



**Human Rights Struggles in Ghana's Mining Communities: The case of
Prestea**

By

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in International Relations**

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CREDIT

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DECLARATION

I, Esinu Dalmenda Segbor, declare that this thesis is a result of my research investigations and findings. Sources of information other than my own have been acknowledged and a reference list has been appended. This work has not been previously submitted to any other university for award of any type of academic degree.

Signature.....

Date.....

DEDICATION

I dedicate this thesis to my husband Emmanuel Tay and my children, Prince Eyram Tay and Elliot Elikplim Tay.

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I am grateful to God Almighty for how far he has brought me. It has been his grace that has seen me through this study and much importantly this research.

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ABSTRACT

Ghana, like many other developing economies has initially made frantic but futile efforts to attract the necessary foreign investment that would help to drive mineral resource exploration forward for development. With the World Bank's recommendation for a favourable investment environment, Ghana embarked on the Economic Recovery Programme (ERP) with much necessary relaxation of mining codes that attracted much investment to the mining sector. But the much needed investment also came at the cost of several reported cases of unfavourable impacts, considered as abuse of human rights of people in mining communities.

With several constitutional and institutional reforms, there was increased in the growth of Civil Society Organizations (CSO) and awareness of human rights in the mining communities of Ghana also. Several Non-Governmental Organizations (NGOs) were reported to have sprung up in the mining communities of Ghana to educate the people on their rights and to help them get the needed justice when their rights have been trampled upon. This drive became what is dubbed as "struggles for human rights" in this study because there have been reports of difficulties in getting justice for affected communities.

With purely qualitative research tools, this study investigated some of the claims of abuse of rights of people in Ghana's mining communities by adopting the Prestea area for a case study. Base on international treaties like the International Bill of Rights that have been ratified by Ghana and Ghana's constitutional and institutional policy provisions like the Minerals and Mining Acts of 2006, the study made some stunning findings about abuse of rights and how the people and supporting NGOs struggled for justice.

The study identified issues that impact on the rights of the people; ranging from forceful taking of land and destruction of property with little or no compensation, pollution of water sources, environmental degradation, and restriction of movements with reckless arrests, shootings and beatings amongst others. To this were several struggles by the people and NGOs for justice, with little success in most cases due to ineffectiveness of most of the policy provisions against abuse and protection of the mining companies by governments.

The study revealed that, much needs to be done about Ghana's policy implementation to ensure the protection of people's rights, so as to realize the needed benefit that has been assessed as negative for the communities so far.

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LIST OF ABBREVIATIONS AND ACRONYMS

ACHPR	African Charter on Human and People's Rights
ACRWC	African Charter on the Rights and Welfare of the Child
CAT	Convention Against Torture and other Cruel Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
CEIA	Center for Environmental Impact Assessment.
CEPIL	Center for Public Interest Law
CESCR	Committee on the Economic, Social and Cultural Rights
CHRAJ	Commission for Human Rights and Administrative Justice
CRC	Convention on the Rights of the Child
CSO	Civil Society Organizations
ECOWAS	Economic Community of West African States
EPA	Environmental Protection Agency
ERP	Economic Recovery Programme
FDI	Foreign Direct Investment
GDP	Gross Domestic Product
GSR	Golden Star Resources
GSR	Golden Star Resources
HRC	Human Rights Committee
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of all Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
IMF	International Monetary Fund
MMA	Minerals and Mining Act
NCOM	National Coalition on Mining
NDC	National Democratic Congress
NGO	Non-Governmental Organizations
NSA	Non-State Actors
PNDC	Provisional National Defence Council

SRSG	Special Representative to the UN Secretary General on Business and Human Rights
UDHR	Universal Declaration of Human Rights
UN	United Nations
WACAM	Wassa Association of Communities Affected by Mining

CHAPTER ONE

1.0. Introduction

It is traditionally argued that mineral exploitation is central to a country's growth and development. More so, diamond, manganese, bauxite, copper and gold are some of the resources usually argued to be vital to a nation's economic development.

In decades past, many developing countries have made conscientious but futile efforts to attract foreign investment into their mining industries (Scott Pegg, 2006). The World Bank cited excessive state control of the mineral sector in the developing world (in the 70's and 80's) as a threat to attracting the needed investment (Morgan, 2002). In order to reverse the situation, it collaborated with desperate governments to attract investors by reforming national mineral codes (S Pegg, 2003).

In order to arrest the decline in Ghana's mineral production, the then-President, Jerry John Rawlings in the early 1980's took a step to make the country's mining sector a favourable and attractive venture under the code name Economic Recovery Program (ERP) (G Hilson & Nyame, 2006). That step resulted in the review of 78 acts, ordinances, codes and laws regulating the mining industry (G. Hilson, 2004). This consequently led to the enactment of the Minerals and Mining Law (PNDCL 153), which authorizes the president to "acquire any land or authorize the occupation and use of any land that is required to secure the development or utilisation of a mineral resource under any applicable law" (Republic of Ghana, 2006).

The review also resulted in the "liberalisation of mining codes" which resulted in "generous concessions" to foreign companies. Such liberalisation included tax exemptions, facilities for profit repatriation, low royalty payments, stability agreements, poor compensation regimes, over protection of foreign companies in cases of disputes, weak environmental standards and many others (Owusu-Koranteng, 2008).

In terms of production, the mining sector reform was a magic bullet. At the inception of the ERP, Ghana's mining sector was in actual state of collapse: producing only 232,000 oz of gold in 1982, which is argued to be two-thirds of that of 1960 (Tsikata, 1997). However, the decline did not continue; gold production got a 700 percent increase over the past two decades

as a result of the liberalisation of the mining codes which included a low royalty rate of 3 percent, reduced mining tax, waived import duties etc. In outside investment alone, the sector attracted US\$460 million by 1990 and over US\$1billion in new investments for exploration to date (G. Hilson & Yakovleva, 2007). Currently, “237 companies: 154 Ghanaian and 83 foreign companies are prospecting for gold and additional 18 companies have operating gold mines” as compared to the 7 mines in existence in 1986 (Benjamin N. A. Aryee, 2001 also in G. Hilson & Yakovleva, 2007 p. 101).

The report above however falls short of describing the impacts that the expanding exploration tends to have on local communities. Policies aimed at attracting inflow of Foreign Direct Investment (FDI) did not incorporate firm requirements for responsible mining activities by the mining companies. There were minimal environmental standards for mine operations. This led to great environmental damages as a result of clearing of large tracks of productive land through excavation. For example, the Environmental Protection Agency never hesitated to concede to the fact that Ghana has no laws on cyanide spillage (Owusu-Koranteng, 2008).

Today, one-third of the Western Region has been allocated to mining companies, of which as much as over 60 percent is within the Wassa West District alone (Aubynn, 1997). Despite the economic growth that mining is argued to have brought, there is also a counter argument that it does not augur well for all members of the mining areas.

Economically, environmentally and socially therefore, mining communities have a high cost to pay. Akabzaa and Darimani (2001, p. 45) reiterated this fact by stating that, “large-scale surface mining has taken up large tracks of land from farmers and at the same time, mining activities do not provide enough jobs to match the total number of people laid off from agriculture because of the impact of mining”. The damages that are associated with spillage of hazardous chemicals like cyanide into rivers have also been noted. There have been several grievances and agitations regarding damages to crop, relocation compensation as well as quality of services and housing for newly located settlements (Aubynn, 1997).

1.1. Problem statement

Mining operations have been well documented as having the potential for improving national revenue as well as improving the lives of people in mining areas. However, there are also documented cases of economic, environmental and social risk to people in mining communities. In the wake of the mining sector reform in the late 1980’s, which was noted to

have led to a surge in large scale mining activities, the Wassa West District, just like many other Districts endowed with gold resource became home to eight multinational surface mining companies. The presence of these companies as noted by Garvin, McGee, Smoyer-Tomic, and Aubynn (2009) gave Wassa West District some form of development.

As part of the companies' social responsibility to the communities, infrastructure in the form of roads, schools, electricity and health centres were constructed. Apart from community development, employment opportunities offered by these companies tend to contribute economically to some sections of the mining communities.

On the down side, mining sector reform policies as argued by Owusu-Koranteng (2008) has resulted in human rights abuse of mining communities by mining companies. Citing the 13 officially reported cases of cyanide spillages since the late 1980's, he argued that this has been caused by loose legal codes governing environmental standards.

There are considerable number of villages, towns and cities that depend on rivers and streams in Ghana. As such, contamination and pollution of water sources by mining activities usually resulted in said conflicts and agitations. For example, it was argued that the major source of conflict between the Prestea Community and the Golden Star Resources (mining company), was the pollution of the Abodwese River (a spring water) that provided an all-year round water supply to a population of about 10,000 out of the 31,607 population in Prestea. Also, it was recorded that the activities of Golden Star Resources (GSR) stopped the flow of five streams in Dumase-a mining community (Otuam International).

The Dumase community of about 4000 people was said to be depending on 6 streams at the start of mining activities by GSR. Five of the streams got completely stopped from flowing by the establishment of the ECOMOG pit¹ at the headwaters of the streams. Following two cyanide spillages in 2004 and 2006, the sixth stream was contaminated. Even though an attempt has been made by GSR to get the community an alternative water source by providing bore-holes, it was realised that the water turns purplish-black when it comes into contact with cassava (ibid). This reflects a level of some contamination of the water.

The Teberebe cyanide spill from the Tarkwa Goldfields mine into the Angonaben stream of the River Bonsa in June 1996 was also another typical case that affected nine villages and

¹ The ECOMOG pit is the name of one of the pits that was left through surface mining activities.

every socioeconomic activity of the villages that depended on the river. Similar spillages from Ghana Goldfield Limited in October, 2001 into Rivers Asuman and Huni affected the water source and means of livelihood of villages like Abekoase, Huniso and many others (Awudi, 2002).

Environmental damages as a result of clearing of large tracts of productive land through excavation, as said, resulted in limited cultivable land and large scale degradation. Farming has greatly been thwarted, leading to high cost of food and destruction of livelihoods. Life has thus become very unbearable for the average person in these communities –a situation that is breach of their right to a decent livelihood. Frequent brutal confrontations between the local people and the large scale mining companies over right of ownership over concessionary lands have also been reported (Awudi, 2002).

The displacement of people (about 30,000) from 14 communities by mining activities, with meagre compensation between 1990 and 1998 in Tarkwa (when the Bansa and Nueng forest reserves, both of which have been degraded by Ghana Ashanti Gold and Ashanti Gold Limited mining companies which do much surface mining in Tarkwa) was an obvious act that interfered with the rights of the communities (ibid).

It is noted that several legislative instruments like the Environmental Impact Assessment and institutions like the Environmental Investigation Agency have been made reference points with regards to safeguarding the environment. But in a state which is keen on attracting FDI, and where parochial interests of politicians abound, investigations that will ensure that the right environmental practices are carried out are always sacrificed. Legal regulations and codes of conduct have been relaxed. Authorities that enjoin corporate social responsibility from mining companies; the Minister of Mines and Energy for example, having the prerogative to abrogate the license of mining companies that are insensitive to environmental standards have all been ineffective. It has also been reported that there was lack of adequate personnel for surveillance. With profit-mindedness of the mining companies, the situation is compounded (Awudi, 2002).

Eviction processes in mining communities also sometimes raised human rights questions since some mining companies usually employ the services of security personnel who end up brutalising the community members (CHRAJ, 2008).

The human rights situations led to the formation of several human rights advocacy groups in these mining communities. But generally, the growth of civil society, their activities and influence have seen a surge in Ghana. Opoku-Mensah (2007) put the number of the registered NGOs in the early 1980s at 80, which he said rose to 350 in 1990 and by 2007 was estimated at 1300. As noted by The Commissioner for Human Rights and Administrative Justice (CHRAG), awareness of human rights and environmental issues have gotten a considerable surge in Ghana's mining communities over the past years. This resulted in struggles and demands for justice to be done, with NGOs getting involved to influence these demands (CHRAJ, 2008).

In view of the above, the questions to ask are: How do mining communities cope in the face of these broad human rights violations? How do they react to these violations? How do they struggle for their rights? How do human rights NGO's impact their struggles? These questions would be explored; but the last two would be of greater concern to the researcher and would be explored thoroughly. This decision is based on the reason that while an extensive research has been conducted on the economic impacts of mining in Ghana as well as its social, environmental and economic impacts on local communities, there is relatively little research on the impacts and influence of human rights NGO's in securing justice for communities affected by mining. More so, these issues together with human rights abuses have been looked at in isolation. This study intends to collectively look at these issues together for a better comprehension of human rights related issues of mining in Ghana.

1.2. Objectives of the study

To the above end, this study seeks to:

- Examine activities of mining companies in the Prestea area that constitute human rights abuse.
- Identify and examine the significance of human rights NGOs in Prestea mining communities, the human rights that they assert and the methods they use to secure the rights of the people, and how the demands that the NGOs assert fit into Ghanaian laws.

- Ascertain how collaborative² or otherwise the Prestea mining community and its human rights NGOs have been in driving home their demands and
- Examine how successful they have been in achieving the end to certain rights violations.

1.3. Research questions

- A. What activities of mining companies in the Prestea area constitute human rights abuse?
- B. Which Human Rights NGOs exist in the Prestea gold mining area; what is their significance.
 - What rights do the NGOs assert, and do these rights have the necessary legal basis?
 - What methods do human rights NGOs use to achieve these rights?
- C. How collaborative have the Prestea mining community and its human rights NGOs been in pushing home their demands?
- D. How successful have NGOs and communities been in achieving the end to certain rights violations?

1.4. Relevance of the study

The study would provide an insight into issues of human rights abuses in Ghana's mining communities. This would not only be necessary to reveal policy measure effectiveness, but it would also inform policy measure formulation and implementation for efficient mining that would guarantee the rights of people. An insight into the effectiveness of government policy measures and implementation would also give an insight into the corporate commitment of the mining companies.

It is intended to reveal the power dynamics that exist amongst the various actors in Ghana's mining communities, which would be necessary for championing the work of human rights NGOs that try to help communities affected by the mining activities. This would be helpful to identify avenues that could be explored to enjoin responsible corporate behaviour of mining companies. It will also reveal the extent of harmonization between international human rights

² Collaborative here talks about working together or cooperating.

instruments and Ghana's human rights efforts, which would be necessary to understand the general human rights environment in Ghana's mining communities for effective suggestions necessary for correction.

In all, it would provide an appraisal of the state of mining in Ghana's mining communities. This will inform human rights and civil society organizations as well as mother and host nations of mining companies to work towards ensuring more effective and efficient ways of mining that will guarantee the rights of people in the future.

1.5. Description of study area

Prestea and its surrounding communities constitute the study area. It is located in the Wassa West District of the Western Region, which is one of the ten regions of Ghana. The Wassa West district is one of the 11 districts of the Western Region. However, it now belongs to the Prestea-Huni-Valley District which was recently carved out of the Wassa West District. Prestea is located at a distance of about 50km north of the Atlantic ocean along the west bank of River Ankobra. To the northwest of Cape Coast which is the Central Regional capital, it is 100km away. To the Southeast, is Secondi-Takoradi and Tarkwa another mining community. Specifically, its geographical coordinates are within the reach of latitude 5°43'N and longitude 2°15'W, rising 77metres above sea level. It has a population of about 31,607 people³.

Prestea is a central trading centre for the surrounding towns which rely on agricultural production in the form of cassava, rice, corn, and timber. It is home to the Prestea Oil Palm Estates. But mining and mining-related activities also constitute a major income generating activity for most of its residents⁴. Other industries produce beverages, matches, textiles and salt, glass, wood and cocoa products⁵.

Prestea is one of the gold mining towns in Ghana where gold is mined and refined on large scale. Other minerals like iron ore, bauxite and manganese are also mined. Mining in Prestea has been since 1873⁶.

³ Source: <http://www.maps-streetview.com/Ghana/Prestea/>

⁴ Source: http://web2.ges.gla.ac.uk/upima/Fieldwork_Ghana.html).

⁵ Source: <http://www.britannica.com/EBchecked/topic/475502/Prestea>

⁶ Source: <http://ghanadistricts.com/region/?r=5&sa=130>

1.6. Scope of the study

This study was limited to only community leaders of Prestea and people in the Prestea community that have suffered and fought issues of abuse emanating from mining activities. It also dealt with members and officials of WACAM, which is a human rights NGO that tries to help the people achieve various forms of justice for the ordeals they suffer from mining activities. It was supposed to include officials of the mining companies in order to obtain their side of the findings but they have absolutely declined to take part in the study so the study did not include them. The study did not directly include any government agency. This is because there was limited time to accommodate such a scope of study. More so, the study was interested in human rights abuses and struggles to fight it in the mining communities. This information was best obtained from the people directly affected by mining and people who try to help them fight it. Any information which was necessary from government sources was quite sufficiently obtained from literature sources from related state institutions like the Commission of Human Rights and Administrative Justice (CHRAJ).

1.7. Organization of the study

The rest of the study is divided into five chapters. Chapter two outlines the way the research was conducted. It indicates the research strategy and design that was chosen, sources of data, instruments of data collection, the target population, sample size and sampling procedure, mode of data analysis, limitations of the study and the ethical issues faced and handled.

Chapter three gives a historical account of gold mining in Ghana, indicating description of methods that are used in mining. It highlights contributions of gold mining to Ghana's economic development and outlines the downside of it which gave indications for possible abuse of people's rights. It then highlights human rights treaties that serve as reference point for any claims of rights abuse by looking at human rights treaties in Ghana's laws, and related international treaties that Ghana has ratified. The chapter then briefly examined how committed Ghana has been to enforcement of these treaties, taking a look at institutions involved. It makes a review of the Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR) and principles that relates to multinational companies and human rights, with special reference to extraterritorial dimensions of a state's duty to protect the rights of people. It finally touched on Ghana's Mineral and Mining Act of 2006.

Chapter four is a special case on Civil Society Organizations, indicating what prompted their birth and growth. It presents a special account on WACAM to indicate a prior knowledge on its importance, means of engagement and challenges it faced in the study area.

Chapter five entails presentation and analysis of the firsthand findings from this study, starting with human rights struggles in Prestea from the perspective of WACAM. It then gives findings on human rights struggles from the perspective of community leaders of Prestea and eventually findings on human right struggles from the perspective of community members.

Chapter six is a summary of the findings that have been made from the interviews, observations and document sources. The summary is tailored to answering the research questions and fulfils the objective of the study.

CHAPTER TWO

METHODOLOGICAL FRAMEWORK

2.0. Introduction

This chapter deals with the methods used by the researcher to elicit information relevant to the research questions. How the field work had been carried out and the methods used to collect the relevant information on the issues have been dealt with in this chapter. It also gives a brief outlook of qualitative and quantitative methods from different research viewpoints. The methods and instruments used to collect data have been explained. The target population of the study, sample size and sampling procedures, sources and methods of data collection, how the data was analyzed and the limitation of the study have been outlined. It has also brought into perspective the problems that were encountered during the data collection process and how they were overcome.

2.1. Methods and instruments of data collection

2.1.1. Choice of research strategy

Basically, two research strategies: qualitative and quantitative have been identified through conventional differentiation. Bryman (2008) noted that the distinction that exists between these two strategies goes beyond the idea that quantitative research emphasizes quantification in data collection and analysis whilst qualitative research emphasizes words rather than quantification in data collection and analysis. Rather, he explained that qualitative and quantitative research is distinct in their relation between theory and research, ontological and epistemological orientations. It was also noted that mixed method which combines both qualitative and quantitative research strategies is the third strategy used by some researchers.

Delving a little deeper, Bryman (2008) indicated that with qualitative research, an inductive approach is emphasized where findings lead to the generation of theories. But with quantitative, the emphasis on a deductive approach where an already existing theory is tested for authentication or rejection is the priority.

Qualitative and quantitative researches are again distinct in their epistemological orientation. The epistemological orientation is rooted in two traditions namely positivism and interpretivism. Quantitative research emphasizes positivism tradition which advocates for the usage of natural science model in the study of the social world. Qualitative research on the

other hand deals with interpretivism which places emphasis on the way in which individuals interpret their social world (Bryman, 2008).

The other distinction lies in the ontological orientation. Whereas qualitative research emphasizes constructionism, quantitative research emphasizes objectivism. Denzin and Lincoln (2011, p. 8) describes qualitative research as emphasizing "socially constructed nature of reality" as well as the "qualities of entities" without focusing on measurement in terms of "quantity, amount intensity or frequency".

The decision to predominantly rely on qualitative method for this study was determined by the object of study and the issues being investigated. The object of study is human beings who can make meaning out of the happenings in their environment unlike the objects of the natural sciences. It entails an understanding of the events and the social impacts in the Prestea area through the expressed views of the people of Prestea. That is, the researcher has a commitment to "viewing events and the social world through the eyes of the people that are to be studied" (Bryman, 2008, p. 385). Also life stories or experiences can best be told, described and captured through face to face interaction with people which epistemologically are the domains of qualitative methods and tools than quantitative ones (Bryman, 2008). In order to get access to the people's world view and what they consider important so as to understand them; it requires talking directly with them, getting into their social setting and allowing them to narrate their stories freely (Creswell, 2007).

2.1.2. Research design: case study

Bryman (2008) did note that research design is a necessary aspect of data collection and analysis. He outlined five research design strategies namely: experimental design, cross-sectional design, longitudinal design, case study design and comparative design.

For my study, I employed a case study which he explained as an "intensive analysis" of a "single case" (Bryman, 2008, p. 52). It is based on an in-depth study of a single unit which will enable the researcher to unearth some particular characteristics of that unit. It was noted that this single unit can be an organization, a hospital, a family, a school etc (Bryman, 2008). Since this study focuses on the impacts of mining activities and in an individual unit which is Prestea, the best research design in my opinion is case study. This design has been valuable in that it allowed for an in-depth examination of how the mining community of Prestea struggles against the mining companies for its rights.

2.1.3. Sources of data

The study entailed primary data which was supplemented by secondary data. The primary data was basically first hand information obtained during interactions with the subjects in the course of the field work. The secondary data included official reports from government sources in the form of mining codes, constitutional provisions on mining activities, reports obtained from WACAM, agreements between the mining companies and the community and other articles and journals on the issues of study.

2.1.4. Instruments of data collection

The main methods used in the data collection of the primary data were interviews, focus group discussions and observation. The interviews and focus group discussions were conducted using semi-structured interview guides.

Semi-structured interview has been explained by (Bryman, 2008) as a situation in which a researcher is guided by an interview guide which either contains a list of questions or specific topics. I considered the semi-structured interview the most appropriate; since the somehow unstructured nature of it allowed me to gain access to what my respondents view as the impacts of mining as well as how they struggle for their rights that are constantly abused by mining companies. The flexible nature of the interview guide also allowed me to probe further on responses given by the respondents. Since issues that need to be reconstructed or played back are not amenable to observation, interview afforded the researcher the opportunity to delve into those issues by asking the respondents. Also, the interview allowed the researcher to deal with the issue of privacy by first asking for their consent (Bryman, 2008).

There was a focus group discussion, which has the aim of allowing for free flow and in-depth information from the people affected by mining as a group as well as individuals (Bryman, 2008). Like the interviews, the focus group took gender into consideration. Several identifiable groups such as people affected by mining (WACAM and non-WACAM) members and people working in the mine were drawn on.

Fig. 1: An interview session during the research



In each interview and focus group discussion, notes were taken as well as recorded but with the permission of the respondents. The recordings were later transcribed and organized for the completion of the work.

2.1.5. People and groups included in the study

The population included the leadership of Wassa Communities Affected by Mining (WACAM) –a human rights NGO, leadership of the mining companies operating in the Prestea area, few traditional leaders and people affected by mining activities in Prestea.

2.1.6. Sample size

The general target groups of this research is the people affected by mining in the Prestea community who are either members or non-members of WACAM, sub-chiefs or community rulers, WACAM and the mining company operating in the area. A total of 40 people in addition to 5 sub-chiefs or community rulers were interviewed. The forty people in the Prestea community comprised of 20 women and 20 men. Ten of the women were WACAM members and ten were non-WACAM members. Similarly, ten of the men were WACAM members and the other ten were non-WACAM members.

2.1.7. Sampling procedure

In order to get varied views from key informants representing various identified groups, two sampling procedures were used; first, purposive sampling was used to select respondents.

Secondly, the snowball method was used to recommend other respondents who were not previously identified but were likely respondents (Bryman, 2008).

Purposive sampling method was used for the selection of key persons of relevance to the study (Bryman, 2008). These included public relations officers of WACAM, Sub-chiefs or community leaders, and sections of the Prestea community including farmers, women/ women groups. In-depth interviews were then conducted with these persons.

With regards to interviewing the population of the Prestea community, snowball sampling procedure was used to select the respondents. Thus, with non-WACAM respondents, a member of the community who has been affected by the mining activities in any one way was used to identify another non-WACAM member that has similarly been affected in any way. Similarly, a WACAM member was used to locate another WACAM member of the community. That is, any one non-WACAM community member and any one WACAM member were used to locate another, continuing until the required numbers were obtained (Bryman, 2008).

The researcher has chosen to employ this procedure because random sampling might be difficult, taking into consideration the need to gather respondents from their various schedules to carry it out. Also, since this is a social research, using probability sampling will make the study difficult and costly since it involves a lot of preparation (Bryman, 2008).

2.1.8. Data analysis

The data is analyzed mainly qualitatively, taking into considerations the issues that came out of the interactions with the people. These issues, otherwise known as the findings were explained in relation to the literature that has been provided on them. Thoughtful suggestions have been offered to the issues to serve as reference point for other think-tanks. Colour coding was used to collate and coordinate the findings under specific headings that are consistent with providing answers to the research questions.

2.2. Limitations of the study

Since human rights violations in mining communities in Ghana have been a topical issue, mining communities have been subjected to several studies already. Due to that, the researcher faced rejection from some participants, especially those who think such researches did not bring any change to their situation.

I also faced the challenge of getting the management of Golden Star Resources; the main mining company operating in the area to respond to my research questions. Even though, I was fortunate to chance upon the Human Resource Manager and the Community Affairs Manager of the Company in a mediation forum between the traditional leaders and the company, my attempt to conduct any form of interview was rejected.

I have been asked to first write and seek approval from the Human Resource Manager (HRM) which I did. But several subsequent attempts to know the status of my permission and get the opportunity to conduct the interview did not materialize. Since my field work in the area was coming to an end, I decided to get the phone number of the HRM (through the help of my research assistant) so I could have a telephone interview if my permission was granted. On calling the HRM, he demanded I send the questionnaire to him through the email for responses to be made through writing. But this has also not been honoured.

Even though I was given documents covering the agreements between the mining company and the community, my interviews would have demanded responses beyond what could be found in the agreement given. The interviews also would have given me the opportunity to get clarification on some of the issues raised by the communities.

Another challenge I faced was the refusal of some of my respondents to release some information which they considered sensitive to them. For instance most of the non-skilled workers in the mines were not ready to release any information regarding their wages. But I consider some of this information crucial to my research.

Ethical considerations

Every effort had been made to ensure this study did not bring any harm to the participants. The participants have been informed about the purpose of the study. An informed consent has been sought from them and their permission had been sought anytime the voice recorder was used. In all interviews and discussion settings, the confidentiality and anonymity of participants have been ensured. The researcher had been cautious of participants' time and informed the participants about the duration of the interview in advance. (Bryman, 2008). Honesty and openness had been the hallmark in this study.

CHAPTER THREE

LITERATURE REVIEW

3.0. Introduction

This chapter looks at the literature foundation of the research which seeks to investigate into human rights struggles in the gold mining communities of Ghana. To give a comprehensive understanding of the picture of the issue of study, it first looks at the economic significance or contribution of gold mining to Ghana. This is to give an idea of how significant gold mining is to Ghana and how responsive Ghana might be to mining-related problems (or the downside of mining) suffered by minority groups in the gold mining communities amidst the broader gains made by the country. In doing this, it first looks at the historical account of gold mining in Ghana.

Secondly, it looks at Ghana's commitment to International Human Rights Law and the institutions that safeguard them: this is on grounds that one does not talk about right abuse when there is no general acknowledgement of the rights of the people. Since the International Bill of Human Rights is the basis for which the United Nations (UN) "promote, protect and monitor human rights and fundamental freedoms", this chapter further looks at the three text of the bill: Universal declaration of Human Rights (UDHR), International Covenant on Economic, Social and Cultural Rights (ICESCR) and International Covenant on Civil and Political Rights (ICCPR) (UN OHCHR, 1993, p. 1).

Thirdly, it looks at the general limitations in the control of activities of transnational mining companies and extra territorial dimensions of control that states could exercise over them in the bid to protect mining communities. It finally looks at Ghana's Mining Act which defines the codes of conduct of mining companies in the mining communities.

3.1. Historical account of gold and mining in Ghana

Ghana is considered an important producer of gold in West Africa; accounting for 70% of the regions total production (Utter, 1992 in Hilson, G. (2002). The country's gold deposits are located within the Western parts of the country. It is the gold derived from this area that attracted the Arab world and Western European merchants to Ghana -formerly Gold Coast Colony and famously known as the "land of gold" (Gavin Hilson, 2002).

The former Gold Coast mining was fairly a simple process. The methods could be classified into three categories: alluvial, shallow pit and deep shaft mining (Dumett, 1998 in Hilson, G. (2002). The alluvial mining was mainly done along the Tano, Ofin, Ankobra and Birim River banks. It was the most common due to abundance of gold particles within streams and river beds. Alluvial mining basically entails the collection of sediments from shorelines, followed by repeated washing which results in the separation of gold particles from sand (Botchway, 1995 in Hilson, G. (2002). The other mining methods -the shallow pit and deep pit mining were said to be scarcely used in the former Gold Coast.

It is noted that the local inhabitants were mainly into alluvial mining even by the time of their first contact with Europeans (Junner, 1973 in Hilson, G. (2002). The first auriferous ore deposits opened and managed by the Portuguese was located in Arobi Hill and Aboasi (Kesse, 1985 in Hilson, G. (2002). Both mines however collapsed due to badly shored tunnels and an earthquake (Kimble, 1963 in Hilson, G. (2002). Ghana's gold production was said to be 8,153,426 oz: 35.5% of world output at the time the Portuguese were occupying West Africa (i.e. 1493-1600) (Addy, 1998, p. 232).

The Portuguese's 150-years of occupying the Gold Coast ended after the Dutch arrived in 1595. The Dutch monopoly of the gold trade and their claim over the Gold Coast was soon challenged by the English who engaged in their first gold trading activities in the middle of the sixteenth century. However, the gold trading activities of the English were much disorganised until around 1618 (Gavin Hilson, 2002).

3.1.1. Mining in the former Gold Coast Colony

At the end of the 200-years slave trade which was characterised with inactive gold production, the Gold Coast gold once more became important to the Europeans in 1870's. This new interest as noted by Gavin Hilson (2002) was as a result of the tales of British fighters and officers who partook in the Ashanti War (1873-4) about the Gold Coast's gold wealth.

Also, the new discovery of the abundance of gold in Tarkwa in the early 1880's was the beginning of a major gold rush. As a result of potential buyers seeking land concessions, a huge chunk of European cash was pumped into the region. As such, Tarkwa and Prestea was the centre of earliest large scale gold mining activities undertaken by Europeans (Gavin Hilson, 2002).

African Gold Coast Company became the first mining company officially set up by Europeans in the Gold Coast Colony. After its official registration on 16th February 1878, and without a single mining activity in the Gold Coast, the company folded up on 3rd September 1886 (Rosenblum, 1974 in Gavin Hilson, 2002). Aside the Gold Coast Company, others like the Swanzy Company and Efluenta Gold Mining Company were also set up around the same time (Gavin Hilson, 2002).

Five mines out of the 70 concessions sold out (i.e. 1881-82) started operating. Twenty-two (22) Europeans and about two thousand four-hundred (2400) Ghanaians were employed by the mining companies as at 1894 but with small amounts of production output. It was also noted that; due to limited capital, inexperience and lack of technological expertise, most of the mining businesses around this time collapsed (Gavin Hilson, 2002).

A new batch of gold mining companies, including Ashanti Goldfields Company and Ashanti-Obuasi mines were later established. Ashanti Goldfields, who by March, 1890 got 25,000 hectares of land in Obuasi as mining concessions positively affected gold production then and as of 1988 was noted as Ghana's most crucial mining company (Ashanti Goldfields, 2002 in Hilson, G. 2002).

The period between 1892 -1929 was what Kesse (1985 in Hilson, G. (2002) classified as the Gold Coast's gold rushes. The first rush -"Jungle Boom", he noted occurred between 1892-1901 where as much as 400 newly set-up companies put in £40 million in order to develop gold mining. After declining production in 1928-1929, the second "Jungle Boom" occurred after World War II where production picked-up to 100% with 7000 enquiries of mining concessions taking place.

3.1.2. Gold mining in Ghana after independence

By 1950's however, just 11 out of the 50 mining companies that operated in the 1930's were still in existence. Even those still existing had degenerated mines and their request of loans from government to revive those mines have been rejected (Acquah, 1995 in Hilson, G. (2002).

Ghana's gold mining sector deteriorated very much with its attainment of independence. By 1958, a year after Ghana's independence, the government took charge of the mining industry and by 1966 all of Ghana's gold mines with the exception of Ashanti Obuasi site were under

government control (Gavin Hilson, 2002). The decades after that saw the gradual decline in gold production and deterioration of Ghana's mines, a consequence that Addy (1998) linked to excessive government control. For example, Gavin Hilson (2002, p. 22) illustrated that Ghana's production output in 1960 was around 956,947 oz and peaked in 1963 at 1,002,940 oz and then declined to 766,258 oz by 1970 and even further throughout the 1970's until it hit as low as 232,000 oz in 1982.

The decline in Ghana's gold production was a reflection of the deterioration in the economy. Continuing the unstable political situation in the country, a group of military men led by Flight Lieutenant Rawlings overthrew the existing government on 31st December, 1981 and formed the Provisional National Defence Council (PNDC). After the PNDC takeover, the economy declined much more drastically that the PNDC government had to seek remedy from the International Monetary Fund (IMF) (Gavin Hilson, 2002).

The Economic Recovery Plan (ERP) was launched in 1983 under the direction of the IMF. The ERP came along with attempts from the Ghanaian government to make the mining industry more attractive by making alteration to some 78 acts, ordinances, decrees codes and laws guiding the industry (Asa, 2001 in Hilson, 2004). Consequently, minimum mineral duty, the 10 import duty, the foreign exchange tax and the gold export levy were removed whilst corporate tax was reduced to 35% (a flat rate) from the original 50-55% and mining companies were exempted from paying duty on equipments (Asante et al., 2007 in Hilson, (2004, p. 64). It is noteworthy that annual gold production has increased from the 283,593 ounces in 1983 to 1,747,018 ounces in 1997 since the inception of the ERP (Asa, 2001 in Hilson, 2004).

3.2. A brief description of the main mining methods in present time Ghana

According to a draft report to SAPRI by Akabzaa and Darimani (2001, p. 23), 19 large-scale mining companies were in existence in Ghana as of 2000. Out of the 19 mines, 16 were into gold mining whilst the rest three were into bauxite, diamond and manganese respectively. They also noted that aside from two of the mining companies, all the other companies engaged in surface mining. Hence, surface mining seems to be the major mining method used by multinational companies in Ghana.

3.2.1. Surface mining

Surface mining is used to extract minerals not so far from the surface of the earth. It comes in various forms but the three most common ones are open-pit mining, strip mining and quarrying. The basic difference between these types depends on the geometry involved, techniques employed as well as the mineral mined (Encyclopaedia Britannica, 2014). Metal ores like copper, gold, iron and aluminium are mostly extracted with the open-pit method whilst the strip mining is typically used in coal extraction. In terms of mining's impact on the environment, surface mining methods are known to be more disastrous to the environment when compared to underground mining but tends to be more cost effective (Encyclopaedia Britannica, 2014).

Open pit; the major form of the surface mining methods used in Ghana involves in most cases large holes or pit being created as a result of the extraction process. The process starts with cuts being made into the ground. These cuts, which are horizontal in nature and known as benches are the levels at which excavation takes place. Excavation begins on another bench after minerals and waste are removed from the current one. In most cases, within this process, drilling, blasting, loading and hauling takes place (Encyclopaedia Britannica, 2014).

Special patterns are observed in drilling the holes in order that the exact type of fragmentation needed for later loading, hauling and crushing operations are achieved during the blasting.

Even though there are several types of explosives used for the blasting, those from slurry of ammonium nitrate and fuel oil are mostly used. The waste from the blasting is thereafter loaded and transported to dumping sites whilst the ore is hauled to processing sites (Encyclopaedia Britannica, 2014).

3.3. Contributions of gold mining to Ghana's economic development

The mining sector tends to be an important part of Ghana's economy, attracting direct foreign investment and bringing in tax and royalty payments. Out of this, gold accounts for over 90% of the mining sector, making Ghana the ninth largest gold producer in the world and the second largest producer in Africa. Total government revenue obtained from gold in 2011 for example amounted to 6% of GDP. Correspondingly, this contributed to 38.3% of total corporate tax earnings and 27.6% of government revenue. The sector is also a great attractor of Direct Investment to the country. For example, from 1983 to 2011, the mineral and mining

sector alone provided a direct investment of about US\$11.5billion. It is estimated that about 28,000 people are employed in the large scale mining sector (B. N. A Aryee, 2012). The ownership structure which entitles Government to Equity in all new mining activities is also a source of government revenue (Addy, 1998, p. 232).

Other benefits created by the sector include gains from mining-related activities, provision of inputs for other sectors, research and other development activities and transfer of technology. Mining-related activities in the form of banks, financial services, logistics, and transport amongst others have also been paramount (B. N. A Aryee, 2012). Corporate Social Responsibility commitments of mining companies tend to add infrastructure such as schools, hospitals, roads etc; consequently contributing to the development of such areas. As Huq (1989 in Addy, 1998), noted, even Ghana's industrialization is linked to the mining sector.

3.4. The downside of gold mining

It is incontestable fact that since the inception of the ERP, Ghana has made a lot of macroeconomic gains from gold mining, but a bulk of literature also suggest the multiple challenges that mining communities encounter as a result of mining. Economically, environmentally and socially, mining communities have a high cost to pay.

There have been several cases of forceful acquisition of land from farmers for mining operations. In some of such cases, meagre or no compensations are paid for such acquisitions not to talk about the complex procedure and hold-ups involved in acquiring such compensatory packages (G. M. Hilson, 2004). Britwum, Kwesi, and Ferdinand (2001, p. 39) reported that, as much as 70% of the land area in Tarkwa has been taken over by large scale mining. This consequently results in loss of livelihood for mining communities. Human rights violations such as beatings and shootings have also been linked to the mining companies (Tockman, 2001 in G. M. Hilson, 2004).

Environmentally also, mining communities have a challenge to deal with. Water and environmental pollution due to mining activities continue unabated in mining communities. Although the Environmental Protection Agency is the state's environmental regulatory body, G. M. Hilson (2004) indicated that it has not been able to fulfil its mandate of regulating the activities of mining companies in order to protect rivers in particular and the environment in general.

There are also social repercussions for mining communities. In a case study of Tarkwa by Akabzaa and Darimani (2001), there were reported cases of increase in prostitution and drug use.

Partly owing to the mining related problems identified above and many more that are yet to be discussed, it was reported that there was increasing awareness of human rights in Ghana's mining communities with NGO's springing up to drive home demands for justice as well as ensure the rights of the people (CHRAJ, 2008). It is necessary at this point to identify general reference points for any claims of abuse and in particular, claims of rights abuse in the context of effects of gold mining in Ghana. The study now makes a review of some legal/policy frameworks that are meant to safeguard the rights of people.

3.5. Highlights of Ghana's commitment to International Human Rights Laws

The United Nations serves as the source of international human rights agreements in the global community. The UN's Universal Declaration of Human Rights (1948) is credited as the source of subsequent international rights instruments but ironically is in itself considered non-binding (Doyle & Gardner, 2006 in Anyidoho, 2009). Nine main international human rights treaties have been identified under the UN system. Some of these have optional protocols which make them binding international laws (Anyidoho, 2009)

Citing Wohlgemuth and Sall (2006), Anyidoho (2009) discussed the relevance of the importance of the African Charter on Human and People's Right as a critical regional commitment that do not only support international right instruments but reflect "African" idea of rights. A unique feature of this charter is its solidarity right, especially the right to self-determination, development and environmental integrity and the right to freely dispose of natural resources. Placing Economic, Social and Cultural rights on equal footing with Civil and Political Rights, the African Charter denotes these rights as justiciable (Wehlegemuth & Sal 2006 in Anyidoho, 2009).

In Ghana, the major issue concerning human rights is essentially given space in the 1992 constitution of the Fourth Republic which has its basis from human rights instruments such as the Universal Declarations on Human Rights and the African Charter on Human and People's Rights (Kludze, 2008). Generally however, "Laws of Ghana" is defined by the constitution as being made of "the constitution itself, acts passed by parliament, orders and regulations by any authority on which the constitution confers such power, common laws and existing laws

that conform to the constitution" (Anyidoho, 2009, p. 7). The constitution constitutes the embodiment of human rights in the country.

According to Anyidoho (2009) the Fourth Republic constitution incorporates the collective lessons of three civilian and four military regimes that ruled the country since independence in 1957. These experiences guided a well-drafted document compared to other documents of similar nature outside the continent in areas of civil and political liberties, the independence of the judiciary and the media and the functioning of a national human rights commission.

The constitution declares "the protection and preservation of fundamental human right and freedoms...." as a guiding principle in its preamble (Republic of Ghana, 1992). Referring to chapter five of the constitution, Anyidoho (2009, p. 7) describes it as "the central passage on human rights" that outlines specific groups of persons (women, children, persons with disability and the sick) whose rights should be protected as well as a host of rights which every category of person in Ghana is entitled to.

Chapter Six, "The Directive Principles of State Policy" on the other hand expatiates on the "principles by which individuals, civil society and governments should interpret the constitution" (Anyidoho, 2009). Quashigah (2007) in Anyidoho (2009) describes this chapter as "the conscience of the constitution". Based on Article 378(3) "the State shall be guided by international human rights instruments which recognize and apply particular categories of basic human rights to development processes". Anyidoho (2009, p. 8) also did call the chapter a "template for development".

However, she notes the legal debates surrounding the justiciability of chapter six and explained that, crucial statements within the chapter could change or broaden the understanding of human rights, especially the social and economic rights (Anyidoho, 2009). The chapter puts the responsibility clearly on the government to provide some economic and social rights. She believes the legal unenforceability of that responsibility, has reduced the power of persons to hold the government or duty-bearer to account should it fail under the rights-based approach (Anyidoho, 2009, p. 8).

She further noted that, if it is claimed that the entire constitution is legally binding, then arguments that the provisions of chapter six of it are mere "guides" becomes questionable (ibid). This notwithstanding, she also reiterated that, the rulings of the courts and CHRAJ are typical of the belief/understanding that chapter six is not legally enforceable (unless linked to

the rights under chapter five) but rather a set of principles (Anyidoho, 2009). The only rights that the constitution has made enforceable or made into law includes spousal property law, children’s right to care and disability law.

Civil and Political Rights seems to have been given more attention than social and economic rights in the constitution. An example is the fact that the constitution has given the right to "workers to work under fair conditions” but fails to "address the right to work" and "rights to basic materials such as housing, food and water" (Anyidoho, 2009, p. 8).

The constitution's much leaning on civil and political liberties in Anyidoho (2009, p. 8) view is due to two factors. Firstly, the drafting was done after a period of recurring military regimes within which civil liberties were suppressed and hence the need to emphasize on civil liberties as an effort to remake liberal democratic system. Secondly, economic, social and cultural rights were globally less known at the time of its drafting. Nevertheless, the constitution made provision for incorporating rights not mentioned but considered "inherent in a democracy" (Anyidoho, 2009, p. 9).

Ghana has signed and ratified several international human rights treaties as indicated below. However, as noted by OSIWA and IDEG, 2007 in Anyidoho (2009), incorporating these international rights instruments into national laws has been appalling. It has been observed that courts in Ghana (like most courts in other countries) do not see most of the instruments as binding unless it is passed by parliament as law and incorporated as a national law. Anyidoho (2009) indicated that the influence of international human rights treaties is only felt when being used in rights advocacy but not in the legal setting.

3.6. Related international human rights treaties ratified by Ghana

Human Rights instrument	Year adopted	Year of entry into force	Date ratified by Ghana
International Convention on the Elimination of all Forms of Racial Discrimination (ICERD)	1965	1969	8th Sept. 1966

Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW).	1979	1981	2nd Jan. 1986
Optional Protocol on the Elimination of Discrimination Against Women.			3rd Feb. 2011
Convention on the Rights of the Child (CRC)	1989	1990	5th Feb. 1990
International Covenant on Civil and Political Rights (ICCPR)	1966	1976	7th Sept. 2000
Optional Protocol on Civil and Political Rights			7th Sept. 2000
International Covenant on Economic, Social and Cultural Rights (ICESCR)	1966	1976	7th Sept. 2000
Convention Against Torture and other Cruel Inhuman or Degrading Treatment or Punishment (CAT)	1984	1987	7th Sept. 2000

Source: Anyidoho 2009 p.10; University of Minnesota, 2009

Africa Regional Conventions

	Year adopted	Entry into force	Ratified
African Charter on Human and People's Rights (ACHPR)	1981	1986	24th Jan. 1989

African Charter on the Rights and Welfare of the Child (ACRWC)	1990	1999	10th June 2005

Source: University of Minnesota, 2009

3.7. Ghana's commitment to Human Rights Enforcement Mechanisms

It is noted that Ghana has been less committed to its duty of submitting its country reports to the treaty monitoring body. Submitting late or not submitting at all has characterised Ghana's reporting history. To support that, Anyidoho (2009, p. 48), cited how the National Democratic Congress (NDC) only gave a collection of reports (1993-1996) to ICERD in 1998: after six (6) years in power. And the National Democratic Party also submitted three CEDAW reports together in 2005. Although Ghana ratified CAT, ICCPR and ICESCR in 2000, no single report has been submitted as at 2007. Also, it was at the time the NDC government was leaving office in 2000 that it submitted a stockpile of reports (from 1995-1999) to ACHPR (OSIWA & IDEG, 2007 in Anyidoho, 2009). A further look at the United Nations Human Rights (Office of the High Commissioner for Human Rights) website by the researcher indicated that as at 06/09/2014, no report has still been submitted to the ICESCR.

3.8. Institutions that safeguard and redress human rights issues in Ghana

Basically, it behooves upon each government to protect the rights of its citizens as well as redress violations that may occur. Governments usually delegate this responsibility to bodies or institutions in charge of that. In Ghana, the court and the Commission on Human Rights and Administrative Justice (CHRAG) - an independent body, are responsible for such duty (Anyidoho, 2009).

3.8.1. The courts

Ghana's Judicial System is made up of the superior and lower courts. The Supreme Court, the Court of Appeal, the High Court and regional tribunals make up the superior courts while the circuit courts and tribunals, the district courts, the juvenile courts, the National House of Chiefs, traditional council and any other lower court that Parliament may set up make up the lower courts (OSIWA & IDEG, 2007 in Anyidoho, 2009).

According to article 140(2), the constitution gives the Supreme Court the mandate to “interpret and enforce the constitution” and the High Court has the “jurisdiction to enforce the fundamental Human Rights and freedoms guaranteed by the constitution” (Anyidoho, 2009, p. 13). Basically therefore, protecting human rights and redressing violations lies on the Supreme and High Courts.

3.8.2. Commission for Human Rights and Administrative Justice (CHRAJ)

Based on Article 216 provision of the 1992 constitution, CHRAJ, the main non-judicial institution was created in 1993 by parliament’s Act 456 of 1993. Apart from being the major non-judicial institution that receives human rights complaints, it also oversees “administrative justice” as well as “abuse of power or corruption”. The Commissioner and two deputies are appointed by the President of Ghana (Anyidoho, 2009, p. 13).

Unlike the courts, CHRAJ has no prosecutorial powers, but has the authority “to investigate, issue subpoenas for persons and documents and to make recommendations for redress of rights and abuses” (Anyidoho, 2009, p. 13). Thus, for the recommendations of CHRAJ to be enforced, it has to turn to the courts as espoused in article 229 of the constitution. That is: “For the purpose of performing his functions under the Constitution and any other law, the Commissioner may bring an action before any court in Ghana and may seek remedy which may be available from the court” (CHRAJ, 2005 in Anyidoho, 2009, p. 14). Quoting article 218 of the same constitution, Anyidoho (2009) noted the immense power CHRAJ has to end proceedings or prevent any action that breach human rights law through “any competent court”. However, that power is cut short when it comes to reassessing or reversing a court ruling or taking over a case already before the court (Anyidoho, 2009, p. 14).

The services of CHRAJ are free and quick in comparison to the courts, whose services are extremely slow and expensive. Financially, CHRAJ is resourced by the government on the approval of the Minister of Justice; an act which was viewed as capable of compromising the commission’s independence (Anyidoho, 2009).

3.9. Basis of claims of human rights abuses in the research community

In order to make a fair assessment of human rights violations in the mining communities of the selected research area, it is important to identify the basis of the claim of rights abuse of people in the communities. This is done by looking at components of the International Human

Rights Treaties Ratified by Ghana. These treaties constitute the fundamental provisions of the United Nations that are meant to “promote, protect and monitor” human rights and fundamental freedoms necessary for a dignified life⁷. These provisions came to be known as the International Bill of Human Rights and comprise of the three texts that have been partly described below (UN OHCHR, 1993).

3.9.1. The Universal Declaration of Human Rights (UDHR)⁸

The Universal Declaration of Human Rights was adopted by the United Nations General Assembly on the 10th December, 1948. Its adoption was based on the common premise that all human kinds have an “inherent dignity and equal inalienable rights that constitute the foundation of freedom, justice and peace in the world”

Human rights are deemed secured from tyranny if protected by the rule of law. This promotes friendly relations between nations, “social progress and better standards of life in the larger freedom”.

From Article 1 onwards, the UDHR ensured equal dignity and rights with brotherliness for all people, regardless of “race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status” and no distinction shall be made on the basis of the political, jurisdiction or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitations of sovereignty”.

Article 3 states that: “Everyone has the right to life, liberty and security of person”. This means that in the mining communities under this study, anything that is done, which threatens the life and liberty of the people is against the UDHR. If mining threatens the safety of life of people through accidents (induced by collapse of mines), and concessions limit their basic liberty, these would constitute abuse of rights. Any incident of shooting that kills a person would seriously contradict the UDHR.

Article 5 states that: “No one shall be subject to torture or cruel inhuman or degrading treatment or punishment”. In this vein, if mining companies should forcefully eject people

⁷ The right to dignified life is said to be unattainable until “all basic necessities of life –work, food, housing, health care, education and culture are adequately and equitably available to everyone”.

⁸Source: (UN General Assembly, 1948)

from their neighborhood, assault those who resisted their actions and in some situations release security dogs to inflict wounds on them, that would constitute acts of torture that are against the UDHR.

Article 9 states that: “No one shall be subjected to arbitrary arrest, detention or exile”. This implies that any arrest by law enforcement agencies of any person, partaking in protests against mining activities that denies him of his rights would constitute a disregard for the UDHR.

Article 12 stipulates that: “No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, or to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks”. In this regard, any acts like relocation of families, with less provision of their residential arrangements would constitute a breach of their privacy and family life. This shows that any of these must be done on the consent of the people.

Article 13:1 States that: “Everyone has the right to freedom of movement and residence within the borders of each states”. Where mining concessions are such that people cannot have access to their farms or would have to make unnecessarily longer journeys to reach such previously shorter distances, these would constitute a disregard of the UDHR.

Article 17:2 states that: “No one shall be arbitrarily deprived of his property” So therefore, if a residential area falls within the confines of mining concessions, any claim of the area without the consent and appropriate relocation and replacement of property would be deemed wrong. Land owned by people must be adequately compensated for. Anything other than this would constitute a breach of the right of the people.

As by Article 18, “Everyone has the right to freedom of thought, conscience and religion..., to manifest his religion or belief in teaching, practice, worship and observance”. The symbolic observance of people’s religion in the form of keeping of sacred places must thus duly be respected. Removal of forest covers that serve as the sacred places and or objects of worship of people would interfere with their right.

Article 23:1 says: “Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment”. So if farmers in a mining community have their means of livelihood from farming, hunting, fishing and

medicinal use of plants, it would be expected that these activities are safeguarded. When pollutant from mines contaminate and kill all the aquatic life, people are denied of their means of livelihood.

Article 25: states that: “Everyone has the right to a standard of living adequate for health and well-being of himself and his family, including food, clothing and housing, medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age and other lack of livelihood in circumstances beyond his control”. If mining activities carry the potential of producing various health hazards in the form of dust pollution, water pollution through mercury and cyanide spillage, then the right to adequate health has been endangered. When houses and social facilities have been demolished without due relocation and replacement, people’s rights have thus been breached. More particularly, people are denied their right of security in the case of unemployment when their farmlands are taken in mining concessions without due replacement and provision to regain their employment status.

If so, any activity of mining companies that breach any of the rights of the people without adequate consultation and settlement would constitute disregard of the UDHR⁹.

3.9.2. International Covenant on Economic, Social and Cultural Rights (ICESCR)¹⁰

The ICESCR was adopted by the UN General Assembly on 16 December 1966 but came into force on 3 January 1976. This treaty, like any other of its kind stipulates that, the attainment of the inherent dignity and inalienable rights of people is necessary for the enjoyment of freedom, justice and peace in the world. It recognizes that conditions have to be created for the realization of the economic, social and cultural as well as civil and political rights of the people.

Article 1:1&2 of the ICESCR enjoins the right of “self-determination for everyone, for the attainment of their political, economic, social and cultural development. People for their own ends could freely dispose of their wealth and resources without discrimination and in no case could people be deprived of their own means of subsistence”.

⁹ Article 30 of the UNDHR

¹⁰Source (UN General Assembly, 1966)

Under Article 6, people have the right to work and state parties to the convention are enjoined to take actions, be it policies, and techniques, technical and vocational guidance and training programmes to ensure that people attain a steady economic, social and cultural development. In this regard, state policies in Ghana are supposed to ensure that in any issuance of mining concessions rights, the people's means of livelihood especially right to work are ensured.

As stated in Article 7 of the ICESCR people of mining communities, like employees of mining companies are entitled to healthy environment. Any action contrary to this realization is a breach of their rights.

Article 11 enjoins the right to adequate food and housing.

Article 25 of the ICESCR safeguards the arbitrary interpretation of any aspect of this convention that would impair the inherent rights of people, meant for the full enjoyment of their natural wealth and resources.

In summary the ICESCR ensures the right of people to a healthy environment, right to self-determination through the right to work for basic subsistence, right to fair treatment without discrimination and right to housing. All of these rights are needed for the realization of the economic, social and cultural development of the people. Any activity of mining companies, that denies these rights of the people would thus be a breach of the ICESCR.

3.9.3. International Covenant on Civil and Political Rights (ICCPR)¹¹

The ICCPR was formally adopted by the UN General Assembly on 16th December 1966 and came into force on 23rd March, 1976. It entreats parties to respect the civil and political rights of individuals such as right to life, freedom of religion and speech.

Article 1 of the ICCPR also stipulates the right of self determination of people. Article 1:2 particularly states that: "All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence". This is consistent with what has been stated in Article 17:2 of the UDHR and Article 1:1 and 2 of the ICESCR. In this case, though the government of Ghana for example, under the IMF's Structural

¹¹Source: (UN General Assembly, 1966b)

Adjustment Programme was to make conditions favourable to attract foreign direct investment, the government of Ghana has the obligation to ensure that the means of subsistence of mining communities are not threatened.

Article 22: 1 and 2 states that everyone has the right of free formation and association with any trade union or civil organization meant for the protection of their interest. No restriction could rightly be imposed on these rights except it is in the interest of state safety and the protection of the rights of others. It would be considered therefore a breach of the rights of the people of any mining community, if they should at anytime be dispersed by law enforcement agencies during a genuine protest that drives home their concerns about the negative effects of mining activities.

3.10. Multinational companies and human rights principle

Efforts to promote human rights globally have traditionally been concentrated on individual state levels. Currently however, globalization has given birth to third parties such as transnational companies and major businesses that states are also enjoined to protect their citizens from. As these actors play critical developmental roles globally, their human rights roles and responsibilities have also been critically questioned due to the negative impacts left by their transactions.

Regarding how to respond to those negative human rights impacts, a myriad of recommendations came forth. One notable recommendation is John Ruggie's (former Special Representative of the UN Secretary General on the issue of human rights in business) "Protect", "Respect" and "Remedy" Framework of 2008. Then came the endorsement by the Human Rights Council in 2011 of these set of principles which are to make sure that companies respect human rights in their transactions and that they provide restitution when infringements occur (UN Human Rights Office of the High Commissioner, 2011).

The first and foremost principles place the onus on states to protect people within their nation from abuse by business entities. Even though a state cannot be blamed for occurrences of human rights abuses within its jurisdiction, when human rights abuses occur due to the state's inability to ensure the protection of its citizens through either prevention or redress of such abuses, then such a state may be considered to have breached its human rights law obligation (UN Human Rights Office of the High Commissioner, 2011, p. 3). For a state to ensure a full protection for its citizens, it needs to take "appropriate steps to prevent, investigate, punish

and redress such abuses through effective policies, legislation, regulations and adjudication" (ibid p. 3).

The second pillar of the principle calls forth corporate social responsibility to respect human rights. Guiding Principle 11 further elaborates on this pillar. It demands that as business entities go about their businesses, they should avoid violating the rights of others and as well address severe human rights impact as a consequence of their transactions through having adequate measures that will "prevent, mitigate and remediate" in place (UN Human Rights Office of the High Commissioner, 2011, p. 13). Base on Guiding Principle 11 therefore, mining companies operating in Prestea, are expected to ensure that their transactions do not violate the rights of individuals.

Mining, unarguably poses a challenge to quite a number of recognized international human rights. Some of these violations may be unavoidable. In situations when such unavoidable violations occur, the company must make every necessary effort to correct the situation. Hence, they must make efforts to forestall the violation of human rights, mitigate the impact of their transactions and remediate people who might have suffered the impact of their transactions in one way or the other.

In order to receive effective remedy when one's right is violated, the third pillar "access to remedy" puts the responsibility on states to ensure that individuals whose rights have been violated within their jurisdiction have access to effective redress through judicial, administrative, legislative or other appropriate means (UN Human Rights Office of the High Commissioner, 2011, p. 27). The Guiding Principle in reality is not legally binding and so states that have vested interest in any activity that in a way violates the rights of people might not be obliged to provide means of redress to people whose rights have been abused. This indicates that extra efforts beyond a state's borders would be needed to safeguard abuse of rights by transnational companies for example.

3.10.1. Extra territorial dimension of the state duty to protect human rights in relation to business activities

There have been increasing concerns about the need for legal provisions towards the extraterritorial jurisdictions of the duty of states to protect human rights. This is to ensure the protection of the rights of people in places like mining communities, in which the host states have vested interest to attract investment with loose human rights policies. With

extraterritorial jurisdiction to protect rights of people, mother state of mining companies would have extended territorial, legal, and moral responsibility to protect the rights of people.

The Special Representative to the UN Secretary General on Business and Human Rights (SRSG) has still not settled these issues, but it has been recognized that the need to protect would remain a basic international requirement to guide the activities of companies and at the same time protect the rights of people. Basically, in the initial provisions of the SRSG, it is mandatory for states to protect the human rights of people living within its borders from abuse by state officials, non-state actors (NSA) as well as corporations. This goes for rights that the state has made official commitment to by ratifying legal provisions like those outlined above. It is only questionable if this responsibility goes beyond its national borders, where states would be expected to ensure that its companies comply with human rights obligations in foreign countries in which they operate (Artacho & Mar, 2013).

This responsibility goes beyond the issues of regulation to an issue of investigation, punishment and redress for actions of non-state actors that violate human rights provisions. The state is not only accountable for its actions that violate the rights of the citizenry but also responsible for actions that pertain to human rights violations by non-state actors for which it should have provided protection, leading to a breach of its international mandate¹² (Artacho & Mar, 2013).

Nowadays, the duty of the state to protect human rights of people goes beyond its territorial boundaries. For example in its General Comments No. 31, the Human Rights Committee (HRC) states that article 2(1) of the International Covenant on Civil and Political Rights (ICCPR) binds anyone over which a state has power or effective control to its demands of human rights commitments even if the entity is not in its territorial confines (Artacho & Mar, 2013).

When it comes to issues of extraterritorial “duty to protect”, the Committee on the Economic, Social and Cultural Rights (CESCR) is more explicit than the HRC in terms of third parties. For example, in terms of the need to protect the rights to health, it states that if states have legal and political leverage over any third parties operating in another country, then they have the international mandate to prevent such third parties from violating the right to health in

¹² See also ILC, Draft articles on Responsibility of States for Internationally Wrongful Acts, with commentaries (2011), Art.2

those other countries. The right to water is also one of the priority things that states have mandate to prevent their companies from breaching in the countries of operation (Artacho & Mar, 2013). Company activities that pollute or stop the flow of rivers that supply drinking water to people would constitute abuse of right to water if there are no alternative provisions.

The right to food is also to be ensured. As such, the United Nations Special Rapporteur on the right to food also enjoins states to ensure accountability from national companies operating abroad to safeguard human rights violations that would breach the right to food (Artacho & Mar, 2013). In this case, it must be noted that food might not be necessarily taken from people to violate their right to food, but any action of companies that violate their means of getting food would constitute a serious violation of their rights. For that matter, such actions that pollute the rivers, deprive people of their farmland as well as game activities will all constitute a violation of their right to food.

Assuming that host nations and companies have been sluggish in fulfilling the protection of the rights of people, the extraterritorial principle provides a kind of bridge to a possible laxity that could arise in a globalised world where host nations and operating companies would have no urgency to protect the rights of people. On the contrary, the extraterritorial clause enables nations to enjoin human rights protection from their companies even if they operate abroad (Artacho & Mar, 2013).

In this regard, states have two means of ensuring the protection of the rights of people with policy measures. That is, they can make a direct use of extraterritorial jurisdiction or carry out domestic measures on their companies which would carry extraterritorial implications for them abroad (Artacho & Mar, 2013).

The principle of non-interference deters states from meddling in the domestic affairs of other states but when it comes to human rights abuses, it could be noted that absolute power of the states could corrupt and for that matter lead to human rights abuses. International human rights laws therefore ensure that human rights abuses become the concern of all and sundry. However, it is worth-noting that till now it is only when the actor is a non-state entity and the abuse case is grave that it is of international concerns (Artacho & Mar, 2013).

In conclusion, as a means of ensuring effective checks, a potential means of ensuring corporate accountability could be through the wielding of extraterritorial dimensions to domestic measures aimed at protecting human rights of people. As identified earlier, mining

companies could be made to sign contracts that make human rights fulfillment obligatory; such as fulfilling human rights commitments before they are admitted to the Stock Exchange and granted public funds. Measures could also be provided towards general corporate governance and reporting. With these provisions, the best outcome can be expected in domestic enforcement of respect for human rights without much concern about extraterritorial jurisdictional dimensions (Artacho & Mar, 2013).

3.11. Ghana's Mineral and Mining Act, 2006¹³

In order to maintain order and peace, every society or institution has laws that regulate the activities of individuals who usually have their self-interest. In a similar manner, the Mineral Mining Industry in Ghana has laws that define acceptable and otherwise unacceptable behaviour of individuals and groups of people. The most recent one became known as the Minerals and Mining Act, 2006 (MMA). It is this law that gives bases for any action taken in the name of mining, or any activities undertaken by a person that calls for claims for rights abuse or tries to prohibit any mining activity.

With the MMA, there is a provision that aims at the protection of the environment in Article 18(1). This states that there is the need to obtain approval from the “Forestry Commission and the Environmental Protection Agency for the protection of natural resources, public health and the environment” before any holder of a mineral right can undertake any operation. Article 18(2) even stipulates conformity with any other provision that is not provided for in the MMA but which is meant to guarantee the protection of the environment.

Therefore, any activity in the name of mineral exploration that constitutes adverse effects on the environment can be called to justice depending on the interpretation of the necessity, justification, and appropriateness or otherwise of such an action. Furthermore, the holder of a mining lease would have to obtain a development agreement as in article 49(2d) “relating to environmental issues and obligations of the holder to safe-guard the environment in accordance with this Act or another enactment and recruitment and training of Ghanaians”. In the case of the latter, refusal to provide a detailed program for the recruitment and training of Ghanaians could constitute reasons for being denied a mining lease.

¹³ Source:(Republic of Ghana, 2006)

With this provision, it is evident that adequate provision has been made to ensure that in a case where mining would distract the economic activities of a people, they could still be taken care of if mining provides them with the necessary means of livelihood.

Article 72 stipulates limitations on the holder of a mineral right and puts obligations on him towards the minister. The limitations have to do with his status with regard to the “surface rights and compensations” that pertain to the use of any piece of land under his or her concession. Article 72(3) states that: “The lawful occupier of land within an area subject to a mineral right shall retain the right to graze livestock upon or to cultivate the surface of the land if the grazing or cultivation does not interfere with the mineral operations in the area”. This indicates that right of concession to a mineral site does not prevent access and other use of the land by a lawful occupier of the land. In this case, the owner of a piece of land can still farm, graze and carry out any other form of use of the land as long as his/her activity does not interfere with the mining activity itself.

Article 72(4) only forbids the lawful occupier or owner from establishing a new building or structure without the approval of the holder of a mining concession. In the case where approval has been withheld, consent must be sought from the Minister because it is obvious any such structure would complicate issues if it would have to become an issue of compensation.

Article 72(5), calls for adequate evaluation and provision of a “crop identification map” of any crop or produce that extends to the mining area for which there must be compensation. The valuation must be done in the presence of the lawful owner, lawful occupier or their lawful representative and a governmental agency recognized for such valuations. However, the lawful owners or their representatives could not by article 72(6) “upgrade to a higher value crop without the written consent of the holder of the mining lease, or if the consent is unreasonably withheld, without the consent of the Minister”.

The owner or a lawful occupier of a land could by article 73(1-3) demand for a compensation, negotiated between him/her and the holder of a mineral right to his/her land because of the disturbance of his/her right to ownership. A government agency known for land valuation must also be served a copy. The case would however be referred to the minister if an agreement about compensation could not be reached.

By article 73(4-5), inhabitants of a land who have been displaced because their land had been leased under mineral concession could be resettled by way of compensation on a “suitable alternative land, with due regard to their economic well-being and social and cultural values, and the resettlement is carried out in accordance with the relevant town planning laws”, with the holder of the minerals rights bearing the cost of the resettlement.

The “compensation principles” for the above provision is based on the provisions of Article 74(1a-d). In this regard, compensation is based on the “use or a particular use of the natural surface of the land or part of the land, loss of or damage to immovable properties. In the case of land under cultivation, loss of earnings or sustenance suffered by the owner or lawful occupier, having due regard to the nature of their interest in the land, loss of expected income, depending on the nature of crops on the land and their life expectancy”.

These provisions are to ensure that the compensation to a lawful owner is not based on what he/she loses at the time of taking his/her land for mining. Compensation is also made for what the future loses might be, based on the present day deprivation of the land. This guarantees that the lawful owner of the land is not affected in any way in the immediate present days or in the future because his or her land is being used for mining.

One good security that lawful owners have is the fact that, Article 74(1f&g) provided for compensation not only based on what they are losing but also based on the value of the mineral found on or under the surface of the land being given off for exploitation and even “for loss of damage for which compensation cannot be assessed according to legal principles in monetary terms”. The Minister oversees all of these for prompt and adequate compensation.

Article 74(3c) also guarantees for payment of compensation to the owner for any cost that he/she might incur in case he/she must make good any “damage to the land and improvements”. This helps the owner to be guaranteed of an infinite ownership of his land incase mining ends and he/she must return to the land.

Article 75(1) provides for the right of access to the High Court by a lawful owner of a land over which a mineral right has been given, if the person is dissatisfied with compensation offered for his/her land as determined in consultation with the Minister under Article 73(3) or 73(5b). This means that the owner is not only at the mercy of the owner of a mineral right or the Minister; but in any case where he/she considers it an inappropriate compensation, he/she

can appeal the issue at the highest court of adjudication in the land which would also exercise its “supervisory jurisdiction”.

But above all things, what is consoling and makes for the right which an owner of a land should have over a land that is to be explored for mineral development is the provision in Article 80(a-c). This article gives the land owner the right to equally prospect for and mine an industrial mineral for the purpose of “building, road construction or agricultural purposes on the land, so long as the exercise of the right is not inconsistent with or detrimental to the right of another person holding a mineral right in respect of the land”.

Eventually, article 110(1) mandates the minister for the promulgation of the Mineral and Mining Act, 2006 with specific provisions in article 110(2n-p) that limits “mineral operations in or near a river, dam, lake, forest or stream; provides for: “the grazing of cattle or other animals on an area subject to a mineral right”; “the gathering of firewood and the cutting down and use of timber for the purposes of carrying on prospecting and mining operations”. Article 110(4) generally drives home a commitment on matters of environmental, health, and public safety concerns even for mine workers based on article 110(1).

The Mineral and Mining Act of 2006 provides guarantee and security for anyone that ventures investment in the mineral exploration industry but with due protection, safety and justice for those who are invariably affected by mining operations. It has made the protection of the environment a priority and has made legal provisions for redress for owners of land and the public in the advent of any abuse or improper use of the land that endangers the safety of the environment and people, even those working at the mines.

3.12. Conclusion

The conclusion therefore is that Ghana has several policy frameworks and has rightly ratified international human rights treaties, but the realization of these rights by people affected by mining for example have faced several challenges based on various power structures located in the state, in the general society and at multiple levels of local, national and international spheres. It would demand pragmatic interventions to remove or minimize the power imbalance that is most likely to always exist in the structures and institutions that relate to human rights issues in the mining industry and communities. This is because of the importance of gold mining to the government of Ghana and influence of the mining

companies. It is important to know that several efforts have been made in civil arenas to help arrest the situation of rights abuse due to irresponsible gold mining in Ghana.

CHAPTER FOUR

THE BIRTH OF HUMAN RIGHTS IN GHANA WITH WACAM IN PERSPECTIVE

4.0. Introduction

This Chapter looks at general events that led to a surge in awareness and claims over issues of abuse of rights in Ghana in general. It identifies Civil Society organizations as the engine of rights promotion and provides a highlight on how the proliferation of CSOs and for that matter NGOs in Ghana coincided with increasing trends of abuse of rights of people in Ghana's mining communities. In so doing, it identified WACAM; a Non-Governmental Organization which is closely associated with redress for issues of human rights abuse in Ghana's mining communities.

4.1. The birth of human rights in Ghana

Human Rights advocacy in Ghana dates back to pre-colonial era when nationalist leaders, driven by their ultimate aim of national independence evoked several rights. Ironically, freedom from the colonial masters was not the end of suppression of rights. The government of Kwame Nkrumah (1957-1966) in turn suppressed civil and political rights in its bid to garner power (Anyidoho, 2009).

The second republic (1969-1972), was ushered in with a new constitution following the overthrow in 1966 of the Kwame Nkrumah regime. The 1966 constitution unlike its predecessor emphasized human rights, but the military coup of 1972 shortened its life-span and the impact it would have made (ibid).

Once more, a new constitution heralded the Third Republic which followed the military rule of 1972 and 1979. This constitution was also short lived as the military government of the Provisional National Defense Council (PNDC) seized power three years after. But noteworthy is the fact that, this same regime changed into a civilian National Democratic Congress (NDC) from 1992 and thereafter set structures in place for the 1992 constitution which was applauded for promotion and protection of rights (ibid).

Even though in practice, the climate for rights cannot be claimed to be absolutely smooth, the centrality of human rights to the 1992 constitution, coupled with successful subsequent

constitutional rule deepened the understanding of rights; thereby increasing the space for its advocacy (ibid). Opoku-Mensah (2007) noted the surge in the number of Civil Society Organizations (CSO) since democratic atmosphere changed in 1992.

The influence of such CSO's cannot be underestimated. They have also tremendously contributed to the knowledge and awareness of human rights among the Ghanaian populace in general and among mining communities in particular. This was noted by the Commissioner for Human Rights and Administrative Justice that awareness of human rights and environmental issues have gotten a considerable surge in Ghana's mining communities over the past years. This resulted in struggles and demands for justice to be done, with NGOs getting involved to influence these demands (CHRAJ, 2008)

CSO's confidently advance the rights agenda; holding onto the constitutional provisions and in some cases by generating more elaborate provisions that expound on those in the constitution.

CSO's have also not been hesitant in publicly criticizing the government on issues and actions that trample on the constitutional provisions that are made. In some cases, CSO's enter into coalitions thereby having a much stronger voice to advocate for policies. A perfect example of this is the National Coalition on Mining (NCOM) whose campaign resulted in the bill that became the Minerals and Mining Act, 2006. Act 703 for example has a better provision on compensation (Anyidoho, 2009).

4.2. Human rights and the rise of CSOs in Ghana

Non-governmental organizations (NGOs) are usually non-profit, voluntary groups of citizens that are organized on varied scales ranging from local, national or international levels. They are usually task-oriented and are propelled by people with common interest. Their services range from humanitarian service deliveries, bridging of state-citizen barriers, advocacy and policy monitoring and encouraging political participation through information dissemination among others. Some concentrate their activities on specific issues like human rights or environmental health.¹⁴ They belong to a broader group of public realm referred to as Civil Society.

¹⁴ Source: <http://www.ngo.org/ngoinfo/define.html>

Civil Society has been varyingly defined. Adopting the BBC's definition of Civil Society, and hence the term Civil Society Organizations (CSOs), "a Civil Society is a public space between the state, the market and the ordinary household, in which people can debate and tackle actions"¹⁵.

Dictionary.com's 21st Century Lexicon defined Civil Society as "the aggregate of non-governmental organizations and institutions that manifest interests and will of citizens, individuals and organizations in a society which are independent of the government"¹⁶ (Civil Society, 2014).

According to the World Bank, the term Civil Society "refers to the wide array of non-governmental and not-for-profit organizations that have a presence in public life, expressing the interests and values of their members or others, based on ethical, cultural, political, scientific, religious or philanthropic considerations. Civil Society Organizations therefore entail a wide array of organizations like; non-governmental organizations (NGOs), community groups, labor unions, foundations, charitable organizations, indigenous groups, faith-based organizations and professional associations,"¹⁷.

The growth of civil society and their activities in Ghana have been tremendous for some time now. Opoku-Mensah (2007) put the number of the registered NGOs in the early 1980s at 80, which he said rose to 350 in 1990 and by 2007 was estimated at 1300. Linking the rise in the number of NGO's in the mid 80's to the Economic Recovery Program- ERP (as part of the Structural Adjustment Program), he indicated that the role of these NGO's at the time was social welfare provision.

The ERP did not only happen together with the rise of NGO's in Ghana, but it actually resulted in the arrival of several multinational mining companies which were attracted by the now favourable investment climate. As the main objective of the ERP was to remove barriers that were believed to be hindering the growth of export earnings and also attract Foreign Direct Investments (FDIs), the Ghanaian government made the mining industry more attractive by altering the 78 acts, ordinances, decrees codes and laws guiding the industry as noted earlier by Asa (2001 in Hilson 2004). As noted, this had very significant implications

¹⁵ Source: http://www.bbc.co.uk/worldservice/people/highlights/010705_civil.shtml

¹⁶ Source: <http://dictionary.reference.com/browse/civil+society>

¹⁷ <https://ourcivilsociety.wordpress.com/2012/07/11/world-banks-definition-on-civil-society/>

for the mining industry and mining communities. In terms of production, the mining sector reform has augured well for the gold economy in particular and Ghana's economy in general. However, the repercussion of expanding mining operation on communities had also been well documented.

Prestea is one such mining community which has seen the repercussions of mining due to expanding mining activities. In reality, industrial mining activities are not new phenomena to the Prestea area, but it had been in the form of underground mining. However, with the liberalization of the mining codes, surface mining became a viable option with much greater consequences for the communities. A Canadian multinational company; Golden Star Resources (GSR) is currently operating in Prestea after acquiring a 90% share in the Bogoso Gold Limited in 2004 (G. Hilson & Yakovleva, 2007).

Following complaints that large scale surface mining has impoverished mining communities, degraded the environment and resulted in human rights abuses, the Commission for Human Rights and Administrative Justice (CHRAJ): an institution mandated to protect the rights of people launched an investigation in 2001. In order to get first hand information, the Commission received complaints from mining communities throughout the country. It organized public hearings in the Wassa West Districts to get the views of all stakeholders (groups, companies and communities affected). A team of investigators from the Commission later went on a verification mission in some of the communities in 2006 after which the report: "The State of Human Rights in Mining Communities in Ghana", containing findings of the investigation was launched in 2008 (CHRAJ, 2008).

The report noted destruction or pollution of water bodies with toxic chemicals in the Prestea area. Nana Abogyese and the Subri Rivers in Prestea and Asesre, Ntekoanum, Joaben and Da-Nyame rivers in Heman-Prestea are all said to have been destroyed through cyanide spillage. More so, the Prestea community alleged that the borehole which is an alternative source of water provided by the company is coloured, untreated and not potable enough. In Heman-Prestea, the mining company provided a borehole, a reservoir and water pump but only one was said to be functioning (ibid).

The CHRAJ report also noted that blasting which is involved in the surface mining process is a major issue of concern. Blasting was noted to have caused cracks in several buildings and in extreme cases the collapse of some buildings; as was recorded on 29th January 2009 when

after a blasting, several buildings collapsed. Attempts by the victims to get compensation have been futile. Destruction of electrical gadgets and people's items falling from places they have been positioned were common complaints. The persistent blasting and the dust from the mining sites were linked to diseases and prevalent skin rashes. Unfilled pits and a waste heaps left as a result of mining were also said to be the cause of increment in illness (ibid).

Police and Military brutalities were usually associated with protests which the community embarks on to register their displeasure for harmful mining activities. The report also noted the incidences of 5th December 2006 and 15th June 2005, in which military officers in an attempt to disperse protesters in Prestea, shot and wounded some youths (CHRAJ, 2008, p. 84)

The report also noted that the compensation given to those affected by mining was meagre and in some cases, the compensation is not even paid. A chief of Heman-Prestea lamented the fact that, farmers whose lands have been taken for surface mining since 1985 by Bogoso Gold Limited have not been compensated. Though compensation for the crops on the farmlands has been paid, it was deemed woefully inadequate. The processes involved in accessing compensation were also said to be very slow such that the company enters the land and starts mining before calling on affected farmers to come for compensation (ibid p.90). These and many other challenges associated with mining have given birth to many local and national NGOs; some of which have come up during this study with names like Concerned Citizens Association, Voices of Tomorrow Leaders Foundation, Believers Association of Bondaye Youth and WACAM.

Civil society in the gold mining communities of Ghana manifested through NGO(s) that work(s) on ensuring human rights in Ghana's mining community. It is important to identify the NGO(s) in the Prestea mining area that expressed the interest of their people and others to ensure that human rights problems that affect the people of gold mining communities are addressed. The Wassa Association of Communities Affected by Mining (WACAM) is the NGO that has taken the center stage when it comes to addressing gold mining-related human rights issues in the Prestea community of the Wassa West District (which is a home for eight multinational gold mining companies) and beyond.

4.3. The Wassa Association of Communities Affected by Mining (WACAM)

WACAM started in 1998 as a community-based non-governmental organization in Wassa West District within the Western Region. The Wassa West is home to eight multinational mining companies. WACAM works with grassroots communities on environmental and human rights issues arising from mining. WACAM's objectives include organizing and building the capacity of communities affected by mining and raising awareness of human rights issues perpetrated by multinational gold mining companies. It does so in order to provide a formidable front that would be capable of fighting issues that affect people due to irresponsible mining and non-adherence to mining laws. WACAM's activities now go beyond the Western Region into Eastern, Ashanti and Brong Ahafo Regions. WACAM is headquartered in Tema-Ghana but operates in over 80 mining communities. Within the affected communities, liaison officers are mobilized on voluntary basis (Kusi, interview 17, December 2012).

WACAM's activities now span beyond the local levels to regional, national and international domains. As part of the National Coalition on Mining (NCOM), it advocates for changes in government policies in order to protect people from various rights abuses emanating from gold mining. At the international front, it is an adept player with the United Nations Human Rights Council. It advocates with NGOs like Oxfam America and is a participator in many human rights campaigns like the 'No Dirty Gold'. WACAM depends on external funds to support its activities and staff (Anyidoho & Crawford, 2013).

4.4. Means of engagement by WACAM

WACAM engages in multiple activities. This includes engaging in shareholder campaigns. This made it gain voice at shareholders' meeting of Newmont Ltd. Subsequently, it invited (with the help of Oxfam America) ethical investors who conveyed the concerns of the communities to the company. As a result, it gained a proxy to Shareholders' Meeting, leading to a resolve on the part of Newmont to also improve its relationship with the mining communities (Anyidoho & Crawford, 2013).

WACAM also gained legitimate recognition through good public profile with duty bearers. This has been helpful in giving it invitation to some close off spaces of participation where it is able to drive home its demands against human rights abuses. For example, WACAM's work has been internationally recognized to the extent that in 2008, the Economic Community of

West African States (ECOWAS) invited it to participate in a Task Force that drew up a 'Directive on Harmonization of Guiding Principles and Policies on Mining'.

With the adoption of these directives (one of which includes WACAM's proposal of Free Prior and Informed Consent with regards to the acquisition of farmlands) by the ECOWAS Council of Ministers in Abuja in 2009 and eventually by Ghana, WACAM has invariably made a real mark in establishing influence over what mining companies do as much as the recognition of the rights of the people is concerned (Anyidoho & Crawford, 2013).

However, WACAM noted that it was cautious and weighs critically any such participation like an invitation by Newmont to be an observer on a committee meant to negotiate resettlement and responsible mining alliance. The reason for this was given that, though they might not have much influence on decisions, their participation could carry implications of acceptability or legitimacy of actions taken by these companies (ibid). It follows therefore that any actions by these bodies that did not go down well with the communities will mar the image of WACAM.

Another means by which WACAM has engaged in fighting for the rights of people in the mining communities is what Anyidoho and Crawford (2013) described as engagement in activities that give attention to their cry. These activities have included alliance building, protest, campaigns public education and media blitzes.

Other equally paying means include writing of newspaper articles, production of compelling documentaries to show the magnitude of damage to the environment, contributions to radio discussions on the topic of rights abuse of people in mining communities (Anyidoho & Crawford, 2013).

As a way of overcoming the inferiority complex or otherwise the power imbalance that people in positions of trust use to sabotage community struggles against abuse of rights by mining companies, WACAM carries out education of people to the university level as a way of enhancing the power relation between the people affected by mining and the representatives of the mining companies (Anyidoho & Crawford, 2013). They believe that these individuals get enlightened on their rights and together with WACAM are able to fight the mining companies with the right tools through the right institutions.

However, the challenge remains that because governments get so much from the mining companies in terms of revenue and foreign exchange earnings; its duty-bearer role towards the protection of the rights of the people from harmful effects of mining activities has always been skewed towards favouring the mining companies.

4.5. Challenges faced by WACAM

This section looks at the challenges that WACAM had faced in securing human rights of the people in the Prestea mining communities. WACAM's activity became possible within the overall political and socio-economic context of democratic developments in Ghana, which was provided by the 1992 constitution. It provided for the establishment of institutions like the Commission on Human Rights and Administrative Justice (CHRAJ) and the National Media Commission; both of which had a governmental mandate on issues of human rights (Anyidoho & Crawford, 2013).

WACAM mainly protests against the adverse effects of dispossession of land, environmental degradation and loss of livelihoods, intimidation and other associated social, economic and civil rights violations in the gold mining communities (Anyidoho & Crawford, 2013). But it is worth-noting that in the discharge of its duties, WACAM encountered various constraining power relations and structural inequalities.

In the first place, WACAM encounters various power constellations in the discharge of its duty that positively enhance its work or thwarts it. These power constellations have been identified as the state, the multinational businesses and the general society (Anyidoho & Crawford, 2013).

The state or government bears the responsibility to ensure the rights of people are protected. It makes decisive use of this power by either violating the rights of people or impede rights promotion and protection. The multinational corporations equally have the capacity to influence the state machinery to its advantage. The society poses its portion of influence through certain attitudinal disposition and beliefs (Anyidoho & Crawford, 2013). State and corporate power have openly been exercised against WACAM's activities through the use of military and police aggression to protect the mining companies against protests in response to

human rights abuses¹⁸. There have been documented evidences of serious injuries and hospitalization of people mishandled during protests.

One interviewee¹⁹, as quoted in Anyidoho and Crawford (2013) indicates that, whereas the government has sovereign responsibility to protect the people against rights abuses by the mining companies, it has swapped its “sovereign cap” for “corporate cap”, since it aids the wealthy multinational corporations to influence situations to their advantage. The result was therefore a big frustration for WACAM, more particularly when the state uses its power behind the scenes to shape and influence policies and decide the agenda and representatives at decision-making tables (Just Associates, 2006).

The companies even finance propaganda groups in the communities to project good reports about their activities. This makes people in the communities experience “different realities”²⁰ (Anyidoho & Crawford, 2013). The joint front of WACAM and the people is thus usually broken, that it hardly prevails against the powers of the mining companies and the government.

Behind disguised cloaks, state agencies and Environmental Protection Agency (EPA) officials are equally influenced. Proxy organizations like the Ghana Chamber of Mines that could help check the activities of the mining companies are all less reliable because they are funded by member companies that are mostly foreign-owned businesses that mandated it to project and promote their image and interest²¹.

WACAM hardly outwits the propaganda machinery of the mining companies in the media as well. The mining companies are able to get access to public spaces through events that portray good public perception about their activities. They are able to shape media reports through the influence on journalist that are ‘purchased’ (Anyidoho & Crawford, 2013).

It is believed that the Parliament of Ghana for example is not free from manipulation from the companies. For example, it has been reported that, AngloGold Ashanti for example had been praised for their concern for the environment by a Parliamentary Select Committee on

¹⁸ A report on the state of human rights in the mining communities that indicate that with the help of the government, mining companies use the military and the police to protect their property/concession from vandalism from protesters and to flush out illegal miner known as ‘galamsey’ operators (CHRAJ, 2008).

¹⁹ Interview with Hannah Owusu-Koranteng, 9/12/09.

²⁰Source: Interview report as recorded in Nana Akua Anyidoho and Crawford (2013)

²¹ See Ghana Chamber of Mines website at: <http://www.ghanachamberofmines.org/site/aboutus/index.php?id=10>

Environment, Science and Technology. This surprised the mining communities because AngloGold officials had confirmed that the Select Committee had not visited their mining sites but were made to receive reports on their activities from some 65 opinion leaders they had handpicked to give report on their activities to the Parliamentary Select Committee (Anyidoho & Crawford, 2013).

Similar scenario can be traced to the membership of area Members of Parliament in the board of Gold mining companies, serving as government representatives. These situations make the government part of the mining companies and so just as a house divided against itself cannot stand, so it is that the government ignores any claims of abuse of rights of people in the mining area (Anyidoho & Crawford, 2013).

Another source of frustration for the pursuit of human rights by NGOs in the mining areas of Prestea is, ignorance due to lack of education and generally high levels of illiteracy (Anyidoho & Crawford, 2013). People do not know their rights of healthy environment and also the responsibility of the mining companies towards them. NGOs like WACAM embark on campaigns to get these done, but lack the vim to persistently engage since they consider their drive as having unfounded basis (Anyidoho & Crawford, 2013).

Cultural tendencies are also players in how successful human rights advocates have been in fighting human rights abuses by mining companies. For example, in traditional Ghanaian societies, chiefs occupy the apex of local social hierarchy. They are hardly challenged and they wield so much influence over their subjects that it is observed that even a challenge of their misconduct is seen as an affront against them. In this case, when a chief has predisposition towards the mining companies, it becomes very difficult to challenge the mining company since the chief is usually used as a tool to suppress revolt against issues of rights abuse (Anyidoho & Crawford, 2013).

4.6. Conclusion

In conclusion, this chapter identified the genesis of human rights issues in Ghana. It noted the 1966 constitutions of Ghana as the origin of emphasis of human rights in Ghana's constitution. It identified that though the road to rights recognition has not been smooth until the 1992 constitution of Ghana, emphasis on rights in the 1992 constitution increased the space and pace for rights advocacy with the birth of Civil Society Organizations and associated NGOs. It identified that, the role of the CSOs became that of social welfare when

Structural Adjustment Programmes emanating from Ghana's Economic Recovery Programme produced tendencies in the mining sector for example that carried implications for rights abuse. It identified Prestea community as one of the communities that suffered the excesses of irresponsible mining. To address issues of right abuse through mining in the Prestea community for example, WACAM became one of the vibrant NGOs. The chapter further provided literature account of WACAM's activities by identifying its tools of engagement and challenges it faced.

CHAPTER FIVE

PRESENTATION AND ANALYSIS OF FINDINGS

5.0. Introduction

This chapter presents the findings of the research. It provides assessment of the reports of the people, using existing literature framework and personal reflections of the researcher. Since NGOs have taken the centre stage of struggles against abuse of human rights that result from mining activities, the chapter first presents a state of affairs account from WACAM which seems to be the key player of the NGOs in the struggle against rights abuse. The chapter presents account of what necessitated the birth and existence of WACAM. It also identified their tools of engagement against abuse of rights, indicating how helpful Ghana's constitution has been in achieving this. It then makes assessment of how indispensable WACAM had been in the struggle against rights abuse and cooperation by people affected by mining activities in the Prestea community. Finally on WACAM, the chapter identifies the success made by WACAM in this struggle.

Secondly, it presents findings and analysis of the submissions of the traditional leaders in the Prestea community as a way of complementing and substantiating the submissions made by respondents of WACAM. Similarly, findings from individuals in the Prestea community that have been affected in one way or the other by the activities of mining have also been presented under the same topical issues to substantiate and complement the findings.

5.1. Human right struggles in Prestea mining community; WACAM in perspective

Tendencies of irresponsible mining activities in the mining communities of Prestea gave birth to rights advocacy NGOs like WACAM. Confirming the birth of WACAM being response to irresponsible mining activities, one WACAM official said:

“It is about the way irresponsible mining has taken place in the communities. If communities were well satisfied and their livelihood was not being destroyed and their standard of living is ok, it would have been very difficult for an institution/ organization like WACAM to pop up because there would not have been any need because people can equally fight on their own. So I would say that it is not just

because of mining activities; but rather "irresponsible mining" activities made WACAM to pop up".

This is consistent with the report of CHRAJ (2008) that, awareness of human rights and environmental issues in Ghana's mining communities have gained a surge, with NGOs getting involved to influence the demands being made. One question that must be asked is: why should it take NGOs to fight environmental degradation and abuse of rights? Subsequent MMAs and the MMA, 2006, particularly provided for the protection of the environment in Article 18(1), which demands for safety of public health and environment before approval is given for any mining operation. Article 18(2) of the MMA, 2006 also calls for conformity with any other provision that guarantees the protection of the environment. So if the laws are followed to the note, there should not have been any form of rights abuse to draw the birth of NGOs. This situation attests to the report of Awudi (2002) that the quest for FDIs, parochial interest of politicians, coupled with profit-mindedness of investors makes the application of the laws ineffective. There would therefore be the need for selfless organizations like WACAM to get to the rescue.

But focus must not be lost of the fact that in certain instances, there are no specific laws on certain issues to ensure their enforcement. As Owusu-Koranteng (2008) noted, the Environmental Protection Agency conceded that Ghana has no laws on cyanide spillage.

Issues about land acquisition were identified as one of the activities of the mining companies that led to the birth of WACAM. The mode of acquisition, compensation for the land and the property on it and resultant contamination of Community Rivers that served as sources of drinking water constituted land-related right abuses that led to the birth of WACAM. A WACAM official narrated the scenario as this:

"You know, mining is about land and in the course of acquiring these lands, the abuses come in. Sometimes it is because some of these community people don't really know their rights. They take their land and give them some penny. Sometimes they don't pay anything because they use the chiefs and the community leaders to acquire the land. The other thing is that after acquiring the land they go ahead to destroy community rivers, pollute the environment and abuse. The compensation is sometimes outrageous. For example, they can give about 500 Ghana Cedis (GHC) (i.e. about 1,146NOK-Norwegian Kroner) or

1000 GHC (i.e. about 2,292NOK) for an acre of cocoa farm; even getting GHC 1000 means you have some amount of bargaining power. However, sometimes, when you compute the actual cost of that farm by normal compensation principles, it could even go into hundreds of thousands of Ghana Cedis. People in the communities are usually not aware of principles of compensation so even when they resist the meagre compensation, they are forced to accept it”.

Looking at this report, one could deduce a problem of ignorance on the part of the people affected by mining activities. Article 72(5) to 72(5b) of the MMA have made various provisions that are to ensure that owners of a land are well compensated. In the first place, there should be an evaluation of his/her land in his or her presence and in the presence of the recognized agency for such evaluation. The compensation is supposed to be negotiated in his or her presence and he or she has the right to report to the minister if compensation could not be reached. If there are such provisions, then there should not be instances when people felt cheated. Even in cases of resettlement, Article 73(4-5) demands that the alternative provision should be suitable, taking into consideration economic, social and cultural values. The conclusion that could be drawn is that the people do not know their rights to enforce them so people vying for concessions take advantage of them.

In part also, the above situation reveals the general inefficiency and ineffectiveness in policy formulation and implementation. The questions to ask then are: who gave the right of concession to the mining companies; and why the measures for appropriate compensation had not been followed? It reveals therefore unpreparedness of implementing government agencies to implement the laws to ensure the rights of the people.

This rightly justifies the place of human rights NGOs in the mining communities to help people claim their rights. Their tools of public education on the rights of the people and advocacy assistance will help to establish a fair playing ground for land owners if governments (i.e. in order to attract limited foreign direct investment) would want to sacrifice the rights of the people.

Several other policy measures exist to ensure appropriate compensation. Compensation is also made for what the future losses might be, based on the present day deprivation of land. There is provision in Article 74(1f&g) of the MMA for compensation based on the value of the mineral found on or under the surface of the land and even “for loss of damage for which

compensation could not be in monetary terms”. Article 74(3c) also guarantees for compensation for cost of repair for any damage to the land in case he/she must "make good any damage to the land"; helping the owner to be guaranteed of an infinite ownership. Article 75(1) provides for the right for access to the High Court by a lawful owner in case of dissatisfaction with compensation even with the minister. So if all these provisions have been made in law terms to enforce appropriate compensation, the land owners should actually not lament or need proactive involvement of WACAM. It follows therefore that, the laws most likely do not make any reach beyond their formulation and paper document confines. They are limited in actual practical and implementation terms.

WACAM identified the outcome of irresponsible mining activities in the mining communities as constituting human rights abuses. Mentioning the component of rights that have been impacted; economic, social, environmental (i.e. water) and physical abuses have been identified variedly for different communities. So whereas land deprivation may constitute abuse in a community, for others it is health related through pollution. Thus there could be abuse of right to food, health and education. The extent of the impact was linked to the level²² that mining activities have reached in the communities. That is, in the words of the respondent,

“.....depending on the level the mining activity has reached”

The implication therefore is that, if extent of abuse depends on the level that mining activities have reached in the communities, early intervention and mitigation of irresponsible behaviours in the mining communities would be very necessary. The more time is allowed for mining companies to pollute, degrade and abuse the rights of the people, the greater the magnitude of impact on people and communities become.

5.1.1. Tools or mechanisms used by WACAM to stop abusive mining activities or abuse of rights of the people

In the first place, WACAM identified awareness creation as a tool that it uses to fight irresponsible activities of the mining companies.

“Our main approach is to make sure that those who are affected by what is going on get to know what is going on”.

²² Level that mining activities have reached generally means the extent of excavation which determines the depth and size of holes made in the ground.

The people are taken through sensitization programs. After regular community visits, direct engagement and listening to events of rights abuse, WACAM sensitizes the people as to how to engage the mining companies themselves.

Secondly, WACAM stated the use of the media as a tool of reinforcement to engage the mining companies. Anytime awareness creation and engagement by the people and WACAM have not been instrumental in getting the appreciated response to issues of rights abuse, they turn to the media. To this, one personnel reported:

“We use the media a lot when we feel our strength is limited or our engagements cannot take us far. We feel the media, in one way or the other gives us national attention through our advocacy programs. The media has been instrumental in getting our issues heard”.

Equally, WACAM stated the use of the legal systems to fight against abuse and for the rights of people in the mining communities. Collaboration is made with other civil society organizations in the struggle to ensure the rights of the people against abuse. These include Center for Public Interest Law (CEPIL), Center for Environmental Impact Assessment (CEIA), Youth for Action Ghana and National Coalition on Mining.

Center for Public Interest Law (CEPIL) is a legal entity which deals with human rights issues and provides legal services for communities affected by mining at a free cost since they are self-financed. Center for Environmental Impact Assessment (CEIA) conducts research into environmental issues like spillages into water bodies which was considered necessary by WACAM as a means of evidence in backing their campaign.

“Mostly we have to back our campaign with evidence so CEIA helps a lot with research issues”.

CEIA is also into advocacy when there is spillage and a need to protect the environment. National Coalition on Mining is an umbrella organization for NGOs that deal with mining-related issues, and Youth for Action Ghana is an advocacy based organization which concentrates on empowering the youth in mining communities and tertiary institutions.

WACAM indicated that, there is full cooperation between it and all other NGOs and advocacy groups since there have not been any instance of disagreement on issues of mining impacts. In

responding to the question as to if there is any rivalry amongst the NGOs, a WACAM respondent said:

“I wouldn't say there is any rivalry amongst us because most of us here are trying to arrive at the same goal. Differences may exist since some may use community base approach or research approach etc. but no rivalry”.

WACAM also engages with government and members of parliament in the advent of rising mining-related problems. The sector minister and other parliamentary caucuses are contacted to combat mining effects.

But the issue here is how different were these ministers and parliamentarians from the government? It has been reported that several cases of abuse by the mining companies coincided with Ghana's Economic Recovery Programme that relaxed certain laws in order to make mining attractive. Several cases of forceful acquisition of land from farmers for mining operations have been reported by G. M. Hilson (2004). Britwum et al. (2001 in G.M. Hilson, 2004), provided several reports of land-related cases with inadequate or no compensation.

Tockman (2001 in G. M. Hilson, 2004) reported human rights violations such as beatings and shootings linked to the mining companies at the time. G. M. Hilson (2004) indicated that the Environmental Protection Agency (EPA); the state's environmental regulatory body has not been able to fulfil its mandate of regulating the activities of mining companies in order to protect rivers in particular and the environment in general. So if the government; consisting of these ministers and parliamentarians decided to make mining attractive, it is not difficult to know that these officials would not be proactive in driving home the demands of WACAM and the people.

This in part makes justification for extraterritorial dimensions for regulating mining companies. As indicated by Artacho and Mar (2013), the Special Representative to the UN Secretary General on Business and Human Rights (SRSG) recognized that for the above reasons, the need to protect would remain a basic international requirement to guide the activities of companies. Recognitions by the Human Rights Committee (HRC) in its General Comments No. 31 indicates that, Article 2(1) of the International Covenant on Civil and Political Rights (ICCPR) binds anyone over which a state has power or effective control to its demands of human rights commitments even if the entity is not in its territorial confines (Artacho & Mar, 2013).

The CESCR was more explicit than the HRC in terms of third parties. It stipulates that in terms of protection of rights to health, if states have legal and political leverage over any third parties operating in another country, they have the international mandate to prevent such third parties from violating the right to health in those other countries. In this situation, the need to safeguard water supplies was of particular importance. The right to food, in the case of United Nations Special Rapporteur on the right to food also attracts extraterritorial dimensions of control (Artacho & Mar, 2013).

Even though it is realized unfortunately that till now this mandate of extraterritorial control applies mostly to only non-state actors, it is believed that the extraterritorial clause enables nations to enjoin human rights protection from their companies even if they operate abroad under host nations that are reluctant to enforce the rights of people (Artacho & Mar, 2013).

WACAM again identified other means of checking the activities and effects of the mining companies. These include the reshaping of some mining codes, particularly those having to do with royalty. Royalty payment of the mining companies to the government was from a range of 3% to 12% of total revenue of mineral obtained. But the mining companies were mostly paying the lower limit of 3% percent royalty. However, WACAM succeeded in reaching a manageable compromise of 5% royalty payment by the mining companies. There has also been introduction of what is known as the Windfall Tax; which is 10% of mining companies' profit that is supposed to be paid to the government.

5.1.2. The help of Ghana's constitution in WACAM's fight

Ghana's constitution clearly provided for the protection of the environment. That is, article 259b (vii) provided for the protection of the environment through a National Environmental Protection Council at the Lands Commission. With this, it was quite easy to enjoin responsible environmental behaviour from the mining companies and make the government responsive to environmental abuses by the mining companies.

WACAM equally exercised constitutional provisions of right to ownership of property and right not to be deprived of one's property without adequate compensation. These are effective tools in advocating for the rights of people who in most cases have been denied ownership of their land without adequate compensation.

But as was indicated earlier, the laws have been rightly made but having the political will for implementation is another thing all together. More so, other provisions made to moderate

between politics and human rights issues also have their various limitations. For example, CHRAJ is said to have the authority to investigate, and to make recommendations for redress of rights and abuses on grounds that, these are done through the courts as in Article 229 of the constitution (Anyidoho, 2009). Anyidoho (2009) noted that CHRAJ in Article 218 of the constitution has enormous powers to end proceedings or prevent any action that breach human rights law through “any competent court” but this power is limited on grounds that it cannot call for reversal and or reassessment of a ruling or take over a case already with a court.

So the constitutional provisions might favour responsible mining activities, but because mining companies cannot be held accountable for their recklessness due to various subtle protections they receive from the government, the laws and activists of its enforcement in the case of WACAM are made quite ineffective.

5.1.3. Indispensability of WACAM

In responding to the question as to whether WACAM thinks the people of Prestea would have been helpless without it, a WACAM official considered their tool of awareness creation as a legacy. WACAM had imparted the Prestea community, which has made a great difference in their struggle against irresponsible mining activities and their impacts. In his words:

“There is a saying that for ‘Lack of knowledge my people perished’. Initially, most of these people did not know how they should go about confrontations with issues of mining. Through WACAM’s sensitization and empowerment, they take up issues themselves; knowing exactly what they should do. The main problem was most of them did not know what to do and they were also not properly organized so they were dealing with the companies individually until we decide to organize them. We have developed the capacity of these people and they are now empowered so they take up the issues to court or discuss the issues directly with the companies without WACAM getting involved”.

This indicates that awareness creation would help people to know their rights and demand for them when state institutions condone with the mining companies. Also, getting organized or unionized would help to provide a formidable front in battling cases with the government and the mining companies. It is this gap that civil society organizations like WACAM seemed to have filled; helping to stand in for affected communities when the people are less-organized and less-informed to fight for their rights.

5.1.4. Cooperation of the people of Prestea with WACAM

The relationship between the people of Prestea and WACAM has been considered as mutual. However, it has been noted that legal issues usually take longer time to complete and since most people could not usually wait to get the required verdict on their cases, they make a bypass around WACAM. They go in for meagre compensations that have been readily available. Some people exercise restraint and endure the long legal battle for proper compensation and are in most cases better off. Instances of absolute disagreement between the two parties have been absent. Citing a case, a WACAM respondent said:

“There is a community called Atoabu in the Tarkwa area. They were relocated and in the negotiation for relocation, there is something we call ‘value for value’. For example if you have 3-bed room which is mud house, they would say they will build one bedroom cement block house for you. In the course of our struggle, we told the community that was not good and that a 3-bedroom apartment must compensate for the same 3-bedroom apartment, with other amenities regardless of either it was a mud house. We struggled for some time and some left and those who remained with us got a better deal. They were given more bedrooms with even clinics and those stuffs in where they were relocated. If you go to new Atoabo, you will see these communities. The two new communities: one with small single room buildings; the other side has about 3 or four-bedroom buildings depending on what you have in your previous house. It was also because we knew it was going to create problem if they don't get the number of rooms they were living in. You know these houses are family houses that grandmothers, aunties etc. live together with their families and would have to have their own rooms so if they give you one room to be shared, there would be serious problems”.

This buttresses the point that awareness creation and unionization²³ do help to provide a formidable front that stands the might of mining companies and governments. However, in the above account, it is evident that some form of financing or money will be necessary. If 70% of the land area in Tarkwa has been taken over by large scale mining (Britwum et al., 2001 in G. M. Hilson, 2004), resulting in loss of livelihood for mining communities, most of whom it is believed depend on farming for a living, then one cannot expect that they will be

²³ Unionization in this context means the coming together of the people affected by mining to form a united and formidable front.

able to endure long legal process for compensation for their loss. Thus deprivation renders people helpless that they usually go in for meagre compensations that will worsen their situation in the future. Apart from a call for financing, one could also call for timely compensation through the procedures stipulated by the MMA.

5.1.5. Some successes achieved by WACAM

In the first place, apart from the general awareness creation that has been deemed as the greatest and most successful tool against abusive mining practices, WACAM has equally succeeded in making mining companies compensate for some of the impacts that emanated from their activities.

An example is a case cited of a shooting incidence that occurred in a community in the Tarkwa mining area called Teberebe. In this instance, a man was shot during a protest against abusive activities of the mining companies and through the help of WACAM there was a favourable outcome that was documented in the response of the respondent. It reads:

“There is a community in Tarkwa called Teberebe. They went on a protest against the mining company. In the course of the protest, some of the people were shot. There is this man called Anthony Badu who suffered gun shots and out of our advocacy work, we have been able to secure about GHC.56,000 (about 128,396NOK) for him to be taken care of”.

A second case is thus narrated by the respondent bellow:

“Another man by name Awudu Adama, suffered when AngloGold Ashanti released their guard dogs to chew him up and also shot him. Through our efforts, AngloGold took him to South Africa for a surgery”.

Upon requesting for what happened the respondent narrated that:

“This happened when he was going to his farm. The issue is if your land is not even part of their concessions, they block all nearby access routes thereby preventing some people from accessing their farm. So he was trying to find his way to his farm and then they unleashed this guard dogs on him and shot him as well when he was running away. AngloGold instead accused him of being a

galamsey²⁴ operator who wanted to encroach on their land. Through our efforts, it was established that he was not a galamsey operator and so must be taken care of”.

Two issues of concern could be identified in these reports. One is the issue of shooting a protester, and the second is the issue of shooting a trespasser. It is a common thing to witness sessions of protest being guided and guarded by the law enforcers like the police, with an approval to protest having been sought. So it is difficult to know what went wrong in this particular case. However, referring to the report of CHRAJ (2008) that military and police aggression is used to protect the mining companies against protests, a possible inference could be that in this particular instance, the police or the law enforcers condoned with the shooting of the protester; holding that they were rightfully protesting.

Secondly, on the account of shooting a trespasser, it is evident once again that probably the concession holders did not adhere to the laws. On a second note, it could be that with less fear of any repercussion from the government they used lethal force personally, or as was noted in CHRAJ (2008), the military and the police used lethal force to protect their concession from people they perceived as illegal miners or ‘galamsey’ operators.

In the, MMA, 2006, Article 110(2o&p), provision has been made for “the grazing of animals on an area subjected to a mineral right” and fetching of firewood. Similarly, Article 72(3) of the MMA, 2006 indicates that: “The lawful occupier of land within an area subject to a mineral right shall retain the right to graze livestock upon or cultivate the surface of the land if the grazing or cultivation does not interfere with the mineral operations in the area” (see Republic of Ghana, 2006, p. 34). If this be the case, one could not assign any justification to the shooting of a by-passer of any kind regardless of whatever reason that might have been assigned for the trespass. One would expect that in the first place, the passer-by is intercepted and his intention known before any action is taken against him. Shooting of a by-passer of the kind was an obvious breach of the MMA and should be expected to be condemned in all terms.

²⁴ Galamsey is a local term given to people who illegally mine gold in Ghana. They are independent of official gold mining companies and so in most cases might not have any license or concession to mine. They also most frequently rely on crude methods and hand tools to mine. This involves digging of holes, tunnels and sluices (but comparatively to a shallower depth) to reach gold-bearing rocks. It is a dangerous activity that has a history of several casualties when holes and tunnels collapse. With the involvement of foreigners alongside Ghanaian counterparts, galamsey operations are becoming more sophisticated with heavier machinery. It is also increasingly becoming official with registration of such operators (Researcher’s finding).

Another achievement made by WACAM is the success of their struggle with AngloGold Ashanti mines. The achievement reads:

“After WACAMs campaign for nearly ten years, AngloGold has agreed to have dialogue with WACAM so that all the concerns raised about their operations in Obuasi and the communities around would be looked into in order to offer due compensation where necessary. This alone, is a major milestone for the people”.

The overall assessment of the mining activities in the study area has been made by a WACAM respondent as being less positive for the mining communities. Whereas WACAM noted that mining might be a positive event in some cases, it acknowledged that in the case of communities that are of concern to them, they cannot attest to a positive net outcome. A dialogue on this issue reads:

Researcher:

“On the whole, what would you say about the outcome of mineral finds in the Prestea community; taking into consideration the benefits and the losses from the effects?”

Respondent:

“The first thing I will say is that, there is nothing like positive thing. If I compare what they destroy to what they say they are doing, there is no way I can come to conclusion that there is a benefit to the people in the mining communities. What they portray to have achieved is just projects for media propaganda”.

Researcher: *“Are those not real?”*

Respondent:

“Oh! They have done something but it is just to project their image sometimes. Most often that is what they do; they will build a small school for the community and project it as if they have done an extra ordinary thing. Meanwhile, what happens most often is that they destroy a school and in the process of rebuilding they say they are fulfilling corporate social responsibility. They destroy some schools in the course of their work and they put up new ones. Sometimes too, they

destroy community streams and replace it with a borehole which will not last for a year and project it as something they have done. We are not against mining but just that we are advocating for responsible mining”.

Referring to Corporate Social Responsibility of the companies, restitution for properties destroyed and expectation of positive net outcome from mining activities, there is indication of complexities in expectation and actions in any mining community. In the first place, it is demanded in the MMA 73(1) that mining companies compensate for any loss or damage to property of the owners of a land given in concession. The compensation according to the MMA Article 74(1c&1d) should take into consideration expected long-term losses. MMA Article 18(1) makes provision for protection of the environment and public health. In this case, and in other provisions earlier on referred to in this study, the mining companies are obliged to make alternative provisions for basic necessities of life like water that have been destroyed as a result of mining activities. Any fulfillment of these conditions could not be seen as a gain made by the people of the mining communities but just a provision of alternatives to what used to be their basic means of livelihood.

However, whereas the temptation might be to make assessment of how better off mining communities become as a result of these alternative provisions, there is an unquantifiable component of loss that is caused by general disturbance in the community life of the people. This cannot be compensated for.

Furthermore, one would ask if the companies actually aim at making the mining communities better off than they would have been or become; on grounds that they make greater income from the land and so the people must also get some benefit.

It is natural that with discovery of such treasure on the property of a people, they are to be adequately taken care off to have a fulfilling life from the mineral resources that are taken from their land. However, with a report of negative net outcome from mining to the communities, one can consider it as inappropriate, provided a true assessment is made of the situation.

Media propaganda would always be a tool at the disposal of every stakeholder in the advent of mineral find and exploration, especially where exploration activities are accompanied with issues of rights abuse, responsibility of mining companies towards the environment and

compensation. It is left with the stakeholders to provide proof of evidence to whatever they might want to communicate to establish credibility on their submission.

5.2. Some Traditional leaders in the Prestea community on the outcome of mining.

In order to get a balanced response to the outcome of mining in the Prestea community, it was necessary that the community leaders of the study area were also contacted. This was done on the basis that they were the immediate custodians of both the human rights of the people and development of their communities. That is, whereas WACAM and other human rights NGOs could be sentimental and passionate in their commitment to the human rights of the people, it was expected that community leaders would relatively be objective in their commitment to both human rights of the people and development of their communities, bearing in mind that development comes at some cost.

5.2.1. Effects of mining in the perspective of some traditional community leaders

In accounting for the effects of mining in the mining communities, the traditional leaders who have been interviewed in summary noted quite a number of effects. The effects have been considered as unfavourable (i.e. negative) and favourable (i.e. positive).

Negative effects

In a response by one respondent, mining and its effects on the communities has been accounted for as follows:

“Well, for mining, one thing that I can say is for our area we have two types of mining –surface mining and the underground mining. When it comes to the surface mining, what happens to us is that the movements of their trucks produce dust pollution affecting the communities because the road is not watered. You don't see it but when you breathe the air, you realize the air you are breathing is not that safe. Then blasting: just unfortunate that some aspect of our area has been covered where they mined. You will realize that when they blast and it is very close to the community, it shakes the buildings closer to the mining site causing them to crack. I have experienced one blasting when my small television fell down from where I positioned it. Also, when they create these pits most at times, they are not covered so what happens is it becomes scary for those going to their farms via that area. It serves as a trap and if you are not careful you may

fall in and die or hurt. Also, some of the river bodies are polluted and it becomes very challenging to drink them. And the destruction of the soil: when they are done with the mining it becomes difficult for farmers to use the land because of the toxic substances that have been poured on the soil and any plant that is grown does not survive”.

Fig. 2: Some cracked walls claimed to be due to blasting



It is a common knowledge that dust pollution could be responsible for several health disorders. Dust could trigger asthmatic disorder in asthmatic patients. It can also produce several skin disorders and general pollution of water sources. However, it is observed that dust is sometimes hardly seen by the naked eye and so the damage it creates is also hardly noticed or compensated for. So, whereas damages like cracks in buildings could be identified and claims for compensation filed, there would be very subtle forms of damage that invariably affect the lives of the people but would not be acknowledged and compensated for.

The sum effects have been outlined as spillage of cyanide and other poisonous chemicals into water bodies, farm access route blockade with heaps of waste material from mine sites and confiscation of farmland during the middle of farming seasons without due compensation. It was reported that these things happened because the people did not know their rights.

Positive impact of mining in the Prestea area

One positive impact of mining according to the community is that, they had access to electricity at a subsidized cost especially during the period underground mining was in vogue. The Prestea area as at the time of this research still pays something meagre for their use of electricity with subsidization from the mining companies. Maintenance of the road was said to be constant during the underground mining era but not in present times of this research

Other benefits from the mining activities have been identified in the form of provision for both skilled and unskilled labour. Besides, the mining companies have been identified as having provided clinics that provide health services to their workers, their dependants and other community members.

Some of the benefits derived from mining had been considered as replacements to what had been destroyed as a result of mining. Remedy to water pollution cases had been in the form of construction of boreholes. But these boreholes were said to have high ph values, making the water acidic, less potable and unsuitable for washing. Secondly, in some communities they have provided polytanks that are filled with water from time to time. However, the problem with this is, when water is not brought frequently enough, the community is left without water for some time.

For a solution to the water-related problems, the traditional leaders have resolved to emphasize the construction of a pipeline that taps water from the sources of Ghana Water Company so as to ensure a more potable and regular supply water.

5.2.2. Tools used by community people for redress

Protests and mediation fora have been the main means of redress for the community. With the mediation fora, the paramount chiefs have been very instrumental. It brings the mining companies and the people together to talk. Misgivings are presented to the companies and the companies also present their case before the people. After some kind of debate and discussions, agreements are noted on paper. Respondents reported several frequent meetings with the mining companies; during which community grievances were presented and solutions were discussed. This points to the fact that community leaders are able to meet with officials of the mining companies. However, the practical fulfillment of these agreements is yet to be witnessed by the people.

Protests have been an issue of every time action. An instance has been cited of a very wide and deep pit in the town of Prestea that has been created through mining. Several calls on the mining companies to fill it failed, so the community protested and forced the mining company to fill it up.

In this narration, one would ask why the community should protest to force the filling of a pit that has been created through mining when the MMA demands the filling of such a pit after the mineral had been taken from the ground (i.e. MMA Article 37(2f). This indicates the general policy atmosphere within which the mining companies operate. It is an indication that there is no urgency on the mining companies to do what is required by the Mining Act. Peaceful protest invariably would be a tool that can fill in the policy implementation vacuums that exist and there is no doubt about their significance and use in instances when the law had been ineffective.

5.2.3. Community identification of supporting NGOs and the nature of their support

The community identified Care International, Concerned Citizens Association, Voices of Tomorrow Leaders Foundation, Believers Association of Bondaye Youth and WACAM as NGOs that have been supportive in driving home their demands.

Nature of support of helpful NGOs

Some NGOs have been described by the traditional leaders as very helpful because they provided a formidable front in minimizing harmful activities associated with mining. They have also helped in awareness creation and sensitization on the rights of the people. This is done through ‘Sensitization Workshops’. They also encourage the communities to embark on non-violent agitations for redress and advocacy. WACAM further helps people who suffered losses with lawsuits; through CEPIL at no cost. Other forms of support were the organization of Press Conferences which help to publish the struggle of the communities against bad mining activities. The usefulness of their support has been described by one respondent as:

“Without them, things would have been hay-wire and we would have been at the mercy of the investors and what they do”.

WACAM and other related NGOs like Care International have been considered as indispensable partners in the fight against harmful effects of mining activities and there have always been collaboration between the parties.

5.3. Nature of cooperation between the NGOs and the community members

The community noted that they worked hand-in-hand with the NGOs to seek for redress to damages. There have not been any single recollected instances of disagreement between the people and any of the NGOs that join the fight for their rights. Common uniforms that were used by the NGOs and the community during protests have been a symbol of their unity and collaboration.

Some other NGOs have been described by one traditional leader as very unhelpful and the reason for this could be deduced from these comments:

“Some other NGOs have not been helpful because what we expect is not about kicking against the mining companies but they should rather scrutinize the policies of these companies and tell us what is good or bad but there are others that kick against the mining companies. They don't do any capacity building, they don't do any training, they only form an association and say they are NGO and start writing letters to the president and ministers which I don't think is the work of an NGO”

5.4. Successes made by the community/traditional leaders

Community engagement and protests have been identified as leading to the filling of a big pit that was left at the center of Prestea. Several protests have also yielded dividend that prevented mining companies from mining too close to settlements. The community has also succeeded in making the mining companies start renovating a government hospital in the area. The companies also occasionally give scholarships to deserving students in the communities. Though these achievements seem to pertain more to people of the communities, it is considered the success of the traditional leaders also because in issues of mutual/collective benefits like these, the leaders usually spearhead the demand.

Fig. 3a: A site of a pit left in Prestea (before filling)



Source: WACAM archive

Fig.3b: A site of the pit after reclamation



Source: Researcher's photograph

5.5. Comparative benefit of the mineral find/or mining in the Prestea area

Mineral find in the Prestea area has been credited for some form of development in the Prestea mining area. It was one of the communities that had early access to a utility like electricity; as early as early 1960s or 1970s.

Generally, electricity in one sense is a development amenity in most rural and underdeveloped communities. It could open doors for several basic industries that relieve a people and

governments alike from unemployment problems. For example electricity can enhance the processing of agricultural produce in most of these communities that can lead to increase in revenue for individuals and the state. But this claim can be defeated by the fact that mining itself takes away productive agricultural land. However, other benefits in the form of increased access to telecommunication facilities, recreation facilities, learning tools and many more; all of which have greater potential for inducing development cannot be denied. Gold mining therefore cannot be taken as only constituting a problem to mining communities; regardless of other downsides that it might carry.

In addition to benefits identified earlier, one other benefit was provision of scholarships to deserving pupils in the communities. However, in one sense, some people have considered these as just the fulfillment of social responsibility of the companies or partly restituting for the things they had wronged. One of such opinions has been expressed as:

“The scholarships and the things they do, I will not consider as benefits. It is their social commitment that they have to do and they were not doing. It is our advocacy and shouting that has made them know that we are conscious of our rights. So if the mining was not there, it would have been better for us the community people but it won't be better off for the country because it is a major source of income for the country. But at the end of the day, people on the spot, the local people, and the indigenous people suffer from mining activities. They generate a lot of money and we don't see its reflection in the various towns. Come and see our roads; Tarkwa to Prestea; see the pollution in the air and in the water. If they were not there we would have been sitting in our hamlets peacefully, even going to the hospital would have been minimized but now we have buruli ulcers, skin diseases and aftermaths like teenage pregnancy. People come from all places to work; they get the women pregnant and leave them when they lose their jobs and it becomes a social problem for the people”.

As noted earlier, it is true that gold mining generates quite a great economic benefit for Ghana. That is total government revenue of 6% of GDP in 2011; corresponding to 38.3% of total corporate tax earnings and 27.6% of government revenue, attractor of Direct Investment (i.e. about US\$11.5billion from 1983 to 2011), employment for 28,000 people in large scale mining sector (B. N. A Aryee, 2012). Gavin Hilson (2002), quoting Utter (1992) also noted that Ghana accounts for 70% of total gold production in West Africa.

However, these do not constitute an immediate benefit for the people in the mining communities that suffer from the effects of gold mining. Awudi (2002) argued that, despite the claim of growth brought by the mines, it did not augur well for all members of the mining areas. He added that degradation of agricultural land alone is believed to have displaced 60% of the active labour force in mining communities. So also is the report of Akabzaa and Darimani (2001) that, though large scale mining took large farmlands from people, mining has not provided a corresponding employment.

But B. N. A Aryee (2012) indicates that, other mining-related activities like provision of inputs for other sectors, research, transfer of technology, banks and financial services, logistics and transport come with mining that communities benefit from. The question then is; do these also reflect in the lives of the people? Invariably, one would say the people do subtly benefit in one way or the other from these benefits but because they do not constitute direct material benefits, they are not considered as gains they make from gold exploitation.

5.6. Responses from people affected by mining in the Prestea area

It is important in social research of this kind to hear from the objects of study themselves. In this case the people of the Prestea mining area were the actual objects of the effects of mining in the area. As such, responses from them on infringement of their rights invariably constitute a crucial component of the study. Responses of effects of mining on their livelihood and rights have not been different from those reported by the human rights organizations under study. These responses ranged from seizure of farmlands, pollution of streams and meagre compensation for loss of farmlands –most of which are negative effects with some positive outcomes.

5.7. Comparative benefits from the mines

The mining companies have built some ICT Centre, Schools and Community Centre for the community. Also because of the manner in which the water sources have been contaminated, they have built a water reservoir which has made the supply of water to the community quite regular.

Negative outcomes

For the negative outcomes, one respondent said:

“When you go to your land, they have put signboard that no farming. Everywhere you go they put their guard dogs there to chase you as well as signboard that ‘no farming’. So for now, the villagers don't have land for farming. With compensation, whenever they are confronted, they only agree to pay GHC10000 (i.e. about 22,928NOK) or GHC20000 (i.e. about 45,856NOK) which they tell you the government law says they should pay. Meanwhile, if you consider the cost involved, you would not take that money but rather keep your property and eat from it (make livelihood from it) little by little.”

Another case was reported of a person whose fish pond has been destroyed. This is what the person said:

“I had a fish pond and they went on their own accord to measure it and when they came they said they will offer me three million old Ghana Cedis (about 687NOK) meanwhile I had invested over 15 million old Ghana Cedis (about 3,439 NOK) in it”.

Article 3 of the UDHR enjoins the “right to life, liberty and security of persons”. Accidents induced by collapse of mines are a threat to life. Limitations of movement of people, as a result of concessions limit their basic liberty as said earlier and these would impact on their rights. The beating of people, release of security dogs after them and shooting all constitute disregard for Article 5 of the UDHR which states that: “No one shall be subject to torture or cruel inhuman or degrading treatment or punishment”. Relocation of families and under-provision for their residential arrangements constituted a breach of their right to privacy and family life with reference to Article 12 of the UDHR. Even though it is said that the UDHR for example is not enforceable by laws, there cannot be any tolerance of insensitivities of this kind. This calls for human rights frameworks like the UDHR to provide checks.

In reference to relocation, Article 73(4-5) and article 74(1a-d) of the Ghana’s Mineral and Mining Act, 2006 calls for various compensations for people affected by mining and also at their consent. However, it is noted from the research reports that on the contrary, adequate compensations are not paid. These do not only constitute a source of economic deprivation but an act that would impact on the right of even generations unborn because before they were even born, their right to livelihood had been taken away.

Relocating people for example, regardless of the resources that have been provided carries several social and psychological implications that cannot be easily quantified. For example, in one view, generations of people who had lived in a community for several years might have certain bonding to their community that defines and makes their survival strategies easier. Some forests in certain communities constitute religious sites in which the belief-system of people is defined, including their economic sources of livelihood. For example, some communal rituals are believed to be precursors for rain. So when events of relocation occur, people are cut off.

As observed by (Verheye, 1997), soil or land remains the most basic life support unit, satisfying primary human needs for food and shelter. So regardless of the promises and prospects of mining, any activity of mining that denies the people of access to land deprives them of their right to economic life and livelihood.

As noted by G Hilson and Nyame (2006), it is these combined social and economic impacts in the form of grave impoverishment, disruption of social and public services, loss of life-fulfilling land resources due to relocation of communities that generated community resistance to mining activities in the communities.

Layoffs at the mines have also been identified as one of the things that affect people of the community. Layoffs have not only constituted unemployment; they have also constituted loss of income for people whose income depended on purchases of mine workers. One respondent who has been affected this way has this to say:

“I sell drinks and because they lay people off, it affected my livelihood because they don't come to buy for me”.

The people also identified that the mining companies do not build any new facilities; they only replace those they had destroyed or endangered. A respondent cited an example of a police station saying:

“To me they don't build. Whatever they have done is a replacement. When they came, they destroyed facilities. For example the police station I showed you is a replacement for what they destroyed: Because their operation was affecting the police station, they had to relocate it to another place. There was also a post office and labour office which they have relocated”.

Blasting has been noted as very destructive for infrastructure. This calls for rebuilding and relocation most of the time. Blasting produced cracks in the buildings that are close to mine sites in the communities. Pollution of streams has also been identified; a case in point is the report below:

“We were having about two or three streams that provided us water and fish. They destroyed them and when it is dry season women suffer to get water; they have created dam over it in some areas and it is serving as a drinking water but in my area no. Sickesses and death became the order of the day. We never knew the cause until the Center for Environmental Impact Assessment came to conduct research on our water and concluded that our drinking waters have been polluted. And cancers suffered by people were as a result of that”.

Fig. 4: A woman picks dead fishes from a polluted river



Source: WACAM archive

As earlier on noted, Article 110(1) of the Mineral and Mining Act, 2006 which mandates the minister for its promulgation with provisions in Article 110(2n-p) to limit “mineral operations in or near a river, dam, lake, forest or stream amongst others, have taken care of most of the issues of concern. The question that one keeps asking is why mining is initiated in the first place without assessment of the impacts it might create? The Forestry Commission and the Environmental Protection Agency should have initially made an assessment of impacts before

mining is initiated. It therefore indicates once again that the laws might have been vividly provided but conscientious efforts are not made to make them operational.

The mines have also brought about population-related problems. Thus:

“Overpopulation is also a problem because Prestea has only one hospital in the district and it is being manned by only one doctor”

Other problems have been noted by Akabzaa and Darimani (2001) that, large tracks of land have been taken from farmers and at the same time, mining did not provide enough jobs to match the total number of people laid off from agriculture. Aubynn (1997) also indicated that, there have been several grievances and agitations regarding damages to crop, relocation compensation as well as quality of services and housing for newly located settlements.

5.8. Tools of redress

Tools of redress had been in the form of protests and petitions to the office of the president, court cases, mediation and media publicity.

5.9. How helpful Human Right NGOs have been in the eyes of the people

In accounting for how helpful the human rights NGOs have been, one respondent has this to say:

“Due to our rough background, we only know how to do "choboi": Violence for violence; but when WACAM came in, they decided to send us to workshop on arbitration, negotiation and even the Mining Act. But for WACAM, we would not have even known that there is a law that has been passed on mining. So in terms of knowledge WACAM has done a lot”.

Another respondent noted:

“Without WACAM it might not have been easy with us. With the help of these NGOs we have become a united force; hence it is a bit easy for us to drive home our demands”.

He further explained that had it not been WACAM, they would have been dead in the community because they would be using violence and the military would have shot them.

5.10. Community support for WACAM

It has been reported that the community always supports WACAM. But this support did not come on Silver Platter. It took some time:

“When the company came, the community was divided on political lines. So initially WACAM was thought of to be working against the government until there was a change in government and also the work of WACAM was identified and everybody tend to support them”.

Eventually, there had been no occasion when WACAM and the people disagreed.

5.11. Successes made by the community with the help of WACAM

The respondents noted that, their efforts led to the creation of Mine-Local Community Agreement with the companies; especially social responsibility foundation and employment agreements with these companies. It was a step to rectify some problems created by the companies. Some of their efforts have also not yielded any result yet. It was noted that the mining companies have created 42 pits and efforts to make them reclaim them and restore them to pre-mining era condition have still not fully materialized.

The outcome of community engagements with the mining companies with the help of WACAM had been variedly reported and one of such reports reads:

“A major achievement is the negotiation we had: so for every ounce of gold they produce they are to give the community/catchment area one dollar, most of the pits have been reclaimed by the help of WACAM and affiliated NGOs”.

Another respondent noted:

“Taking into consideration the benefits and the losses from the effects, 3 public toilettes, a community center, reservoir and IT center have come from the mining companies. I don't think it matches with the benefits (mineral resources) these companies do get from this community. Taking into consideration the benefits and the losses from the effects, when you ask anyone in Prestea they will tell you it is only sickness”.

It is evident at this point that community efforts have been aimed at changing the power dynamics, social and environmental impacts in the mining community of Prestea. Though this

last account records some gain in the form of Mine-Local Community Agreement for example, much had still not been achieved in the form of restoring the environment to pre-mining status for example.

As a matter of fact, one would expect that ensuring environmental safety should actually be a daily preoccupation of the mining companies. This should not be demanded by the people before it is done. For example, people should not go on a protest to demand for filling of pits that have been dug during mining operations.

The MMA 2006 for example clearly provided for the need for mining companies to fill such pits in Article 37(2f). If mining communities would have to demand for such damages to the land to be made good and even receive a poor response, one would question what the legal provisions stand for and what the general fate of mining communities might be. An assessment of a net negative outcome of “only sickness” becomes an issue of intense investigation since that constitutes a breach of the rights to health of the people.

CHAPTER SIX

SUMMARY OF FINDINGS, OBSERVATIONS AND CONCLUSION

6.0. Introduction

This study is a product of the urge to find out evidence or contribute to research findings on claims of human rights abuses in Ghana's mining communities. A bulk of literature revealed incidences of abuse of rights of people by mining companies whose activities impacted on social, environmental and economic aspects of the lives of people. Most of these impacts have been considered as typical examples of insensitivity of the mining companies and related government institutions to address the concerns of the people. To this end, human rights NGOs were believed to have sprung up to help in what was perceived as struggles for human rights or struggles against rights abuses in Ghana's mining communities.

The study adopted the Prestea mining community which is one of the prominent mining areas in Ghana. It looked at the various struggles that have been made to ensure the rights of the people in this community by assessing activities of engagement by the people and a local NGO named WACAM.

In doing this, it tried to examine activities of mining companies in the Prestea area that impact on the rights of the people. It examined struggles that the people made to ensure their rights as well as the significance of human rights NGOs in Prestea mining communities in the fight to achieve these rights. It did this, by looking also at the tools they used.

It looked at the human rights instruments and mining-related laws that stipulate the rights of the people and tried to ascertain how instrumental these provisions have been in ensuring the rights of the people.

It also tried to establish findings about the level of cooperation or otherwise of the people of Prestea mining community and the NGOs in driving home their demands and finally tried to examine how successful they have been in achieving an end to certain rights violations. The following findings were thus made:

6.1. Summary of findings and observations

The study revealed that most activities of the mining companies impact on the rights of the people. Issues of human rights abuse have been broadly (though not exclusively) classified as economic, social, and environmental and physical. The extent of abuse through these means were said to be linked to the level that mining activities have reached in the communities. That is, the more extensive and intensive mining gets in any community, the greater the level of effects it is likely to produce and the greater the abuse of rights become.

6.1.1. Economic sources of human rights abuse

In the first place, the mode of land acquisition and subsequent compensation for it and other properties has been identified as impacting on people's rights. There has been forceful acquisition of lands. Meagre sums of money were also given for compensation in some cases, and in some cases nothing is given for personal lands that have been taken through concessions.

6.1.2. Physical assaults

There have been beatings, tortures, release of security dogs and shootings of 'trespassers' by the mining companies which constituted abuse of their rights.

6.1.3. Social problems of mining

The study revealed that mining was partly associated with social problems like teenage pregnancy and single parenting because some pregnancies came from migrant unskilled workers that abandoned the pregnant women when their work at the mines ended.

There have been cases of abuse of rights to decent livelihood when water sources of the people have been polluted. Cyanide and mercury spillage for example have polluted water sources of communities; thereby impacting on their rights.

There have been reports of effects of mining that did not constitute any direct violation of rights to attract direct compensation. Dust pollution for example affected the health of people in the mining communities but has not been compensated for.

Blasting by mining companies also produced several direct and subtle effects that interfere with the rights of people. Properties like houses have been damaged and people's items (eg.

televisions) fall from their position in rooms; as to whether claims could be made for all these damages is an issue of investigation.

The mining companies have also interfered with peoples' right of movement. Access route blockades have constituted a breach of the right to movement of the people in their own community and on their own property.

6.1.4. Environmental sources of human rights abuse

The study also revealed that even though the MMA, 2006 for example enjoins the mining companies to fill up all pits after mineral extraction from the ground, this law had usually not been adhered to in most cases. People in the mining communities had to protest to make the mining companies fill some of the pits; in some cases, the pits still exist.

6.1.5. Comparative benefits of mining to mining communities

In terms of net benefits from mining to the immediate mining communities, the study revealed that quite consistent was the view of the people that they have not benefited much from the mineral find and exploration in their communities and what they get is just a replacement for what had been lost.

But this is not to suggest that mining only constituted abuse of rights of people. The study equally revealed that some spillover benefits of mining are enjoyed by the mining communities. For example, the Prestea community, for some time, benefited from relatively low cost of electricity which was made possible through subsidies provided by the mining companies.

Other benefits have been in the form of spillover pool of skilled and unskilled labour into the Prestea community which could determine a comparatively favourable cost of labour.

Provision of clinics through social responsibility commitment of the mining companies has also been helpful in meeting the health needs of the people.

More so, like any other study of this kind, it has been revealed that mining constitutes a potential source of revenue to the government of Ghana.

6.1.6. The rise of NGOs and rights they assert

The study revealed that irresponsible mining, which leads to issues of human rights abuse by mining companies and insensitivity of related-law enforcement agencies gave birth and rise to NGOs in the mining communities of Prestea. These NGOs performed various specialized roles in attempt to ensure the rights of the people affected by mining activities.

They include WACAM which was the case in this study and which seemed to be the most vibrant organization of all of them. Others are Center for Public Interest Law (CEPIL) (which provides legal services for communities affected by mining at a free cost), Center for Environmental Impact Assessment (CEIA) (which conducts research into environmental issues like spillages into water bodies for evidence in backing campaigns), National Coalition on Mining (which is an umbrella organization for NGOs that deal with mining-related issues), Youth for Action Ghana (which carries out advocacy and empowers the youth in mining communities through financial provisions towards their tertiary education), Broad Based, Believers Association of Bondaye Youth, Concerned Citizens Association, and Voices of Tomorrow Leaders Foundation.

Basically, the human rights NGOs in the mining communities of Ghana assert rights that will ensure the social welfare of the people. One of the demands they made has to do with compensation towards the right to property, when the land of people in mining communities are given in concessions. This fight ensures the right against arbitrary deprivation of property of the people whose rights to their land and other property on it stood the risk of been denied.

Another human right that the NGOs assert is the right to liberty. For example interventions on behalf of people who have been shot in the process of moving through concession lands were worth noting. This also constitutes acts of ensuring their right to freedom of movement.

Right of security of persons was also subtly inherent in the claims of the NGOs. Efforts to ensure the filling of large pits that are left after mining for example was meant to ensure security of people. Similarly, the right against torture of the people was fought for by the NGOs when they called for protests against beatings, unleashing of security dogs, shootings and called for treatment and compensation for victims of these ordeals.

They further fought against pollution of rivers through researches that were meant to substantiate claims of pollution. This constituted fights for the right to water and adequate standard of living for health and well-being of people.

6.1.7. Commitment of law-enforcement agencies to issues of rights abuse

The study however revealed that there is no urgency on the mining companies to practically carry out mining in a responsible manner because there is no outright legal act that threatens their operation in the advent of any misconduct.

6.1.8. Tools of engagement against rights abuse

Public education for awareness creation has been one of the most effective tools of the NGOs that tried to ensure the rights of the people. Advocacy was also used in the fight for the rights of the people and to ensure responsible mining activities.

Human rights NGOs also used the media to attract national attention, inform the public and make governments respond to issues of abuse of rights of people. This was done through press conferences. The revelation was that, media propaganda would always be an effective tool at the disposal of every stakeholder in a mining community and it depends on the tact of any stakeholder to use it to its own benefit.

There was also research to provide evidence in making claims of abuse. The NGOs also provided empowerment through provision of financial support for tertiary education of youths to ensure an informed and formidable public.

NGOs like WACAM did directly engage sector ministers and parliamentarians as a means of fighting effects of mining and ensuring the rights of the people. Similarly, they helped to reshape some mining codes as a means of addressing some of the policy lapses that leaves room for abuse of rights of people.

The legal system of Ghana is also used to fight the abuse of rights of the people when all other conventional mechanisms failed to produce the expected result. This is done through the courts.

Peaceful protests have been a tool that filled vacuums in policy implementation. Their use in instances when laws have been ineffective in ensuring responsible mining cannot be overemphasized.

6.1.9. Adequacy of policy frameworks for the protection of rights

The study revealed that adequate policy framework exists to ensure responsible mining. The MMA 2006 for example made adequate provision for modalities for acquisition of land for concession. Compensation modalities have also been outlined to ensure satisfactory or meaningful compensation for people whose land would be taken through concessions (e.g MMA Article 73(1) to 75(3)).

Provisions have also been made to guarantee protection of the environment and any resource that is linked to public health (e.g. MMA Article 18(1&2)).

However, it has similarly been revealed that even though adequate policy measures exist to ensure responsible mining that would guarantee the rights of the people in the mining communities and ensure protection of the environment, there has not been the necessary political backing for enforcement of the laws. This is because governments were equally interested in providing the necessary business atmosphere to attract more mining activities.

More so, certain acts of irresponsible mining like cyanide spillage that impacts on the rights of the people do not fall under any specific law demand so enforcement through legal means becomes difficult.

Furthermore, though there were legal provisions that address specific issues of abuse of rights of people, there are complexities in community expectations on the outcome of mineral find and its associated damages, compensation and benefits. That is, whereas mining companies are expected to compensate for and ensure that communities at all times experience their pre-mining status, there is community expectation that the mining should contribute to making their lives better. This situation in the researcher's observation calls for a critical assessment of what should be expected from the mining companies who make much gains from the mineral they extract from the landed property of the people.

The study also revealed that the state's environmental protection Agencies have not been able to regulate the activities of the mining companies effectively.

WACAM recommended the reshaping of some mining codes related to compensation. The reshaping is expected to bring effective enforcement of the codes, thereby ensuring responsible mining that would guarantee the rights of people in the mining communities.

6.1.10. Level of cooperation between affected people and NGOs

The study also revealed that there has been effective cooperation between the people affected by mining and human rights NGOs that join the fights for their rights. The only instance when individuals of the community seemed not to have cooperated with the NGOs was when they go in for meagre compensations because they could not wait to complete legal processes that would ensure their rightful compensation.

6.1.11. Successes achieved through struggles for human rights

Through the help of human rights NGOs, communities affected by mining have made some gains in ensuring their rights. However, ignorance on the part of some of the people affected by mining activities made them victims of abuse of rights. Sometimes also, though the awareness was there, it was revealed that economic pressure for example; made people bypass the guidance of supporting NGOs and fall prey to inadequate compensation and alternative provisions. This, as indicated earlier, constituted the only instance when the people affected by mining seemed to have acted in contravention to collaboration with the human rights NGOs.

It was recorded that human rights NGOs have been instrumental in empowering the people in the mining communities by creating awareness on their rights so that the people developed the capacity to engage the mining companies directly without the help of WACAM.

NGOs like WACAM have been helpful in getting the people affected by mining unionized. This helped the people to have a formidable front in fighting the mining companies to do what is right. However, it was further observed that though unionization would be helpful in fighting mining companies against rights abuses, the people affected by mining activities would need some kind of financial security or support to be able to wait for the long legal processes. The study also revealed that timely compensation is needed to ensure that the rights of the people are guaranteed.

Human rights NGOs have also helped in some cases to secure adequate financial compensation and restitution for properties damaged as a result of mining activities. Similarly, they have been successful in organizing the people to protest, which helped to

make good some of the effects of mining. For example through protests, some dangerous pits that have been left after mining have been filled.

WACAM has also been successful in obtaining medical treatment from the mining companies for victims of shootings and attacks by security dogs.

Also, through conscientious efforts by human rights NGOs like WACAM, it has succeeded in having recognition as the symbol of the concerns of the people affected by mining and is given hearing through dialogue which is aimed at correcting the effects of bad mining activities.

It is also revealed that through joint efforts of the people and the human rights NGOs, mining companies have provided alternative means of water to affected communities. This was done by providing polytanks that are filled with water for distribution to households. Though this provision had its downside, it provided some kind of remedy.

The communities and NGOs have also succeeded in bringing the stakeholders of the mining companies to mediation fora that are used to air grievances and to discuss remediation. It was only the practical fulfillment that was left to be realized.

Even though the government of Ghana has the right to give any piece of land in concession for mining (i.e. PNDC Law 153); the communities in some cases have been successful in preventing mining at locations that have been too close to residential dwellings through protest.

6.2. Recommendation

The study revealed that early intervention and mitigation of irresponsible behaviours in the mining communities will be necessary to forestall excessive abuse of the rights of the people. It is also revealed that extraterritorial dimensions of state regulation for mining companies would be an effective tool in checking the activities of mining companies in cases where governments like Ghana would be insensitive to mining activities that infringe on the rights of people.

6.3. Conclusion

In conclusion, it is noted that as long as there is increasing mineral find and exploration, mining activities would continue to interfere with the dwellings and livelihood of people in

mining communities. As such, there might be instances of what may be considered as abuse of rights of the people. However, with policy provisions aimed at ameliorating the negative consequences of mining, it is expected that mining provides a positive net outcome for mining communities. Therefore, if there is ineffective policy implementation in Ghana's mining communities, leading to abuse of rights, it is necessary that other Civil Society Organizations like WACAM and the people fill in the policy gap to ensure responsible mining that would guarantee the rights of people. This drive might not produce absolute results initially, but with the passage of time, it is undoubted that there will be improvement and remediation. It is expected that further research would reveal better outcomes than have been reported in this study.

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APPENDIX

QUESTIONNAIRE FOR PEOPLE AFFECTED BY MINING IN THE PRESTEA AREA

1. What do mining companies do which affect you?
2. How badly do these activities affect you?
3. Specifically, what are some of the effects that you suffer?
4. Has your community or you yourself made any effort to stop these activities?
5. How do you drive home your demands?
6. Which other interest groups or individuals help you in your effort to stop these activities?
7. What has been the nature of the help of the NGOs that understand your situation in the area?
8. What are some of the activities of some of the NGOs (if any) that make them appear as rather backing the mining companies?
9. In cases where the NGOs have been helpful, how would your efforts have been without them?
10. In what ways do the NGOs fight for your course?
11. How would you say you and/or your people have worked hand-in-hand with the NGOs to achieve an end or compensation to the losses you suffer due to the activities of the mining companies?
12. On which instances did you disagree and seem to be at odds with each other?
13. Could you mention some of the successes you have achieved as a result of your efforts to check the activities of the mining companies.
14. On the whole, what would you say about the outcome of mineral finds in the Prestea community, taking into consideration the benefits and the losses from the effects?

QUESTIONNAIRE FOR PEOPLE IN THE PRESTEA AREA NOT AFFECTED BY MINING ACTIVITIES

1. You have not been directly affected by the mining activities in this community; but why would you say mining activities have negatively affected some people in this community?
2. How badly do you think these people have been affected?
3. What are some of the obvious effects of mining activities on people you see?
4. Though you have not been directly or to say immediately affected by mining activities, what are some of the effects you think you also suffer all the same?
5. Have you been part of the efforts that people who have been affected made to address these problems?
6. What has been the nature of the efforts towards addressing effects of mining activities in the community?
7. Which other people or organizations help in addressing mining related problems in these communities?
8. What has been the nature of the help of the NGOs that understand the mining related situations in this area?
9. Do you see the activities of some of the NGOs as rather backing the mining companies?
10. In cases where the NGOs have been helpful, how do think the efforts of the people would have been without them?
11. In what ways do the NGOs fight for this course?
12. How would you say the people have worked hand-in-hand with the NGOs to achieve an end or compensation to the losses suffered due to the activities of the mining companies?
13. On which instances do you observe the people and NGOs disagree and seem to be at odds with each other?
14. Could you mention some of the successes that have been achieved as a result of efforts to check the activities of the mining companies?
15. On the whole, what would you say about the outcome of mineral finds in the Prestea community, taking into consideration the benefits and the losses from the effects?

QUESTIONNAIRE FOR TRADITIONAL LEADERS IN THE PRESTEA COMMUNITY

1. What do mining companies do which affect the well-being of people in your communities?
2. How badly do these activities affect your people?
3. What have you and your community done to stop these activities?
4. How do you drive home your demands?
5. There are some NGOs in your community that are believed to be doing much to stop some of the activities of the mining companies that affect your life in this community; how helpful do you see them in addressing mining activities that affect you?
6. What has been the nature of helps of the NGOs that understand your situation in the area?
7. Do you see the activities of some of the NGOs as rather backing the mining companies; in what ways?
8. In cases where the NGOs have been helpful, how would your efforts have been without them? Explain.
9. In what ways do the NGOs fight for your course?
10. How have you and your people worked hand-in-hand with the NGOs to achieve an end or compensation to the losses you suffer due to the activities of the mining companies?
11. On which instances did you disagree and seem to be at odds with each other?
12. Could you mention some of the successes you have achieved as a result of your efforts to check the activities of the mining companies?
13. On the whole, what would you say about the outcome of mineral finds in the Prestea community, taking into consideration the benefits and the losses from the effects?

QUESTIONNAIRE FOR LEADERSHIP OF WACAM

1. What are the main objectives of the existence of your NGO in this locality?
2. Would you therefore say mining activities and its outcome motivated your presence in this locality?
3. What do mining companies do, which affect the people, which you think your very presence is to check and ensure the rights of the people?
4. The mention of rights brings us to one important issue of consideration. Which rights of the people are affected and how?
5. How badly do these activities affect the people?
6. Could you comprehensively mention all the human rights of the people that your organization thinks are being breached in this locality?
7. Which efforts have your NGO made to stop these activities; which tools/mechanisms do you use?
8. How do constitutional provisions of Ghana make your battle worth fighting?
9. Which constitutional provisions give credence to your fight?
10. Which mining codes do you know the mining companies breach with impudence?
11. Do you have other interest groups or individuals that helped you in your effort to stop these activities? Mention them and describe the how they help.
12. What has been the nature of the help of these other organizations that understand your course?
13. On the contrary, why would you say the activities of some other NGOs or organizations are against your course?
14. Why would you say the Prestea community would have been helpless without your efforts at ensuring their rights?
15. How has the community worked hand-in-hand with your NGOs to achieve an end or compensation to the losses the people suffer due to the activities of the mining companies?
16. On which instances did you disagree and seem to be at odds with each other?
17. Could you mention some of the successes you have achieved as a result of your efforts to check the activities of the mining companies?
18. On the whole, what would you say about the outcome of mineral finds in the Prestea community, taking into consideration the benefits and the losses from the effects?

QUESTIONNAIRE FOR SOME MINE OWNERS

1. How is the mine under your management known in the state departments and the Prestea community?
2. What methods of mining does your mine actually/mostly use?
3. What is the probability that these means of mining are environmentally friendly and friendly to the community?
4. What complains have you had from the community on any possible effect(s) that your mining activities had on them?
5. What has been the nature/mode of the reaction of people to some of your activities they considered harmful to them?
6. Could you give me a comprehensive account of safety measures that your mine observes to avoid any environmental damage or hardship to the people?
7. If there must be some restitution for some damages that your activities have produced, what are these provisions to the community?
8. Did you actually provide these to make for the damage or it was only an act of generosity for what you take from the environment?
9. Have there been any legal cases emanating from the community's response to damages they believe they suffer due to your mining activities?
10. Which constitutional provisions or mining codes enjoin responsible operational activities from your mine(s)?
11. Which social organizations do you contend with in the community's fight against your mine for better environmental standards or compensation for the losses that people suffer?
12. Have these organizations operated solely or collaboratively with the communities.
13. On the whole how confidently can you say you have lived up to your corporate social responsibility towards the mining communities you operate in?



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