

REPORT ON

**WORKSHOP ON LEGAL FRAMEWORK FOR MINING IN GHANA FOR TATALE
AND ZABZUGU DISTRICTS ASSEMBLIES AND OTHER STAKEHOLDERS IN
THE NORTHERN REGION**



28th & 29th November 2017

1.0 Introduction

This workshop on the Legal Framework for Mining was organised for the District Assembly members of Zabzugu and Tatale- Sangule Districts. Because of the large number of participants that were involved, the workshop was held separately for the two district Assemblies on the 28 and 29 December respectively.

The participants were drawn from the district assembly members, the decentralised agencies and departments and other stakeholders in the two districts. The Participants include the Assembly Members, staff of the District Assemblies (Planning officers), National Commission for Civic Education, National Disaster Management Organisation, the Police Service, Immigration Service, Agric, Youth Employment Agency etc.

In total the participants for the two workshops were One Hundred and Sixty (160) made up of 148 male and 12 female representing about 92.5% men and 7.5% female. The Zabzugu District recorded 63 participants made up of 57 male and 6 female while Tatale – Sangule District recorded 97 participants made of 90 male and 7 female. In percentage terms Zabzugu District had 90% for men as against 10% for female while Tatale -Sangule had 92.8% for men and 7.2% for female.

Prayers were offered the participants in the two districts to commence the workshop and then followed by welcome addresses.

The welcome address for the Zabzugu District was given by the District Chief Executive- DCE, Zabzugu District) Hon. Ahmed Abubakari Iddrisu and the District Coordinating Director Cyprin CK Douchebe chaired the program.

The DCE in his address said every country is business oriented, in order to aid its young people to secure employment. However, these businesses are to be done with no or less environmental and social adverse impacts. He stated that every business must respect the laws governing the nation they are operating in. It is therefore vital for the citizenry to be aware of such laws He stated that he was very happy that the organizers of the workshop thought worthwhile to sensitize the Assembly Members and others of the laws on mining in the country and encouraged the participants to be attentive and gain as much as possible from the workshop to aid them in the advocacy and monitoring of the iron ore exploration to prevent possible environmental and social impacts. He wished the traditional chiefs in the area were in the workshop. This notwithstanding he expects the honourable members present

to collaborate with their chiefs for effective monitoring if the iron ore exploration comes on.



The DEC Hon. Ahmed Abubakari Iddrisu for Zabzugu District Assembly presenting his welcome address at the workshop

The welcome address for the Tatale-Sangule District Assembly was given by the District Coordinating Director who also doubled as the chair person for the program. In his speech, he welcomed all the organizers and encouraged them to organize more of such workshops in the district to enlighten the people in the District and that the assembly is willing to collaborate with the organizers for an effective exploration of the iron ore. He mentioned that they as an assembly should realise that NGOs such as the organisers of the workshop are here to extend an aiding hand for the development of the district. Therefore, all hands should be on deck to support their work. He ended by saying that our legal framework is not practically enforced and so the citizens lack such knowledge as result such a workshop is inevitable.



The DCD Gustar Atu for Tatale-Sangule District Assembly welcoming participants to the workshop

Purpose of the workshop

The Purpose of the workshop was outline by Augustine Niber, the Executive Directive of CEPIL. Mr Niber mentioned that this project is being implemented by four (4) NGOs with sponsorship from Open Society Initiative for West Africa (OSIWA) . These NGOs are: the Center for Public Interest Law (CEPIL), the Centre for Environmental Impact Assessment (CEIA), the Africa Centre for Energy Policy (ACEP) and Wacam. He stated that in 2015, these NGOs performed baseline assessment in the Sheni area upon the discovery of the iron ore. Mining operations, as he mentioned, whether small or on large scale, are inherently disruptive to the environment. In most cases, community vulnerability increases once the decision to extract is taken, and especially when community people lack knowledge of the operations of the mining company as well as the laws that govern the payment of compensation for the deprivation of the use of their land and property.

He stated that they are working to sensitise key stakeholders on possible environmental and social impacts of the exploration of iron ore in the Sheini community and it is upon these bases that this workshop was organised to educate assembly men and women in Zabzugu and Tatale districts concerning the effects of the extraction of the iron ore.



Augustine Niber of CEPIL outlining the purpose of the workshop

2.0 Topic: Overview of the mining sector in Ghana

Mr Augustine Niber, started the presentations with a discussion on the “Overview of the mining sector in Ghana. He traced the history of mining in Ghana dating back to Gold Coast and the three jungle booms in the sector. He enumerated the benefits of mining to the country. This includes the contribution of mining to the gross domestic product of the country and its contribution to tax revenue over a period, payment of royalties and the provision of employment.

Mr Niber also discussed the cost or disadvantages that mining has brought to the country. Mr Niber stated that mining is an enclave activity with limited links with other sectors of the economy as enclave economic activities are predatory on other sectors of the economy. He mentioned land use conflicts and loss of Agricultural lands. Such as the displacement of communities from their farmlands without the payment of compensation and the impact of mining on the environment and water in mining communities. Mr. Niber mentioned the destruction of sacred/cultural sites, increased mining related diseases e.g. HIV/AIDS, Malaria, Skin diseases, loss of biodiversity, human rights abuses and the creation of ghost towns among others

At the end of the presentation, participants expressed some concerns and asked question. In reference to an example Mr. Niber cited in some mining areas where women who have property rather allowed their husbands to make the claim for compensation, a participants wanted to know if it was the case the that women were not bold enough to claim compensation themselves for an area belonging to them, which is intended to be a mining area. Another wanted to know what percentage of the royalties are given to the district Assemblies in the mining area while another wanted know how many years farmers whose lands are affected are being compensated?

In response to the questions Mr. Niber stated that women at the time were not bold enough to make claims for compensation for their affected property but rather do it through their husbands. Regarding the second question Mr. Niber stated the next presentation will answer it. In respect of the third question he stated that compensation is paid only once.



Augustine Niber of CEPIL making a presentation at the workshop

3.0 Topic: The Legal framework for mining in Ghana

The next presentation was on the Legal framework for mining in Ghana and was facilitated by Augustine Niber, of CEPIL. Mr Niber stated that mining in Ghana is governed by the Minerals and Mining Act of 2006 (Act 703) and about six other regulations that were passed in 2012. Mr. Niber stated that under Act 703 every mineral in its natural state in, under or upon land in Ghana, rivers, streams, water-courses throughout the country, the exclusive economic zone and an area covered by the territorial sea or continental shelf is the property of the Republic and is vested in the President in trust for the people of Ghana. Therefore the President is vested with authority to acquire any land, or to authorize the occupation and use of any land in the country if such land is required for the development or utilization of a mineral resource.

He noted that where a mineral right is granted the mining company has the right subject to obtaining the requisite approvals or licenses and the payment of compensation to enter onto the land the subject matter of the grant. Mining companies can obtain licence under the Water Resources Commission Act 1996 (Act 552), for purposes of or ancillary to the mineral operations obtain, divert, impound, convey and use water from a river, stream, underground reservoir or watercourse within the land the subject of the mineral right. This he says allows

mining companies to divert water from flowing to adjoining communities or dealing with water to the detriment of communities who also depend on those streams and rivers for water.

He stated that under the law mining companies have obligations to the government which include the requirement to pay annual ground rent as may be prescribed to the owner of the land or successors and assigns or to the Office of the Administrator of Stool Lands if stool land, annual mineral right fees to the Commission, the payment of royalties and taxes where applicable to the government

The companies also enjoy some benefits such as exemption from the payment of customs import duty in respect of plant, machinery, equipment and accessories imported specifically and exclusively for the mineral operations, exemption of staff from the payment of income tax on furnished accommodation at the mine site, Immigration quota in respect of the approved number of expatriate personnel and Personal remittance quota for expatriate personnel free from tax.

According to him the law also provide the mining communities the right to graze livestock upon or to cultivate the surface of the land in so far as it does not interfere with operations of mining company the right to compensation for any disturbance of the rights of the owner or lawful occupier of the land. He stated that the claim for compensation is by an application to the mineral rights holder and copied to the Minister and Land valuation Board. He further stated that the amount of compensation is determined by agreement between the parties and when the parties fail to reach an agreement the matter shall be referred by either party to the minister for determine the compensation payable

He also stated that for community people who have to be resettled in another land the resettlement must take into consideration suitable alternate land, have due regard to their economic wellbeing, respect for social and cultural values and cost cost of resettlement is to be borne by the mining company in agreement with the occupier. He stated that the buildings to be erected must be in compliance with town and country planning laws. A resettlement monitoring committee comprising DCE, District Engineers, Town and country planning officer, an assembly member, two persons nominated by inhabitants; a man and a women, regional land officer, representative of the mining lease holder and representative of the Minister are required to monitor the implementation of the resettlement plan developed.

Mr. Niber concluded his presentation by observing that the mining laws of the country is not in accord with concept of “Free Prior and Informed Consent (FPIC)”, has no provision on “No go Zones” to protect communities and national landmarks. It also has no provisions on Human rights, Polluter Pays Principle and on cyanide pollution.

Some concerns were raised:

The DCD for Zabzugu suggested that there should be a minimum fund for all assemblies, and then an added fund to the assembly within the mining community.



The DCD Cyprin CK Douchebe for Zabzugu District Assembly asking a question

Some questions were also raised such in cases where people compensated for are to be resettle don't like the resettlement, what should be done. (Yussif Abubakar, Youth employment agency) and who pays for the resettlement? (Mohammed Shaibu, Community member). Mr Niber responded that the company will have to work with the committee and the affected to design an acceptable resettlement sites for the affected people and cost is to be taken by the company.



Participants asking questions during the workshop

The DCE for Zabzugu wanted to know if the assembly have power to change initial agreement through by laws? (DCE). Mr Niber responded that the assemblies cannot change the mining agreement through by laws but if they have bylaws that require people resident within the assembly to comply with the mining company will also have to comply with such bylaws operating in the District.

4.0 Topic: The Environmental impact assessment process

The last topic was on Environmental impact assessment process which was also facilitated by Augustine Niber, of CEPIL. He stated that the Environmental Impact Assessment (EIA) process is governed by the Environmental Assessment Regulations 1999, LI 1652 which was enacted in accordance with the Environmental Protection Agency (EPA) Act 1994 (Act 490). The Environmental Assessment Regulations govern the processes for the conduct of environmental impact assessments (EIA) and thus the acquisition of the environmental permit in the country. He noted that the EIA is specifically aimed at an attempt to reduce the negative environmental impact arising from a mining project. He stated that an EIA is a planning and decision making tool applied to a proposed project the implementation and development of which may have a significant impact.

Mr. Niber stated that the key actors involved in the EIA process include the

- Proponent(Investor, Prospective Developer)
- Environmental Protection Agency (EPA)

- Relevant Metropolitan/Municipal/District Assembly
- Relevant Ministry and departments
- Interested Parties (including communities) etc

He added that that undertaking the following activities will require an environmental impact assessment to be conducted on them. They are;

- Transportation(airport, roads highways harbours etc)
- Agriculture(Irrigation, land(40 hectares)
- Health(Hospitals)
- Mining(gold diamond etc)
- Energy (Oil & Gas fields)
- Tourism(Hotels)
- Manufacturing(Chemicals)
- Forestry/wildlife
- National parks

He noted further that all companies whose activities will affect the environment are required to obtain an environmental permit. No permit is issued unless an EIA is conducted. In other to obtain an Environmental permit a company is required to send an application to the EPA which will intend take it through the EIA Procedures.

Mr. Niber stated that the application will be registered and taken through the screening process and if it is found adequate an environmental permit will be issued. If it is not adequate the company will have to prepare a scoping report which will be the basis for the preparation of an environmental Impact Statement (EIS). Mr. Niber stated that a public hearing will be required as part of the EIA process where the EPA deems necessary or where there is adverse public reaction to the project or the project will lead to the dislocation or resettlement of communities. He stated the comments from the public hearing and EIS is reviewed by the EPA and a decision is taken.



Participants asked questions at the end of the presentation. A participants wanted to know how an ordinary citizen can get to know about these processes? (Mohammed Shaibu,) Mr. Niber responded that through the preparation of the scoping report and the public hearing citizens get to know about the process.



At the end of the workshop and on the Way forward Mr. Niber asked participants to indicate what they have benefited from the workshop and what they aer going to use the knowledge obtained

- ✓ As an individual
- ✓ As a group

- ✓ As a district assembly
- ✓ As a nation

Participants shared how this programme had been beneficial to them and in diverse ways in which they hope to implement whatever they have learnt for the betterment of Zabzugu and Tatale- Sangule Districts.



Closing remarks by DCE for Zabzugu.

He noted that they as an Assembly had ample education from the workshop have learnt a lot from it. He entreated all participants to make good use of the knowledge to protect their environment from degradation. He thanked the organisers of the workshop and noted that the assembly do not have ample information about the iron ore in the Sheini area and hope the organisers will provide them with documentation on the iron ore for the assembly to inform itself of the happenings in the area. He also took the occasion to express his concern about sand wining and red rose wood harvesting in the two districts and asked the assembly members to help the assembly stop the harvesting of red rose wood and regulate sand wining in the zabzugu District in particular.

Mr Niber on behalf of the four organizations and OSIWA also thanked the two Assemblies for their cooperation in organising the workshop and the active participation in the workshop of the DCE for Zabzugu and DCDs of Zabzugu and Tatale- Sangule. He also thanked the

participants and indicated that it is his hope that this will not be the end of the interaction between the four organisations and the assemblies and communities but believe it will continue for a long time to come.

At the end of the workshop prayers were offered to close the workshop.



The DEC for Zabzugu District Assembly closing the workshop

