



## ***Mining and resettlement of communities in Ghana: Exposing the harm caused by forced displacement and relocation***

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Mining has long been regarded as the starting point for a series of economic and social changes that constitute development. Proponents of mining as an agent for development often refer to mineral resources as ‘buried treasures’ (Bridge, 2004: 225) that can be opened with capital and technologies.

This ‘treasure chest’ theory of resource-based economic development has become common for many national development policy frameworks. In fact, this ideological and philosophical rationale became a key component reinforcing the mineral industrialization and economic development discourse of the World Bank’s structural adjustment programmes (SAPs) in Africa, and particularly in Ghana, a country endowed with ample natural resources. More recently, albeit in a much more sophisticated form, it has formed the basis of the African Mining Vision, developed under the auspices of the UN Economic Commission for Africa (UNECA) and adopted by African Union (AU) heads of state.

According to Appiah and Buaben (2012), due to mineral industrialization, Ghana earns a substantial proportion of its foreign exchange from gold exports, and mining contributes greatly to the gross domestic product (GDP). Gold mining activities abound across the length and breadth of Ghana. Evidence of this is expressed in the number of mining companies in Ghana, with the majority of these companies located in the Wassa West District. They include: Goldfields Ghana Limited, Prestea Sankofa Gold Limited, Bogoso Gold Limited, (Golden Star Resources), Abosso Goldfields Limited, AngloGold Ashanti (Iduapriem), New Century Mines, Chirano (owned by Red Back Mining until Red Back was bought by Kinross Gold in 2010), and Newmont. Currently, all these companies employ surface (open pit) mining techniques in their operations (Akabzaa, 2009).

Interestingly, in spite of the enormous wealth generated from mining activities, host communities and surrounding towns and villages in the Wassa West District still persist in a lifestyle of abject poverty, seen in deteriorated livelihoods, food insecurity, gender impact, human rights violations and permanent displacements. In this regard, many have criticized mining in relation to ‘development’ (Akabzaa, 2009; Hilson and Yakovleva, 2007; Hilson, 2004, 2011; Mensah and Okyere, 2014). Commentaries on gold mining and its consequences are shifting from the recount of its many advantages to an emphasis on the environmental and socially adverse effects it brings (Darimani, 2001; Evans, 2002).

In various case studies, it has become difficult for mining companies that rely on extensive tracts of land to operate and coexist with indigenous communities whose livelihoods are inherently connected to the land they live on. The growing awareness of mining-induced displacement and relocation/ resettlement of

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host communities by large-scale companies has sparked debate on what Aubynn (2009) calls a dispute between traditional rights and mineral rights. On one hand, from the community perspective, large-scale mining operations pose a threat to traditional rights to work the land, whether through artisanal mining or farming. On the other hand, large-scale mining operators contend that they have acquired legal entitlement to these exclusive concessions, and are protected against encroachment and intrusion. This engagement of mining companies and communities highlights an enormous power relational inequality.

We undertook this study and research because we are interested in understanding the issues of involuntary displacement and relocation, and the mechanisms that facilitate and foster it. The purpose of the study is to highlight the problems encountered by displaced people living in mining communities in Ghana where foreign mining companies, including Canadian companies like Kinross/Chirano Gold, operate. Using case studies, we have tried to demonstrate the current practices of large-scale mining and the role of corporate interests, as well as practices of different levels of government and traditional authorities on how issues such as land and resources, customary law, and compensation are addressed.

We guided our research with the following questions: How is it that communities that do not want to move or lose their land can be legally displaced? What happens to them when they are forced to move? What measures need to be taken (1) to return their authority over their own lives and livelihoods when they are faced with a demand to move, and (2) to help them adapt and to recover and rebuild their social and economic lives when they've already been relocated?

It is worth mentioning that while doing this research we made numerous attempts to interview Kinross Gold representatives; however, this was denied and we were sent back to their Corporate Social Responsibility reports. Due to this and other limitations of communication with organizations in Ghana we were unable to get all of the information we hoped to include here.

### **Mining-Induced Displacement and Resettlement: Social, Environmental, and Human Rights Issues**

According to Terminski (2012), one of the negative effects of modern mining is the forcing of thousands of people to abandon their current place of residence. Mining-induced displacement constitutes a major social problem and a major challenge for human rights. Historically, cases of displacement resulting from mining activity can be dated back to the 19<sup>th</sup> century, where African countries were divided at the time of colonial empires based on gold and other mineral resources. Currently, mining displacement induces and exacerbates unemployment, social marginalization, health problems, and homelessness. Unabated, these social impacts constitute a real problem, especially since the portion of the surplus generated by mining operations that is allocated locally does not adequately cover the economic and social costs of relocation (Terminski, 2012).

Mining displacement and the concomitant threat to human rights are present in many countries worldwide. Mining-induced displacement and resettlement is not only an issue of individual human rights violations, but also of collective rights, community-company conflicts, the struggle for resources, access to land, indigenous rights, the question of self-determination of tribal people and local communities, and sustainable development. Ghana is a country with an interesting peculiarity of displacements. Induced or forced displacement has accompanied various mining projects. For example, between 1990 and 1998 in the Tarkwa district, more than 30,000 people were displaced due to gold mining operations. According to Akabzaa and Darimani (2001), at least several hundred people each year are resettled in the region as a result of mining development. Akabzaa and Darimani also noted that despite the mass displacement and environmental disruption, compensation policy for displacement remained inadequate and does not consider the tenancy status of many locals. In this regard, many who are displaced lose their former livelihoods completely and enter a vicious cycle of poverty, often turning to illicit mining—'galamsey'—for survival.

Mining-induced displacement and resettlement is primarily an economic issue associated with loss or significant reduction of access to basic resources on which communities depend. The broad range of social impacts may be considered secondary, but they are serious and include a large gender component as they are strongly felt by women and girls. The primary beneficiaries of extractive projects are the investing corporations, and to a lesser degree, the host government. The extraction of resources in developing countries only rarely contributes to an improvement in the situation of local communities. Profits are transferred abroad (out of country, facilitated by permissive government policies and corporate profit-shifting strategies) and do not raise the level of economic development in these regions (Terminski 2012).

In 2006, the neoliberal Kufuor-led government passed the Mining and Minerals Act (Act 703), which made the investment incentives more generous for transnational corporations operating in Ghana. For example, the government slashed royalties from between 3% and 12% to between 3% and 6% (Act 703, section 25; Armah et al, 2011). Even worse, the government legalized the dispossession of peasants in many ways, of which we will mention only a few. Firstly, it stipulated that any land with minerals can be leased out by the state for mining without the consent of the traditional owners of the land or the peasants cultivating it (see Act 703, Sections 1-3). Secondly, it sanctioned the leasing of huge tracts of land for a period of 30 years, open to renewal (see Act 703, Sections 41 and 44). And thirdly, once granted the lease, the mining company is given the right, with few limitations, to do anything necessary to exploit the minerals and dispose of them in the way it chooses (see Act 703, Sections 46 and 48), while the original owners and farmers of the land virtually lose their rights over their property, considering the lax terms of compensation and strict conditions imposed on them if they are to farm on their lands (Act 703, Sections 72-75; Ayelazuno, 2011). To apply Stephen Gill's term, both the Minerals and Mining Law of 1986 (Provisional National Defence Council Law (PNDCL) 153) and its successor, Act 703, are characteristic cases of 'new constitutionalism', where components of the law are used, not to guarantee the rights of ordinary citizens, but rather to redefine the terrain of normal politics so as to lock in the power gains of capital and to lock out or depoliticize forces challenging these gains (Gill 2002, p. 48; cited in Ayelazuno, 2011:504).

The displacement and relocation through extractive capital clearly demonstrates this exploitation. For example, despite the current rush of mining capital invested into Ghana in the era of neoliberalism, and despite the billions of dollars' worth of mineral goods foreign mining companies have exploited from Ghana, the contribution of the mining sector to the GDP of Ghana is insignificant (Ayelazuno, 2011). According to the *Economist*, gold accounted for 40% of Ghana's exports in 2008, with a value of \$2.2 billion, but the Ghanaian government only received \$116 in lax taxes and royalties from the mining companies. In fact, this was less than 4% of the country's total tax take (The *Economist*, 2010). This is unsurprising because contrary to the believe that FDIs facilitate development, it is clear that the purpose of mining in Ghana is to 'loot' resources, as Patrick Bond puts it, and not about the country's development as the World Bank and corporate interests assert. The current neoliberal ideology equates the interests of private capital with those of the nation. In other words, the role of the state is simply to create a favourable institutional environment for capital to pursue its reproduction and expansion (Kinuthia, 2013). For example, the Ghanaian government continues to extend and offer indigenous lands in order to attract and facilitate capital investment, despite the pushback of many local communities rejecting these mining projects on the grounds that they are not allowed to effectively participate and benefit from the revenues in exchange for loss of productive land, water supplies, and even habitation.

### **Debates on Land Tenure Systems**

Land in most of Africa is controlled under customary systems that are governed by social and cultural rules to grant fair access to families within groups with common interest in land. Making a living requires

some form of access to the land, without which the livelihoods of many would be in jeopardy, especially since land has always been an important component of livelihood and development for people in rural areas. According to Yaro (2010), land tenure may be defined as the terms and conditions on which land is held, used and transacted. In this regard, the importance of land to livelihoods has been strengthened by the expansion in urbanization and its translation into a demand for more resources to sustain both the farming and non-farming population (Yaro, 2010). It is thus a vital resource that enables resettled people to maintain their previous economic activities in the territory. Hence, loss of land or its drastic reduction puts communities characterized by a land-based agricultural, pastoral, or hunting-gathering economy at risk of multigenerational economic marginalization, affecting both women and men in the community. This not only leads to a deterioration in their economic situation but also creates serious social and gender-based problems in the family and community.

### **Legal framework for Expropriation of Land**

To properly understand expropriation in Ghana, the mining law is read in conjunction with the State Lands Act, 1962 (Act 125), and the Administration of Lands Act, 1962 (Act 123). There is a significant difference between Act 123 and Act 125 in terms of compensation: while the latter provides for lump sum compensation, the former provides for only annual payments (e.g. royalties) to land owners, which, importantly, are not individual farmers or families but traditional authorities; district assemblies and chiefs (Mares, 2012). These payments do not go out to individual farmers or households; rather, farmers losing their land receive a one-time compensation for their lost crops. As we will see with Newmont and Chirano, the payments made to families are risible.

### **Issues of Vested Lands**

Vested Lands are lands owned by a stool (chief authority, in Ghana and other parts of West Africa), but managed by the state on behalf of the land owning stool. The legal rights to sell, lease, manage, collect rent have been taken from the customary landowners by the application of specific laws on that land and vested in the state. The landowners retain an equitable interest in the land (i.e., the right to benefit from the land). Traditional council, comprised of paramount chiefs and village elders, typically administer land under customary ownership. The councils, referred to in Ghana as the “allodial” title<sup>2</sup> holders, hold the ultimate right to allocate and retract user rights and reallocate and alienate land. Therefore, the Traditional Council holds the sole authority to negotiate project developers over leasehold terms. As a service to investors, the Ghana Investment Promotion Center (GIPC) maintains a land bank to connect investors to Traditional Councils willing to alienate land to investors. In the National Land Policy, 1999, it states, “no interest in land belonging to an individual or family can be disposed of without consultation”. In other words, a public hearing is required if concerns are raised over the content of an Environmental Impact Assessment (EIA). Besides deciding the alienation, the Traditional Council is mandated to represent its constituents in negotiations, having fiduciary duties to administer the land in a manner beneficial to its constituents (Paek, 2012).

### **Case studies of Newmont and Chirano Gold Mines**

These case studies draw on institutional approaches in order to understand the factors that shape and influence CSR policies and challenges (Campbell, 2008, 2010). As with most countries, the political, economic and social context in which Ghana is situated is critical to understanding the issues that arise out of the presence of large mining operations. These approaches are helpful in understanding the

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<sup>2</sup> Allodium: freely held, without obligation of service to any overlord.  
<http://www.britannica.com/EBchecked/topic/16507/allodium>

organizational attributes that influence a mining company's approach and commitments to CSR. This is a valuable tool for identifying differing perspectives on the part of various actors with respect to mining.

### **Newmont Ahafo Project**

In establishing the mine in 2003, Newmont took the decision to not compensate farmers for their lost land. This decision was influenced by a combination of factors: cost cutting and a strict adherence to the law were the main drivers. A disconnect further aggravated by a number of compounding factors (i.e. complexities of the land tenure system, inappropriate compensation, forced resettlement) contributed to undermined those economically and socially dispossessed (Mares, 2012).

How can it be that that a well-known international company such as Newmont with its own Corporate Social Responsibility statements sets up projects that displace subsistence farmers from their land without full compensation in cash or providing replacement land?

The Ahafo project, on which exploration began in late 1990s, delivered its first gold in 2006 and is expected to last for 20 years. It is an open-pit mining project, which destroys much more land than underground mining. The Ahafo project covers approximately 2,426 ha of farmland. As a result, a large number of people in that area have been affected. Roughly, 10,000 people in 10 communities in the vicinity of the mining have been directly affected and displaced by the project. The most detailed source on who lost what due to the Ahafo project is the Resettlement Action Plan (RAP) document, prepared for Newmont by the Canadian consultancy planningAlliance for Newmont. According to the report, impacted people are classified as 'physically displaced' or 'economically displaced'. The figures show that 5,185 people were physically displaced losing both residential buildings and cropped fields in the mine area, and 4,390 people were economically displaced through the loss of cropped fields (Mares, 2012:237-238; RAP, 2005). The total number of affected households is, 1,701 (9,575 people, for an average of 5.6 persons/households).

According to Newmont, majority of people displaced from the communities of Kenyase 2 and Ntotoroso have been provided with new houses in two main resettlement sites with the rest choosing to relocate on their own and get compensation in cash. According to the resettlement agreement negotiation committee, people currently living in the stool of Kenyase 2 will move to the Ola resettlement village, and those living in the stool of Ntotosoro will move to Ntotosoro village (see RAP, 2005 report). In the RAP outline, resettled house owners and their spouses select their own resettlement house in accordance with the following principles: Area-for-Area; Kitchen-for-Kitchen; and Desired Layout; in addition, resettlement houses with one, two, or three bedrooms are assigned a 540 square metre plot, while resettlement houses with four to six bedrooms are assigned an 810 square metre plot (see RAP, Newmont, 2005; s-15). All the resettlement house designs conform to or exceed Ghanaian minimum standards, as defined by the National Building Regulations. All bedrooms are a minimum of 120 square feet.

Although resettlement plans have been made, both those resettled and those economically displaced can become vulnerable. The World Bank recognizes the dangers of involuntary resettlement. Its *Operational Directive on Involuntary Resettlement* states in paragraph 2:

Development projects that displace people involuntarily generally give rise to severe economic, social, and environmental problems: production systems are dismantled; productive assets and income sources are lost; people are relocated to environments where their productive skills may be less applicable and the competition for resources greater; community structures and social networks are weakened; kin groups are dispersed; and cultural identity, traditional authority, and the potential for mutual help are diminished. Involuntary resettlement may cause severe long-term hardship, impoverishment, and

environmental damage unless appropriate measures are carefully planned and carried out (World Bank, 1999, see *Performance Standard 5: Land acquisition and Involuntary Resettlement*, 2012).

Forced displacement of this magnitude can impose serious hardship on the local population so appropriate compensation is a crucial issue, particularly compensation for residential buildings and other structures on the land (i.e. crops and for land itself). In an interview on 15 July 2009 in Accra, speaking about land acquisition and compensation, Honorable Koffie said that farmers in mining communities have no say in the regulatory process. He notes that, some may not even be aware that they are about to lose their main source of livelihood. In most instances, the first point of contact for the mining companies when they arrive in Ghana is not the owners of the land but the Ghana Mineral Commission. These companies get maps from the Ghanaian government showing the location of the area where the minerals are found and the size of the concession. In this regard, the granting of concessions is sealed with the state, in Accra, regardless of whether the land earmarked for mining contains farms, communities or villages (Ayelazuno, 2009). In fact, the point at which the people get involved in the process of the acquisition is paradoxically the point their dispossession is executed; exactly at this point, their involvement is useless. This is when they have to negotiate for compensation with the mining companies who would have already acquired the concession from the state (see Act 703, Sections 73,75).

Furthermore, the lack of compensation paid to households for agricultural land has been highly contentious. It is important to note that, there is a distinction worth making regarding the types of agricultural land; land that is used to grow crops and under rotational crops of agriculture, and land that is unused for several years (uncropped or fallow land—see Kwame Gyan and Associates, *Land Use and Compensation study of Ghanaian Law and Implementation, final report to Newmont*; cited in Mares, 2012). There are numerous writings on how to compensate fallow land, including the company's own investigations which confirmed the existence of uncultivated land covering project areas of some 13,460.6 hectares of fallows and natural areas. In Newmont's case, both types of land were not compensated. The company blamed the inadequacies in the Ghanaian laws of the Mining Law in 2006, arguing that the law "provided for the compensation of various losses but deliberately omitted land per se from the list." As the RAP notes, "No act provides compensation for the land itself" (RAP summary, pg.3; cited in Mares, 2012).

*In the context of Newmont, what was the role of the chief and the impact and practical aspect of what happens on the ground? If the government gives a mining lease, what are the legal limits of negotiations? What role does other actors play?*

The possible legal grounds regarding the inadequacy and complexity of the Ghanaian land tenure system can be highlighted in the reports mentioned above. Also the issue of legal entitlements is key to understanding the true extent in which communities affected by operations remain vulnerable even after some compensation or settlement. In the Newmont case, the company did not want to break the status quo by becoming the first company to compensate for land and setting precedents in providing the necessary alternatives for the communities and their livelihoods.

In the Newmont case, an assemblyman explained that since the land is under the State Lands Act of 1962, the government could acquire the land for development. Mining companies therefore do not pay compensation on land per se but pay compensation for affected crops and royalties to the central government. A company representative is quoted as saying. "The government makes the acquisitions, and mining companies pay royalties to the government and do not know anything about the executive instrument that the government uses to acquire land for mining operations... this is purely a governmental affair." (Mares, 2012: 242) According to Newmont officials, the complexities and contradictions of the

land tenure regime discouraged Newmont from seeking an equitable solution to compensating farmers for the land even though its, *inter alia*, to “respect the Universal Declaration of Human Rights (UDHR) in its business operations, wherever feasible and appropriate, setting and operating in standards that exceed the requirements of local people and law.” (Newmont’s CSR guidelines, 2003). According to the FOA Guidelines:

States and other parties should hold good faith consultation with indigenous peoples before initiating any project or before adopting and implementing legislative or administrative measures affecting the resources for which the communities hold rights. Such projects should be based on an effective and meaningful consultation with indigenous peoples, through their own representative institutions in order to obtain their free, prior and informed consent under the United Nations Declaration of Rights of Indigenous Peoples and with due regard for particular positions and understandings of individual States. Consultation and decision-making processes should be organized without intimidation and be conducted in a climate of trust. The principles of consultation and participation, as set out in paragraph 3B.6, should be applied in the case of other communities described in this section (FAO, section 9.9).

It is important to point out that Newmont CSR reports references global compacts guidelines and principles such as the *free, prior and informed consent* proclaimed in the UN Declaration on the Rights of Indigenous Peoples along with the World Bank’s *Operational Policy 4.03 and 4.12- Involuntary Resettlement* and IFC *Performance Standard 5- Land Acquisition and Involuntary Resettlement*, and even the FOA’s *Voluntary Guidelines on Responsible Governance of Tenure*, and complied with the Bank’s OD 4.30 in regards to *housing and residential land*, but regarding compensation for *farming land* it conveniently disregarded the Bank’s Standards/guidelines. Due to these half fulfilled standards, Ahafo residents and mining communities in general continue to live difficult lives where mining Companies like Newmont operates.

### **Chirano Gold**

Kinross Gold is a Canadian based gold mining company with mines and projects in Brazil, Canada, Chile, Ghana, Mauritania, Russia and the United States, employing over 9,100 people worldwide. In Ghana, Kinross is a full member of the Ghana Chambers of Mines. The company states in its 2013 CSR report:

Kinross believes we have the responsibility to conduct operations in a manner that is safe for employees, protective of the environment and fair for the host countries and communities where our operations are located. Through responsible mining, we believe we can generate sustainable value in our host countries and host communities.” (Kinross 2013 CSR report <http://2013corporateresponsibilityreport.kinross.com/global/download-pdfs/country-reports/ghana/>)

Kinross also claims that through its partners and coordination with the private sector, governments, and civil society as well as stakeholders, it can help ensure its actions in the community align with its CSR guiding principles. According to the report, a spectrum of approaches, including meetings with local officials and neighbours and impromptu conversations with indigenous peoples near communities help mitigate adverse impacts due to their operations. In doing so, it has developed a consultation strategy that revolves around a Community Consultative Committee (CCC) comprised of stakeholder representatives from traditional authorities including tribal chiefs and security agencies, and local government, farmers and institutions. However, the updated strategy is currently awaiting final ratification. In the interim,

Kinross' focus and aim is "to develop and operate projects in a manner that respects and strengthen communities and bring positive long-term contributions to the quality of life." (p.9)

Despite this commitment, concerned landowners and farmers in Chirano Gold Mines' concession in the Western region of Ghana have complained that they have not been paid the full compensation due them and have resolved to take back their land if compensation is furthered delayed by the mining company. Chirano is a subsidiary of Kinross Gold Corporation of Canada. The dispute between Chirano Gold mines and landowners and farmers dates back to between 2004 and 2006 when they company paid compensation to farmers based on GHC 2.5 per matured cocoa tree "after falsely representing to the farmers...that the government of Ghana's approved rate of compensation was GHC 2.3 per matured cocoa tree." (<http://twinafrica.org/landowners.html>). The matter was repeatedly taken to court; eventually, the Minister of Lands and Natural Resources intervened in the farmers' favour. Despite the intervention, as of this writing, Chirano Gold has still not fulfilled the full compensation of the farmers' crops and land.

Considering that it takes more than three years to foster a cocoa plant before it begins bearing fruit, and that the cocoa plant has a lifespan of more than 30 years (both very conservative estimates), no rational farmer will agree to his/her cocoa farm of, say, 10 years of age being destroyed even if he/she is promised the most attractive compensation, let alone in cases where the farmers claimed that no compensation was paid to them, and in others that the compensation was, "woefully inadequate" (Ayelazuno, 2012). According to Daniel Owusu-Koranteng, the founder and head of WACAM, an NGO that advocates for human rights protection of the human rights of residents of mining communities, "Newmont paid 69,000 cedis (about \$8)[before the cedi was devalued in 2007] for a cocoa tree to cocoa farmers in Kenyase when a cocoa tree can earn a farmer about half a bag of cocoa beans for a year for about (\$25 per year), and the economic life of a cocoa tree is between 40 and 50 years approximately." (Owusu-Koranteng, 2008:464, cited in Ayelazuno, 2011: 545).

Clearly, the scant amount of money paid to farmers in Sefwi for their crops (2.5 GHC/tree) totalling \$ 0.77 (current cedi/dollar ratio) affirms the ruthlessness of capital in its quest for profits. In any case, even if the compensation were paid in full it can never be adequate enough to mitigate the harm of involuntary displacement that mining causes on these communities. As noted above, the significance of land is more than material. Once a community is involuntary displaced, the effects are perpetual. The compensation dispute between Chirano Gold and Sefwi residents is captured by the metaphor of a "person standing permanently up to the neck in water, where even the ripples can drown them." (Scott, 1976:6; cited in Ayelazuno, 2012:546) Faced with this predicament, Sefwi peasants are endangered by activities of Chirano Gold. As the above story indicates, the community is drowning, and unsurprisingly so, because displacement and inadequate compensation constitutes a great tide than a ripple. Unfortunately, the Ghanaian state that is supposed to protect peasants has been complicit in the areas of forced relocation, displacement and the violence of primitive accumulation. The fact that the state is capital oriented, and is politically and legally organized around transnational corporations in their continuous primitive accumulation in Ghana, illuminates the injustices and plight of some of Ghana's most marginalized people, specifically locals, peasants, and communities in mining areas. In this case the Ahafo and Sefwi communities.

While Chirano have refused to pay the full compensation, they did attempt to assuage the issue by donating two motorcycles for the Sefwi Wiawso 2012 Farmer's Day celebration, perhaps a way to promote their CSR standards amid the ongoing controversy. With farmers demanding more from their government and the company, the situation remains unresolved.



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