

**PRESENTATION ON THE SOCIAL IMPACT OF GOLD MINING IN GHANA-
UNEQUAL DISTRIBUTION OF BURDENS AND BENEFITS AND ITS
IMPLICATIONS ON HUMAN RIGHTS BY HANNAH OWUSU-KORANTENG AT
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Background

In the 16th and 17th centuries when Europeans arrived in the Gold Coast to trade, they realised that human labour would boost gold trade. The gold trade boosted slave trade, which provided profits to the European traders at all trading points. Profit maximisation motives have been the driving force of multinational investors in gold and other precious minerals and King Ferdinand of Spain in 1511 summed up the driving force of multinational mining companies in his instructions to his conquistadors *'Get gold humanely if possible, but at all costs, get gold'* (Ayensu, 1997).

Ghana has witnessed three jungle gold booms in 1892, 1938 and 1980s and the Wassa and Adansi areas were the locations for the last two jungle booms. The Wassa area in particular has been a major destination of gold mining companies and eight multinational mining companies were located in the area during the third jungle boom. Apart from gold, the Wassa West District has a rich store of natural resources. The Wassa West District therefore gives an indication of the levels of mineral exploitation over the thousand years of mining in Ghana. The question now is what have been the benefits and costs of these extractions to the people living in the area in particular and the country in general?

Many mineral- endowed developing countries have increased their dependence on the extractive sector to achieve national development objectives by adopting fiscal policies for the attraction of Foreign Direct Investment (FDI) into the extractive sector. Although globalisation through FDI inflows has not created equal opportunities and cost for investors and host countries it has opened up the economies of developing countries for exploitation. The FDI inflows to developing nations which was 17% from 1981-1990 increased to 32% in 1991-1995. This level of increase in FDI inflows to developing countries with the support of International Financial Institutions like the World Bank helped Transnational corporations to gain control over the natural resources of developing countries especially Africa.

Mining and Development

The unquestioning acceptance of development models based on increased FDI inflows in the extractive sector presents challenges to developing nations. The following are some of the moot questions on mining and development especially surface mining in developing countries. Who sets the development agenda for developing nations? Does benefit sharing in the development process favour marginalized groups? What is the cost of such development decisions to communities where multinational site development project? Are development processes participatory?

The differences in development objectives comes with the many different development models that had either emerged from within these countries and many more, which had been prescribed by International Financial Institutions based on development models of industrialised countries. Such development models are based on the extraction of natural resources and maximisation of consumptions with the aim of profit accumulation for the multinational companies.

Africa holds about 30% of the world's mining reserves, including 40% of the world's gold reserves, 89% of platinum reserves, 60% of cobalt reserves, and 46 % of Zirconium reserves¹. The African continent with its enormous resources on one side and the grim picture of economic problems presents a paradox. In the 1990's the World Bank group catalysed the scramble for African's natural resources and granted some \$2.75 billion loans to private multinational companies for investments into the extractive sector²

Ross (2001³) indicates that most of the world's mineral-dependent states are concentrated in sub-Saharan Africa and an initial assessment suggests that the economies of these countries are not performing well. According Ross, twelve of the world's most mineral-dependent states including Ghana and six of the world's 25 most oil-dependent states are classified by the World Bank as "Highly –Indebted Poor Countries"

Mining Law and Benefit Sharing

Surface mining is one of the most polluting investments and mining laws that regulate the activities of mining companies should have the objective of providing adequate protection for the rights of mining communities, the environment as well as ensure equal benefits to the host countries and the investor. An important characteristic of the mining and mineral law in Ghana is the clear protection of the interests of multinational mining companies whilst the protection of community rights and the environment is fluid.

Mining investments in Ghana is governed by the PNDCL 153 of 1986. Benefits to investors were mainly due to the generous incentives outlined in the Mineral and Mining Law of Ghana, which contributed to massive investment in the mining sector. The generous incentives include:

- Capital allowance of 75% in the year of investment and thereafter 50% on a declining balance basis
- Investment allowance of 5% in year of investment
- Exemption from import duties on plant, machinery and equipment imported exclusively and specifically for mining,
- Capitalisation of approved exploration expenditure
- Losses not exceeding the capital allowance may be carried forward

¹Dennis Kabaara,, The East African Standard, Nairobi, 18th July 2004

² Pegg S., (2003) "*Poverty Reduction or Poverty Exacerbation? World Bank Group Support for Extractive Industries in Africa*" Environmental Defence

³ Ross Michael 2001" Extractive Sectors and the Poor: Oxfam America Reports pg 7

- Possibility of deferment of payments for stamp, registration duties as well as payment of royalties
- Mining companies may retain a portion of foreign exchange as high as 90% and a minimum of 55% earnings in external accounts to meet qualifying foreign payments.

The Minerals and Mining Code and the Constitution of Ghana, however entrust decisions and use of mineral lands to the President for the benefit of the country. Thus, government / private multinational investment appropriates lands owned previously by families and communities in the event of compulsory acquisition of indigenous lands for mining.

The fundamentalism of the extractive industries to take advantage of the generally weak capacity of developing countries occasioned by weak regulations, prevalence of poverty and illiteracy of the indigenous people in areas of mineral extraction becomes a recipe for conflicts. Thomas F. Homer-Dixon in his book *Environmental Scarcity and Violent Conflicts* stated that environmental scarcities are already contributing to conflicts in many part of the developing world. According to Homer-Dixon, environmental scarcity could induce or aggregate the earliest signs of upsurges and violence in the coming decades.

Poverty of mineral endowed country has a bearing on the weak legislature that exists in the respective countries. The weak mining regulations existing in developing nations contribute to the externalisation of environmental cost of mining and thus help companies to achieve their profit maximisation objectives. Multinational companies see the weak environmental regime and the weak capacity of marginalised communities to protect their rights as providing the enabling environment for foreign investment in the extractive sector.

Mr George A. Sarpong, a Lecturer of Law at the University of Ghana and a visiting Lecturer Northwestern University, Illinois, raised the issue of gaps in the Ghanaian environmental laws as follows: *“As regards standards, to be enforced, however, there are gaps in the Ghanaian environmental legal regime. There is no legislation regulating the discharge of wastes into water, riverine systems or the marine environment.”*⁴

He describes the provision in the Mineral and Mining Law, for environmental protection as merely an omnibus provision and it does not set precise standards to regulate industrial mining.

The call for changes in the mining and mineral laws of Ghana by mining communities, mining advocacy organisations and Civil Society in general is because the existing mining laws had failed to meet the objectives aforementioned. However, the mining lobby is also calling for mining law reforms with the objective of giving Ghana competitive advantage in the attraction of Foreign Direct Investment in Africa. The implication of the objective of the demands of the mining lobby is the further reduction of standards in the mining law. From 1994, more than 70 countries in the south have changed their laws to attract foreign gold mining companies

The government of Ghana has initiated efforts at reforming the mining laws of Ghana and a new mining bill that was placed before Parliament was withdrawn because of criticisms from NGOs, communities and civil society. The reason they gave was that there had not been

⁴ Environmental Law From the Ghanaian Perspective “The Environmental Law Reporter” International News and Analysis, 2002

adequate consultation of and effective participation of mining communities and other stakeholders in the discussions on the new mining bill.

An interesting aspect of the new mining bill is the introduction of a Stability Agreement, which ensures that the incentives and protection that previous laws and agreements provided multinational mining companies in the law are guaranteed for 15 years. Indeed, the mining lobby wants a Stability Agreement for 30 years, which implies that within the period of the Stability Agreement, it would not be possible to alter any of the generous incentives provided under the law to the mining companies even if they are detrimental to national interest. Similarly, the Development Agreement, which concentrates a lot of power in the Minister responsible for mining on issues such as conflicts, has been criticised as a means by which the mining lobby could influence decisions and further erodes community rights.

When it comes to real benefits from mining investments based on the law, some mining companies have negotiated agreement for the retention of 80% of gold sales in offshore accounts. The contribution of gold sales to GDP however is around 2%. Of the over \$800 million wealth of gold sales in 2003, Ghana's share of the benefits was only 5%.

Though the provisions in the existing law do not adequately protect Community Rivers and water bodies, there is a provision for the Minister to issue a license to authorise the diversion and, impoundment of a watercourse for industrial purposes. Policy makers watered down this provision in the new mining bill. This may permit mining activities around important water bodies such as Lake Bosumtwi and the Volta Lake

Social Conflicts

Gold mining exploration accounts for more than 66% of all new mining exploration and many surface mining activities take place on indigenous lands that provide land-based livelihoods to many rural people. Mining takes place in areas of high illiteracy and poverty and mining communities with weak capacity face the challenge of negotiating on highly technical issues with mining companies that can afford to employ the services of competent experts.

Although the law makes provision for fair, adequate and prompt payment of compensations, low levels of compensation payments exacerbate the problem of poverty in mining communities. Professor Kassim Kasanga⁵ an eminent Land Economist in Ghana is of the opinion that compensation payment is a major source of poverty among communities because companies pay compensation based on the commonly used formula of the headcount method of crops destroyed multiplied by historically fixed government rates for various crops in an inflationary economy. Such methods of compensation have done little to improve the livelihood of the local community people. Peasant farmers whose lands are taken over for surface mining lose huge sums of money which in effect can be described as subsidies provided by poor farmers to rich multinational mining companies.

At the national level, agriculture employs 60% of the workforce mainly as smallholder producers. The Wassai West District estimated that 48% of the district population engage in

⁵ Kasanga, K., (1997), "Land Resources Management for Agricultural Development in Ghana" Ghana Academy of Arts and Science 30th Anniversary Lectures. 1997

agricultural activities, which fall below the national average. A research by IFC and GAGL⁶ (2004) showed that presently farmers on the concession of GAGL realise low yields because they are not able to finance the cost of land preparation and inputs indicating lower incomes from farming. Priority problems given by the various communities revealed insufficient job avenues and lack of employable skills. The report further states that the unemployment levels of youth in the area are 70-90% whilst the national unemployment average is 30% of the population in the age group within 15 to 24.

The subordination of surface rights of mining communities to the mineral rights of mining companies provides a basis for conflicts especially when marginalised communities do not have avenues to seek redress for the many grievances that confront them in the event of mining because of poverty and ignorance. Surface mining displaces many communities with grave consequences on livelihoods of communities. For example the Goldfields Ghana Limited, a South African company displaced 30,000 people in the Wassa West District in five years. The displacement of communities on such scale affects the spiritual, cultural, economic, and social lives of communities.

Resettlement schemes of mining companies have led to the break up of families through the reduction of rooms and construction of building types that do not preserve cohesion of our extended family system. In most cases, resettlement packages have been imposed on mining communities and the state security apparatus had been used in forced resettlements and evictions. Compensation regimes are low and do not restore the livelihood of affected people.

Most African societies have structures based on a strong belief of our traditional authority represented by Chiefs or landowners. Realising the importance of chiefs in our socio-political life, mining companies are able to make some Chiefs adjuncts of the companies by making them direct beneficiaries of mining through the award of contracts. Whilst some Chiefs reap direct benefits of mining, the people they represent live a different reality with negative mining impacts. This has given rise to many violent Chieftaincy conflicts in mining areas of Ghana. Unemployed youth who lose their livelihood from the take over on indigenous lands by mining companies spearhead conflicts.

There are no clearly defined mechanisms for conflict resolution in the mining laws of developing countries. Companies that violate community rights go Scot free because of lapses in law and non-compliance of the existing weak laws. Such weaknesses in law was amplified in Ghana when the EPA lamented that they not have the power to prosecute mining companies that pollute water bodies with cyanide because of the gaps in mining the law.

Thomas Akabzaa (2000⁷) described the causes of persistent social conflicts around mining projects as follows:

- Struggle for self determination
- Fair distribution of benefits of mining projects

⁶ Ghana Australia Goldfields (2004) “*Community Development Plan Iduapriem and Teberebie Mines GAGL, Ghana*” Prepared by Royal Haskoning, Financed by IFC with support from GAGL 1st April 2004. pg. 21

⁷ Thomas Akabzaa (2000) “Boom and Dislocation” Third World Network Africa pg 73-4

- Land use conflicts
- Struggle against pollution and land degradation
- Conflicts over compensation for land, crops, houses etc
- Struggle for socio-cultural survival
- Struggle between small-scale miners and Large companies

Human Rights Abuses

Poverty, illiteracy and the low consciousness that mining communities have about their rights have provided grounds for the violation of the rights of communities by mining companies. The violations include loss of livelihood, displacement, forced evictions, Police/Military brutalities, pollution of streams, destruction of important cultural/spiritual heritage, environmental degradation, forced evictions shooting and killing of community people, through mineral extraction. Other violations include unlawful arrests and detention, violation of communities' economic, social, and cultural rights, Violation of the right of communities to clean and healthy environment and Demolition of communities without due process of law.

The work of WACAM in the communities revealed that some mining companies established active mining pits virtually in communities and communities face problems such as sleepless nights, hurling of rocks on buildings, cracking of buildings, noise pollution etc. Our mining laws do not have clear standards on allowable distance between mining pits and settlements. The decision is left to the whims of regulatory institutions and the mining companies. This issue has been the cause of conflicts and communities have had to waste scarce resources to wage struggles on such issues. E.g. Dumase, Prestea and Binsere

Currently, Bogoso Gold Limited (BGL) is carrying out active mining in Prestea town and has almost covered Prestea Government Hospital with mine waste. The company's activities are less than 30 metres from the Prestea Government Hospital and shocks from blasting traumatise Patients. The force of blasting has damaged houses, many television sets, DVDs Video decks and other appliances of people in Prestea. The town has no filling station because BGL has mined the Shell filling station-the only one in Prestea and drivers in Prestea travel to Bogoso for fuel. Installations like the power sub-station are so close to the mine that communities are afraid that they would loose the station. When community people decided to embark on a peaceful demonstration in June 13th 2005, security forces shot seven demonstrators

Traditionally, rural people establish their communities around rivers and streams. Rivers and streams are important for food production, river-based employment, recreation and cultural reasons in addition to the satisfaction of biological and household needs. The proliferation of surface mining companies has resulted in stream pollution resulting from cyanide spillages, acid mine drainage, tailings leakages, mine waste disposals, and mine pits. These have tended to deprive communities of access to water, which is a basic need for human survival.

Mining Communities and Sustainable Development

WACAM's experience of rural development work in Ghana indicates that rural people determine their level of development by their ability to satisfy the needs of life and translate them to the broader society. Development begins with the individual's self-development, expression, and ability to make informed decisions from the many alternatives available. These

individual perceptions that translates into the community and society based on information includes a healthy environment where the individual has a sense of peace, health, security, the right to expression and a sense of belonging. A summary of outcomes from community workshops on sustainable development organised by WACAM included the following elements:

- *Peace, security and development - Having peace of mind and working without harassment*
- *Work to earn a good income to provide for our needs and the needs of dependants*
- *Environmental cleanliness, good sanitary conditions, clean air and access to good drinking water*
- *Having adequate and quality food, balanced diet, adequate Clothing, Good homes and Good health facilities*
- *To have the freedom to worship*

These elements of development from community people satisfy the pivots of sustainable development of protecting the environment, equity and futility. Communities in Ghana like many communities the world over have strong attachment to land and nature. Communities have practises based on values and beliefs that prevented environmental abuse. Thus, communities' perceive development based on the harmonious balance of culture, spiritual, economic and the environment. Communities work in harmony with nature making use of land and preserving land for future generations because of the belief that the real owners of land include ancestors, present and the future generations.

Schumacher (1973⁸) described economic development that targets the extraction of natural resource as diminution of capital to cater for incomes of nations. This paradigm of development, which erodes the natural capital base of the world, brings no development. Ajakaiye (2001⁹) thinks that every development effort especially in a developing country should recognise the effect of the environment on the quality of life of the people. Any developmental plan that overlooks such strong cultural aspect of the human being would fail. Therefore, all economic agents have some role to play in promoting environmentally sustainable development. Technology, information, extension, credit schemes etc should therefore augment existing, known, tested practices of communities but not shift completely community development focus

Investing mining companies, which usually come from Organisation of Economic Cooperation and Development (OECD) adhering countries, have a responsibility under the OECD Guidelines for Multinational Enterprises when they invest in developing countries. They have a duty to support local governments to uphold human right, good governance, ensure clean

⁸ Schumacher E. F. (1973) "Small is Beautiful – Economics as if People Mattered" Harper and Row, publishers Incorporated 10 East 53rd Street New York, N Y 10022.

⁹ <http://www.worldbank.org/wbi/sdlinkages/publications/abuja/EconomicPolicies/> 2001

environment and secured livelihood of community people. The ground situation however is that governments bend rule and weaken regulations to attract investment for investors to repatriate benefit whilst communities live with all the negative effects.

Poverty, illiteracy, and lack of access to information becomes the lot of communities and these have excluded many rural communities from decision-making processes local, national, and international levels. When communities lose their economic base and environment through mining, they become disempowered, vulnerable, and policy makers impose unfriendly decisions on them, which destroy their livelihood. If mining investment were the pivot for development, the only valid indicator would be how destinations of mining investment benefit from investment. This is a human rights as well as a livelihood issue to reduce the global poverty. It is an issue of equity and fairness.

The challenge for the World would be to recognise that community consent in mining projects is important for the companies to receive the needed social licence to operate. It is thus important for governments to develop mechanisms of making the concept of Free Prior and Informed Consent workable in the lives of community. The Civil Societies of the World would have to ensure government developing favourable policies through support for developing countries, global networks, advocacy and campaigns.

Thank you for your attentions