

Universal Periodic Review - Ghana (May 2008)

Human Rights violations in the context of large-scale mining operations

Submission by FIAN International

1. This information is submitted by FIAN International, in cooperation with FIAN Ghana and the Wassa Association of Communities affected by Mining (WACAM) in January 2008¹. The FoodFirst Information & Action Network (FIAN) is an international human rights organisation for the human right to feed oneself, enjoying consultative status with the ECOSOC. FIAN Ghana is a national section of FIAN International. WACAM is a Ghanaian non-governmental organisation supporting communities affected by mining.

Summary and recommendations

2. The intention of this submission is to draw attention to the number and intensity of human rights violations in the context of large-scale mining operations in Ghana. The submission is focussing on the development of the situation in the last four years (since 2004). It is important to note though that human rights violations have been persistent in the mining sector in Ghana for a long time. During the reporting period, the expansion of existing as well as the development of new mining operations and the related deployment of the military and Police to the mining areas has led to serious human rights violations in many mining communities in Ghana. Underlying these human rights violations is the conflict over access to and control over natural resources like land and water between local communities and multinational mining companies.

3. The state of Ghana is facing the challenge to respect, protect and fulfil human rights in the mining communities of the country. The Ghana Commission for Human Rights and Administrative Justice (CHRAJ) has recently investigated the human rights situation in mining communities in Ghana but has yet to come out with a final report. FIAN and WACAM recommend that the government of Ghana should

1. guarantee effective remedies for victims of state and corporate violence in mining communities
2. ensure that perpetrators acting on behalf of the state or private companies are prosecuted
3. put in place measures which will prevent further human rights violations in mining communities

4. Recommendations for measures to be taken by the government to prevent further human rights violations in mining communities :

1. Ensure that farmers receive adequate compensation and access to alternative farm land according to Section 74 of the Minerals and Mining Act of 2006; the government should ensure that Parliament develops the supporting Regulation on Compensation Principles provided in the Act as a matter of urgency.
2. Strengthen the mandate and the capacity of the Environmental Protection Agency (EPA) so that it can effectively prevent the contamination and destruction of water sources
3. Enable the Commission for Human Rights and Administrative Justice (CHRAJ) to play a decisive role in investigating alleged human rights

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violations in mining communities, in revising legislation and in human rights education

4. Immediately halt the 'Operation Flush Out' of the military and the police against small-scale miners and to investigate alleged human rights violations committed by military and police in this context
5. Issue directives regarding the permissibility of deployment of personnel of the Ghana Armed Forces in domestic law enforcement operations
6. Ensure that local police is able and trained to act independent of the interests of multinational mining companies

Economic, social and cultural human rights in the context of mining activities

5. Mining is an important economic sector in Ghana. Gold accounts for about one third of Ghana's export earnings. Diamonds, Bauxite and Manganese are other important products of the mining sector. The sector is dominated by foreign companies. While mining has an important role for export earnings, it is estimated that it only contributes about 5 to 6 percent to GDP. The contribution of Gold mining to GDP is between 1.8 to 2 percent. Surface mining is today the major form of extraction of mineral resources in the country. Large areas of the land have been given out for exploration or eventually exploitation. In the Wassa West District, for example, forty percent of the total surface is covered by mining concessions. The resulting scarcity of land and agricultural opportunities leads to serious problems of landlessness and unemployment in mining areas. Surface mining is a highly mechanised economic activity which does not generate a lot of employment, especially not for unskilled labourers.

6. Surface mining usually requires the displacement of farmers from their land. Depending on the size of the mine several thousand farmers might be affected. In Ghana, cocoa is the major cash crop for small-scale farmers. Experience over the last decades has shown that compensation provided to farmers for their cocoa plantations has been grossly inadequate. In some cases, farms have been destroyed without the consent of the farmer. As a result, affected farmers become impoverished and are unable to send their children to school, pay medical bills and to invest in a new farm. In addition, mining activities often involve the destruction of forests which provide families with food or fire wood. This poses a severe threat to their right to food, health and education. In 2006, a revised Minerals and Mining Act entered into force, including stronger provisions on compensation. Section 74 of the Minerals and Mining Act of 2006 (Act 703) provides for compensation principles which should form the basis of compensation payment that takes into account the loss of earnings for the farmer, the life expectancy of the crop, destruction of the surface of the land etc. However, what is lacking so far is a regulation passed by Parliament which would give clarity to the precise nature of the compensation principles as provided for in Section 74. The government set up a Technical Committee to draft the regulation. The committee has completed its work but the draft regulation is yet to be subjected to stakeholder discussions before being presented to Parliament.

7. Communities living in the vicinity of mining projects face major problems in accessing safe drinking water. The diversion of rivers, the building of dams and the lower level of ground water as a result of large-scale mining activities threatens the physical access to water. Contamination of rivers and groundwater with heavy metals is a major health threat. Several communities have been exposed to cyanide spills. The Environmental Protection Agency (EPA) is grossly understaffed to afford adequate protection to the communities.

8. In Ghana, an estimated 300,000 men, women and children are engaged in artisanal activities in gold, diamond, sand and salt mining. As in other countries, artisanal mining (galamsey) is a poverty-driven activity which is taken up in the absence of other employment opportunities. Galamsey use mercury to extract the gold from the ore, thereby posing a major threat to their health and to the environment. Many galamsey experience difficulties in

legalising their activities, which exposes them to the threat of being harassed by police and military. Also, major conflicts have developed between galamsey and companies operating large-scale mines who accuse them of illegal activities on their concession. It is important to decriminalise Galamsey and then target the operators for education and research to reduce the environmental degradation and problems associated with the use of mercury

Militarization and human rights violations in mining areas

9. FIAN and WACAM are very concerned about the increasing deployment of military and police personnel in the country's mining districts, both in traditional mining areas and in areas where exploration or exploitation has started only recently. The deployment of military personnel to mining areas has led to a number of human rights violations in these areas. Mining related human rights abuses involving the police and the military have been reported from the Wassa West District and the Bibiani-Anhiawso-Bekwai District, both in Western Region; from Obuasi and the Amansie West District in Ashanti Region; from the Asutifi District in Brong Ahafo region as well as the Birim North District in the Eastern Region. For a non-exhaustive list of human rights abuses by military and police personnel in 2005-2006 see annex.

10. The government of Ghana has so far failed to issue directives regarding the constitutional responsibility of the Ghana Armed Forces and the Ghana Police Service to uphold the rights of citizens. It has also failed to issue directives regarding the permissibility of deployment of personnel of the Ghana Armed Forces in domestic law enforcement operations; in particular communities affected by mining, (other than as provided for in Articles 31 and 32 of the 1992 Constitution) including;

- The circumstances in which domestic military deployment may be permitted;
- Public officials with authority to authorise military deployment;
- The procedures which duly authorised public officials must follow; and
- The rules which military officers participating in such operations must follow.

11. Reports from mining communities who are victims of human rights violations indicate a high degree of complicity of multinational mining companies in these human rights violations. In many cases it is private security personnel of mining companies that take the lead. Security contractors of mining companies assisted by armed police and soldiers often conduct "operations" ostensibly to arrest alleged illegal small scale mining operators (galamsey) in the concessions of large-scale mining companies. These "operations" tend to be violent and bloody invasions of communities resulting in gross human rights violations. Since November 2006, the military and police in Ghana have been conducting a country-wide operation named 'Operation Flush Out', during which hundreds of galamsey were forcefully removed from the land they were working on. An unknown number of galamsey has been shot, beaten and maimed by members of the private and state security forces, their equipment was destroyed. Companies regularly use the media to threaten galamsey and community members that they will bring in the military. The latest of these threats was made by the Managing Director of the Obuasi Mines of AngloGold-Ashanti (AGA) in early January 2008².

12. Reports in the media and from residents of mining communities indicate that multinational mining companies provide support and logistics for the deployment of state security agencies into mining communities. In October 2007, the Ghana News Agency (GNA) reported that the US-based gold mining company Newmont Ghana Gold Limited (NGGL) had provided funding for a new police station in Birim North District where NGGL is intending to open the Akyem gold mine.³ This compromises severely the independence of the police from

² <http://allafrica.com/stories/200801080555.html>

³ http://www.ghana.gov.gh/ghana/multi_purpose_police_station_inaugurated_new_abirem.jsp

the company. There are reports that mining companies, the police and in some cases even the judiciary are collaborating to intimidate community members. An example is the arrest of five community members and one official of an international advocacy organisation in November 2005 at Yamfo on the basis of a false complaint by officials of Newmont Ghana Gold Limited (NGGL). The community activists were intimidated in the Circuit Court at Sunyani. When they refused to plead guilty on the advice of the trial judge, they were committed to two weeks imprisonment and the trial judge stated that he was setting them as an example because mining communities were disturbing mining companies. The Public Order Law of Ghana does not require NGOs and communities to seek police permit when holding meetings but the activists were arrested on the charge that they did not seek police permit before having a meeting and also they used Newmont's name to convene a meeting. Another form of intimidation is the denial of access to farmland or the destruction of crops and fishponds (see annex for examples).

Annex: Human Rights abuses by police and military personnel in 2005 - 2006

This list is not exhaustive. Names and contact details of the victims can be provided to the OHCHR if necessary.

1. Physical violence by police and military personnel during demonstrations

On June 13th, 2005 the military allegedly opened fire on demonstrators in Prestea. They shot and wounded seven (7) people who were protesting against the adverse effects of the operations of Bogoso Gold Limited (BGL) on their community, in respect of land, health and water resources.

On November 2, 2005, farmers who embarked on a demonstration against Newmont's Akyem mine on compensation issues were greeted with gunshots and two people died.

On June 6, 2006 the youth of Ntotroso in the Asutifi District of Brong Ahafo Region went on a peaceful demonstration against the perceived failure of Newmont Ghana Gold Limited (NGGL) to keep promises of employment it had made to them. The afternoon after the demonstration, three (3) vehicles full of soldiers arrived at Ntotroso. On arrival the soldiers, numbering about 60, commenced an indiscriminate assault on the people using canes and the butt of their guns. They went from house to house, brutalising and forcing them out of their dwelling places. An eighty year old blind ex chief of Ntotroso was beaten with a cane by the soldiers when they entered his house and accused him of participating in the demonstration, his explanation that he was no where near the demonstrators rather elicited more beatings from the soldiers. The wife of another resident of Ntotroso also described how her husband was dragged out of their home and beaten as he nursed a headache. They slapped him and kicked him as he fell on the ground; they then held the gun to the side of his head and dumped him into a military truck which was conveying the arrested residents to the police station. 6 men and 7 women were taken to cells at the Sunayani regional police head quarters.

On June 16th, 2006, villagers from the community of Akoti-Etwiebo went on a peaceful demonstration in protest against the corporate and state injustices around the Chirano gold mine. Police and the soldiers responded swiftly by arresting nine (9) people including one chief and some of his elders. It was also reported that the military and police brutally beat and stripped women naked.

On the 30th of September and 1st October 2007, the Police clashed with people from Teleku-Bokazo, Anwia and Nkroful in the Western Region who had demonstrated against the Australian surface mining company, Adamus Resources with the reason that the operations of the company would have negative effects on them. According to the local people the police shot two people, burnt some houses and broke into some rooms. In all, about 76 people including older people suffered all kinds of molestation. According to the Police, the residents seized one of their guns and also beat up a policeman. Though the brutalities of the police against the citizens had been confirmed, a report of government controlled investigation committee had blamed citizens for causing violence and the report called for the prosecution of many residents. The people of the communities have criticised the report of the investigation committee as biased in favour of the mining company and the Police.

2. Physical violence against Galamsey

On June 21, 2005 a young man was shot by a combined team of police and AngloGold Ashanti security personnel on the mere suspicion that he was engaged in illegal mining on

AngloGold Ashanti's concession in Obuasi. He was seriously injured and has still not recovered.

On or about September 29th, 2005, there was a combined operation by the military, the police and AngloGold-Ashanti Obuasi Mine security in Sanso. The team arrested a 70 year old woman for her alleged involvement in illegal mining activities (galamsey). She was put in the custody of AngloGold Ashanti Obuasi Mine security for about 8 hours.

On April 13th, 2006, a 28-year-old farmer was shot by an unidentified policeman at Nokroful in the Nzema District. At the time it was reported that military and police were patrolling the town every second day, firing shots indiscriminately, which was causing anxiety among the community members. In the mentioned case, the 12 heavily armed police and military men forcibly arrested the wounded man and took him to the Axim police station, even though the traditional leader and his elders were protesting and insisting that he would be taken to a hospital.

On December 5th, 2006, soldiers shot and wounded four galamsey at Prestea, where Bogoso Gold Limited (BGL), a subsidiary of Golden Stars Resources, is operating. Community members have reported that at the time of the shooting about 200 soldiers were deployed in Prestea which has about 20,000 inhabitants.

3. Denial of access to farm land and destruction of crops and fish ponds

In 2005, several hectares of cocoa trees were chopped down in Chirano by soldiers and police working at the behest of the Chirano Gold Mine, which belongs to Canada-based Red Back Mining Inc. The owners of the plantations were not informed about the destruction of their plantations and had not given their consent. The mining company had earlier informed the farmers that they were going to pay them 25,000 cedis per cocoa tree. The farmers had declined the offer explaining that it was too meagre considering how much they have been earning from a cocoa tree and also bearing in mind that the company was not going to give them alternative farmlands.

On February 2nd 2006, a farmer from Teberebie was shot when military prevented him and other farmers to enter their lands on the concession of AngloGold Ashanti's Iduapriem mine. It took almost two hours to get him to a first aid clinic. He has to date not fully recovered.

On November 25th 2006 soldiers acting on behalf of Bogoso Gold Limited (BGL), which belongs to Canadian-based Golden Stars Limited, destroyed 28 fish ponds at Dumasi without the consent of the owners. After persistent protests including demonstrations and petitions to the Ministry of Fisheries, to the Environmental Protection Agency and other bodies, the company paid compensations to owners of 25 out of the 28 fishponds.