyere Nyame

Bekyere areas. The excuse by some parents that “children need to work in *galamsey* pits to be able to pay school fees” is unacceptable. The responsibility of paying fees must rest squarely on the shoulders of parents and adults and not on children. The catch phrase should be that children must be in schools not on dangerous mining fields.

- f) One other key area in need of advocacy intervention is the area of resettlement and compensation of communities affected by mining. Poor or lack of proper consultation with communities often results in conflicts. We discovered at Bogoso that a community affected by mining had rejected a new site prepared by Golden Star Mining Company. We think that if proper dialogue is carried out with affected communities problems of this nature will not occur.
- g) The recent clamp down on illegal miners and the attempts to sanitize the mining sector by the government has reduced the popularity of employment in the mines. Nevertheless, we think that there must be sustained education and advocacy work around local content. In particular, communities must be educated on the potential opportunities of the mining circle to ensure that citizens can benefit from the local opportunities associated with the different phases of the mining cycle.

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