

FACTSHEET – UPR 2017, GHANA

3rd CYCLE UNIVERSAL PERIODIC REVIEW

BUSINESS AND HUMAN RIGHT IN THE EXTRACTIVE, ENVIRONMENT AND CLIMATE CHANGE SECTOR IN GHANA.

SUMMARY OF KEY ISSUES FROM PREVIOUS UPR CYCLES AND RECOMMENDATIONS MADE

At the last UPR cycle in 2012, there were 9 CSO submissions with over 120 recommendations with limited submissions and recommendations from the extractive, environment and climate change sector. The 2017 UPR cycle is the first time CSOs in the extractive, environment and climate change sector is submitting a report titled *“BUSINESS AND HUMAN RIGHT ABUSE IN THE EXTRACTIVE, ENVIRONMENT AND CLIMATE CHANGE SECTOR IN GHANA”*.

CHALLENGE OVERVIEW

1. FAILURE TO ADHERED TO INTERNATIONAL AND NATIONAL LEGAL FRAMEWORKS

- A. Lack of consent or community participation in decision making process
- B. Violating international protocols on forest and climate change
- C. Inadequate constitutional, legislative, human rights and policy framework in the extractive sector
- D. Discrimination of women in the extractive sector
- E. Inadequate review compensation redress mechanisms for mining communities
- F. Limited access to Human Rights

2. ILLEGAL MINING

- A. Pollution of drinking water, land and environmental degradation
- B. Increasing in strange diseases in mining communities

3. EXCESSIVE USE OF FORCE BY SECURITY PERSONALS

4. LACK OF ACCESS TO VITAL INFORMATION

5. COMPULSORY CHILD LABOUR IN THE EXTRACTIVE INDUSTRY

RECOMMENDATIONS

Government should:

1. Establish systems to implement the Food and Agriculture Organization of the United Nations (FAO) Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forest.
2. Take immediate steps to ratify and domesticate international conventions provisioned and the various instruments into the extractive laws of Ghana.
3. Immediately outline a roadmap for a legislative framework that clearly acknowledges and administers land as a natural resource, clarifying use and ownership rights.
4. Review the impact of land acquisition on women, and consult with all members of the affected community, including women.
5. Review Environmental Assessment Regulations (1999) to domesticate free prior and informed consent.
6. Develop guidelines on large scale land acquisition to address negative impacts of such acquisitions on women.
7. Repeal section 75 of the Minerals and Mining Act, 2006 (Act 703) which limits the right of affected persons to invoke the original jurisdiction.
8. Amend Mining Act, 2006 (Act 703) to introduce a responsible and well regulated medium-scale mining regime to regulate business between nationals and foreign nationals.
9. Institute very open and transparent systems with investigations of public killings involving the police or security agencies.
10. Develop systems to publicly make accessible, all relevant natural resource and environment documents such as contracts, EIS particularly mining, logging and electromagnetic frequency contracts.
11. Conduct cost benefit analysis of the extractive sector and produce a periodic state of the environment report.

RECOMMENDATIONS

1. FAILURE TO ADHERED TO INTERNATIONAL AND NATIONAL LEGAL FRAMEWORKS

A. LACK OF CONSENT OR COMMUNITY PARTICIPATION IN DECISION MAKING PROCESS

The principles of free, prior, and informed consultation and consent (FPIC) in the context of development projects that affect local people's lives, livelihoods, and customary land rights are binding on Ghana due to their obligatory status under customary international laws. These principles are also enshrined in the international instruments, which apply to Ghana even though it has not effectively domesticated them in the Ghanaian policies, Laws and Regulations. This has resulted in communities losing their land right as well as their livelihoods.



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B. VIOLATING INTERNATIONAL PROTOCOLS ON FOREST AND CLIMATE CHANGE

Moreover, Ghana is a state party to the Convention on Biological Diversity (CBD). While Ghana's accession to the CBD is not new to this reporting period, we highlight it in this submission because of Ghana's violation of the CBD's protections for Globally Significant Biodiversity Areas such as Atiwa, Tano Offin, and Furi Forest Reserves for mining and logging in 2015. These actions by State Party are in direct violation of commitments under the United Nation Framework Convention on Climate Change (UNFCCC) and the achievement SDG Goal 13. In addition, businesses violate the UN Guiding principles on Business and Human rights which sets global standards for businesses in the extractive industry around the three pillars.

C. INADQUATE CONSTITUTIONAL, LEGISLATIVE, HUMAN RIGHTS AND POLICY FRAME-WORK IN THE EXTRACTIVE SECTOR

The white paper from the Constitution Review Commission (CRC) after extensive consultation with Ghanaians made a number of recommendation with respect to the human rights implications of land and natural resource exploitation. Despite Government acquiescence constitutional reform has not progressed.

D. DISCRIMINATION OF WOMEN IN THE EXTRACTIVE SECTOR

Gender disparity in the access, ownership, and control of land and other natural resources is stewed against women. Even where women have access to land, it is often men who have the authority or control and the tenure right to dispose of the land without consulting with or factoring in to women's rights.

In Ghana's pace of industrialization where there is large scale of land acquisition, woman in particular receive woeful and inad-equate compensation for loss of land, and don't have alternative lands to work on for their livelihood. In most cases compensa-tions are paid for cash crops which is male dominated leaving out food crops which are farmed by female thereby discriminating against woman. This is a major threat to the achievement of SDGs:

- Goals 4 Achieve gender equality and empower all women and girls
- Goal 8 Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent

work for all

E. INADQUATE REVIEW COMPENSATION REDRESS MECHANISMS FOR MINING COMMUNITIES

The Minerals and Mining Act 2006 (Act 703) empowers the Minister to resolve conflicts on compensation payment between mining communities and mining companies. Where communities are not satisfied, the high court can only invoke a supervisory jurisdiction, rather than an original jurisdiction to resolve the dispute. Furthermore, the process for resolving such disputes is at the discretion of the Minister, which from practice can run for up to 10 years. This requirement prejudices communities suffering from the abusive operations of mining companies and does not provide any relief to the community while issue is being handled. This goes against the third pillar of the UN Guiding Principle which calls for access to effective remedy where people's human rights are harmed.

F. LIMITED ACCESS TO HUMAN RIGHTS

Communities' economic, social and cultural rights are difficult to enforce through the courts. Practical obstacles include the costs of pursuing a claim and the difficulty of obtaining affordable legal assistance, as well as the weak capacity of judges and local courts to adjudicate matters relating to business impacts on human rights. Lower courts at the local level, in particular, are often subject to political and business influence, which hamper the ability of victims to obtain effective remedy. In addition, recom-mendations from alternative dispute resolution mechanisms are usually not complied with.

2. ILLEGAL MINING

A. POLLUTION OF DRINKING WATER, LAND AND ENVIRONMENTAL DEGREDDATION

Illegal mining has created an environment and natural resource crisis in Ghana and this is carried out in forest landscapes, agricul-tural land and in river bodies. As a result, water bodies have been silted, and heavily pol-luted with heavy metals such as cyanide and other toxins. According to the finding by the Commission of Human Rights and Administrative Justice (CHRAJ) 2008 50 rivers and streams were destroyed in Obusai area.

ABOUT THIS FACT SHEET

The Kasa Platform / Natural Resource and Enivornment Sector, under the auspices of the Ghana Human Rights NGOs Forum.