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## Ghana's Mining Sector Regime: A Bad Deal for Affected Local Communities

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Meet Nicholas Ennin, a 42-year-old farmer from Etwebo, in the Western Region of Ghana. Around 2003, his farmland and that of over 1000 farmers was taken over by Chirano Gold Mines Limited (then owned by Canada based Red Back Mining Inc. but now owned by Kinross Gold Corp., another Canadian firm), exercising its right when it obtained a mining lease from the Ghana government. Unfortunately for Nicholas and many people like him across the continent, the state insists that its trusteeship or custodianship of the mineral resources and the development of such resources is supreme. This is largely because the mineral resources "belong" to the people (or the country at large) and one person's or a minority's economic

interest should not be allowed to prevent their development, effectively taking away the right of communities to determine what their lands should be used for. Further, institutions established to ensure that concerns of communities in the event of involuntary resettlement are adequately addressed are weak and ill-resourced. Given the prioritization of foreign capital to their local counterparts like Nicholas, state support for agencies that attract foreign investors simply dwarf those created to promote activities of local populations.

It has been well over a decade now and the company has yet not given Nicholas even a cent for his land and destroyed livelihood. This is blatantly an upfront violation to the Constitution of Ghana as well as to the Minerals and Mining Law, both of which require that if someone's surface rights are to be disturbed by mining activities, this person is entitled to "prompt payment of fair and adequate compensation". Nonetheless, Nicholas Ennin and 24 other farmers affected by the activities of Chirano Gold Mines are waiting the benefits of their constitutional right to "prompt payment of fair and adequate compensation".

The reality in Ghana is that the current mining regime presents a bad deal for local communities affected by mining activities. Once the mining lease is granted (along with associated licenses and permits), the company claims that its right to the mineral resources beneath the soil supersedes the surface rights of farmers who have been earning their livelihoods from the lands under which the mineral resources are located. Consequently, mining companies are often able to access the lands while negotiations for compensation are still continuing. In cases where negotiations are quick, affected farmers are able to receive their compensation before mining activities take off. But, in many cases, mining activities begin before compensation negotiations and payments are concluded. And when negotiations drag, often involving litigations, the affected communities really suffer. The case of Chirano Gold Mines over the past decade buttresses this point.

When the company took over the lands of over 1000 farmers around 2003, the farmers demanded compensation payment of 5 Cedi (Ghana's currency) per matured cocoa tree, but the company rejected. The company rather paid 2.5 Cedi per mature cocoa tree between 2004 and 2006 to more than 1000 farmers after informing them that the Government of Ghana approved rate of compensation is 2.3 Cedi per matured cocoa tree. This was discovered to be false as the Government of Ghana approved minimum rate for 2003 was 5.22 Cedi per matured cocoa tree, more than double of what was paid. Twenty four of the affected farmers rejected the rate and refused the company's compensation. These farmers have not received their compensation as the case lies in the courts. These farmers, together with those who received compensation, took the company to court in 2006, when they discovered that the company used a rate of less than half of what was approved as the minimum rate by the government. In 2009, the then Minister responsible for Mines, Alhaj Collins Dauda, intervened and took the matter out of court for settlement. It dragged for a couple years amidst ministerial changes. In 2013, the farmers took the matter back to court and in early 2015, the farmers who initially took the compensation were paid the difference with some interest. The rest are still waiting.

This represents an aspect of the problems and challenges that communities affected by mining activities go through. Another important aspect is the difficulty in finding reliable alternative economic activities to engage, once farming ceases to pave the way for mining activities. With current mining activities being capital intensive, job opportunities for local people who lose their farmlands are limited. Further, the beginning of mining activities increases population as people move in to undertake jobs that cannot be accessed by the locals, largely because the locals lack skills and expertise for such work. This put a lot of pressure on existing infrastructure and social amenities. A visit to mining towns throughout the country reveal the poor nature of infrastructure and social amenities, especially for the locals, as mining workers enjoy relatively better infrastructure and amenities. In a way, an island of wealth is created in an ocean of misery and poverty. This is further compounded by social vices such as armed robbery and prostitution that emerges in mining towns. The same government and state agencies that fail to protect the rights of farmers from the mines also fail largely to ensure that there is adequate infrastructure and social amenities in the communities affected by mining activities. The introduction of "corporate social responsibility" guidelines has marginally improved the lot of mining affected communities. And this is the deal mining communities got from Ghana's mining regime.

Over the past three decades the mining sector in Ghana rebounded, mainly on the back of gold production, thanks to the introduction of a new regime heavily influenced by the World Bank and IMF in mid-1980s. Gold production accounts for more than 90 per cent of the total value of mineral output as well as mineral revenues to the government. Prior to the introduction of this regime, gold production hovered around a quarter of million ounces. In the past few years, gold production significantly increased and has hovered three million and four million ounces. Besides the revenues to the government, the sector contributes significantly to foreign exchange earnings, accounting for 45 per cent of total export revenues in 2009. In the same year, almost 20 per cent of government revenues were obtained from the minerals sector.

The regime, which provides enormous incentives to mining companies (dominated by foreign capital and control), focuses overwhelmingly on narrow fiscal returns for the government (a minute portion of which is remitted to local communities affected in various ways by mining activities, explaining the aforementioned situation of misery of the people that prevails in mining areas). It, therefore, has little interest in following the real needs of local populations and, at the same time, contributing to broad-based growth and development.

In the regime, the mineral resources are vested in the President in trust for Ghanaians (who own the resources). The president then issues or grants mineral licenses and leases for mining companies who develop these resources (involving exploration and extraction activities) largely for themselves. In lieu of the mineral resources being owned by Ghanaians and other reasons such as exploratory activities undertaken by local agencies, the government is mandated by the law to have ten per cent equity participation in all mining entities. This is not strictly enforced as mining giants such as Newmont Ghana Gold Limited, which produces about 20 per cent of national gold output, is 100 per cent owned by Denver based Newmont Gold Corporation. Consequently, the benefits that accrue to Ghana from the development of her irreplaceable mineral resources (owned by the people) are largely confined to relatively small monetary contributions (mainly taxes and royalties) that mining companies give to the government.

The adoption of the Economic Community of West African States (ECOWAS) Directive on Mining in 2009 brought some relief to Ghanaians, especially for the mining affected communities. Hopes were raised that the mining regime would be reviewed to address the myriad of challenges in the sector. For example, the ECOWAS Directive supports the right of Free, Prior and Informed Consent before exploration begins and prior to each subsequent phase of mining and post-mining operations. If the Directive's principles are ratified by the Ghanaian Parliament for turning them into law, these will give communities the right to say No to future mining activities. However, after six years, it is unclear if ratification of the ECOWAS Directives is being considered. Various stakeholders in the mining sector are being urged to bring pressure to bear on the government to ratify the ECOWAS Directives to enhance a better protection for communities and their rights.

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