

**KWAME NKRUMAH UNIVERSITY OF SCIENCE
AND TECHNOLOGY, KUMASI**

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**Land Compensation and Community
Expectation in Mining Context:
A Case Study of Ahafo Gold Mine**



By

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**LAND COMPENSATION AND COMMUNITY EXPECTATION IN MINING:
A CASE STUDY OF AHAFO GOLD MINE**

BY
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**A Thesis submitted to the School of Engineering
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of
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College of Science**

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DECLARATION

I hereby declare that this thesis is the product of my own work, which is being submitted for Master of Environmental Resource Management. And that to the best of my knowledge, it contains no material previously published by another person or material which has been accepted for the award of any other degree of the University, except where due acknowledgement has been made in the text.

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DEDICATION

This piece of work is dedicated to key stakeholders in the Ghana mining industry.

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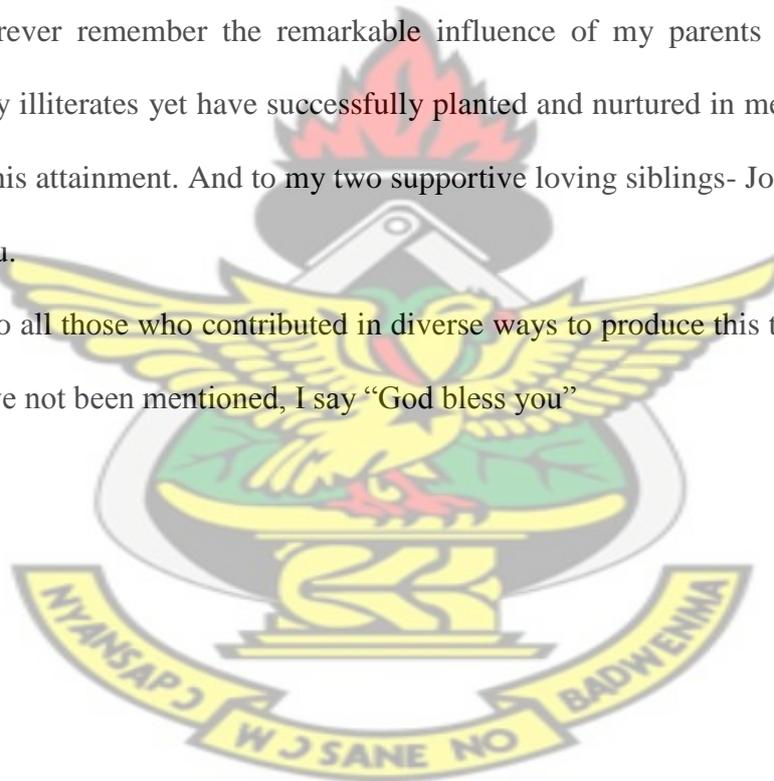
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I appreciate the favour of God upon me during this academic exercise. God may your name be glorified!

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ABSTRACT

The increasing industrial surface mining operations in Ghana and the consequent land takes have raised major issues regarding the nation's compulsorily takings statutes in mining context. The seeming unfulfilled land compensation expectation in the mining communities has served as recipe for conflict between the mining companies and their host communities. Ahafo Gold mine project located in Brong Ahafo like any other mining project has suffered from such community concerns on compensation.

Using mainly qualitative methodological approach, the thrust of the research, was to explore the legal provisions and principles in land acquisition and compensation system in mining context, in relation to community expectations in Ahafo – Ghana. This was executed with the view to identifying strategies that are likely to enhance the practices and principles in land taking and compensation for sustainable mining communities.

The analysis of the results indicated that there exist limitations and gaps in the nation's statutes on land compensation if benchmarked against other international standards. Other issues were lack of mutual understanding on scope and method of assets assessment as well as the incompetence of indigenous people in compensation negotiation. Generally the communities regarded their compensation expectations as normal based on perceived loss to the mine and quest for sustainability, while the company considered them as unrealistic and arbitrarily based. And the major sources of conflicts identified were unfulfilled compensation expectations, speculative developments and development constraints perceived imposed by the mining statutes.

Based upon the analysis, it is reasonable to assert that is imperative to review and streamline the land compensation statutes and practices to facilitate sustainable

mining. Also the situation requires strategies that will enhance assessment and negotiation of compensation as well as cause government to perform facilitative and reconciliatory role in the mining land taking process. And commit the three major actors in mining – the government, the community and mining company to land take management, and also implement payment of .a solatium or premium to compensate for the compulsory nature of the acquisitions.z

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CHAPTER ONE

1.0 INTRODUCTION

An effective development of natural resources, particularly in the developing countries is often considered as a condition for economic growth. In 1995, direct foreign investment in developing countries was valued at \$90,000 million, while capital expenditures on mining alone were estimated at \$20,000 million for the period 1995-2000 (MERN, 2007).

It appears mineral resource extraction plays an important role in the economic development of most developing countries, including Ghana. For instance in Ghana the mining sector accounts for approximately 27.04% of national tax revenues (Ghana Chamber of Mine, 2012). The sector directly contributed 6% of the country's GDP and more than 40% of the country's total exports (MBendi, 2007; Lahiri-Dutt et al, 2007; Global Business Report, 2010; Aryee, 2011; Ghana Chamber of Mines, 2011).

The benefits notwithstanding, the operation of mining has an adverse impact on the environment and the host communities (ISODEC, 2003; Akabzaa, 2000); particularly, rural communities where sustainability unavoidably depends on the land. Mining should not be allowed to impact heavily on the sustainability of the host community particularly in land acquisition and resettlement or displacement. Given that compulsorily land taking, if not adequately compensated leads to landlessness, loss of livelihood and increased poverty (Larbi et al, 2004). For instance, chief of Hweakwae (North Birim), complained that large number of his community members have lost their farm lands as a result of increased mining activities leading to food shortage and joblessness (Ghanadistrict.com, 2011). It is therefore necessary to unearth the

dynamics or issues involved in ensuring enhanced land resources compensation to bring balanced sustainability to bear on both the mining company and the mining community. Using mainly qualitative and quantitative methods, the research is aimed at exploring the extent to which land compensation could be enhanced to meet community expectation and ensure mutual sustainability of Mining Project impacted communities and the mine; using a case of mining Project communities in the Ahafo Gold mine.

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1.1 Statement of the Problem

Following independence, Ghana's mining industry has undergone various changes. That is the mining companies have moved from predominantly state-controlled to private ownership (Akabzaa and Dramani, 2001). The private-led companies primarily employ surface mining method as against underground method, partly due to relative low cost of extraction, and near – surface ore location (Boateng, 1997). But Downing et al (2005) observe that significant percentage of the remaining unexploited ore attractive for modern commercial exploitation lie under indigenous lands. For mining companies, the problem is how to get access to the land said to contain this minerals. Majority of such lands are communally owned and different group of people have surface rights which must be compensated for. In most cases the state evokes its powers of eminent domain and compulsorily acquires lands for the mining companies which are also expected to negotiate and pay compensation to the holders of the surface rights. Thus in that instance the owners or occupiers are denied their property rights for public interest, public purpose or public benefit (Viitanen and Kakulu, 2009). Therefore, surface mining coupled with development of ancillary mine facilities have led to forced displacement of population and compulsory denial of property rights and deprivation of owners the land use.

Notwithstanding legal and regulatory requirements for fair and adequate compensation for loss of land in the event of mining project, it has been well documented that effective valuation of the impacts to ensure fair compensation or

sustainable resettlement has not been in existence. Kasanga, (1997a) once argued on behalf of the victims of expropriation at Akontanse (Ghana), that the government approved rates are not “sacrosanct” and do not preclude victims of mining impacts from engaging experts to support them in determining appropriate land compensation. Meaning national valuation rates for crops are not final prices but can be negotiated on. He hinted that the heads of compensation under the law include “compensation for land and its improvements, including crops, disturbance and professional fees (charged by Lawyers and Valuers). He argued further that “any attempt to break the laws, in effect, impoverishes already marginalized rural farmers...and that any investment that induces social unrest and tension, land conflicts and/or the displacement of helpless farmers can never be sustainable”.

An argument that tends to support perceived under compensation is the illusion that project induced environmental effects are not easy to measure in biophysical terms or to value in monetary terms. While these effects clearly have value to society, they are not traded in markets and as such are not priced. For this reason, they do not show up directly in financial analyses and are often ignored particularly in land compensation negotiations. It has been argued that though environmental effects do not have a price yet that does not mean they do not have value (Freeman, 2006). Examples of such effects often neglected in compensation consideration are water quality, fauna and flora.

In Ghana, the process involved and negotiations between mining companies and their host communities on land compensations – crop compensations, deprivation of land use payments and immovable property (structures) or displacement/resettlements entitlements are marked with tensions and stalemates. These situations at times

develop into violent conflicts (demonstrations and road blocks) or non-violent ones such as verbal or written threats to the company and/or withdrawal from the company's engagements (Newmont, 2011; Newmont, 2010).

The mining industry appears economically potent for the country's development; but Aubynn (2003), observes that the most challenging aspect is the resolution of conflicts between mining companies and the local communities. In this case, tension in land compensation negotiations regarding valuing or assessing of environmental or land resources to ensure adequate, satisfying and sustainable land compensation for the dispossessed or the impacted in the mining communities.

The thrust of the research, therefore, is to examine the legal structures and practices in land access and compensation in the mining context in relation to the community expectation on the statutory practices, and environmental values or variables considered for compensation. This is executed in Ahafo - Ghana, with the view to identifying and developing appropriate strategies that are likely to enhance land resource compensation in the mining context.

1.2 Aims and Objectives of the research

The purpose of the study is to explore the legal provisions and principles in land acquisition and compensation system in mining context in relation to community expectations. The specific objectives are to:

- Examine the legal or statutory structures in land taking and compensation in mining in Ghana.

- Examine the practices of Ahafo mine in land access and compensation for its Ahafo Project
- Explore the community expectation on statutes, principles, practices and values/elements considered in land acquisition and compensation in mining
- Identify appropriate strategies that are likely to enhance the practices and principles in land compensation for sustainable mine communities

1.3 The research questions

The study seeks to answer four fundamental questions:

- What are the provisions of the laws, and standards regarding land acquisition and compensation in mining?
- To what extent are the statutes, regulations and standards required in land acquisition and compensation applied in mining context?
- What are the main expectations and source of dissatisfaction of both the communities and mining companies on land compensations (crop, resettlement, and deprivation of use of land and subsequent compensational processes)?
- What strategies could enhance the practices and principles in land compensation in the mining context?

1.4 The significance of the study

It will enable mining companies and relevant stakeholders to understand and appreciate the perception of the resettlement community on environmental impact of mining on their sustainability. It will enlighten potential investors and other relevant stakeholders in the mining sector to appreciate the extent environmental values could be considered to ensure mutual sustainability for the mine and its resettlement

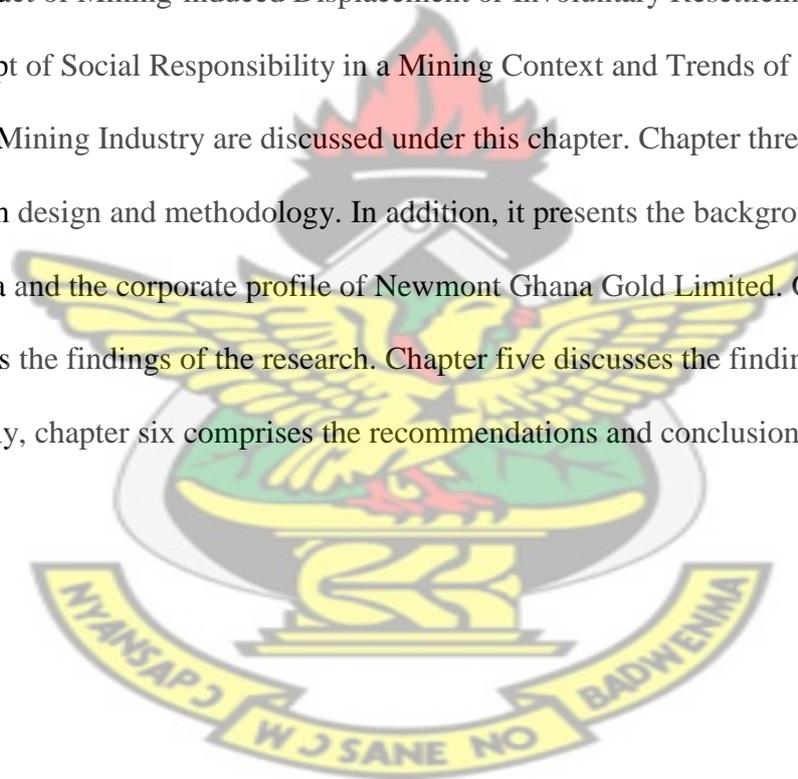
communities in Ghana. Again mining companies can use the findings to strategize to arrest real or potential problems peculiar to mining-induced resettlement community in Ghana. And this strategy will minimize company-community confrontations which will have positive knock-on effect on investment flow into mining sector of the country. Additionally, the study would help resource developers to conceptualize the nature of the mining- induced resettlement community in the Ghana mining industry. Also the study is likely to help other researchers to have a conceptual framework to investigate further into the subject. Finally, the outcome of the research will assist landowners, mining companies, public and private valuers, land administrators and other stakeholders to understand the elements of dissatisfactions in estimating adequate compensation in land acquisition for mining. Otherwise, the affected landowners may refuse to depart from their lands, hence, restrict the flow of land supply for mining development.

1.5 Limitation of the study

The scope of the research was constrained by time, logistics and budget. The scope should have covered all mining communities within Brong Ahafo and even other mining communities in different regions to be able to make more predictable generalization or to ensure confidence in the transferability of the results to other mining communities in the country. Again, the time and logistical constraints did not allow many physical environment variables to be included in the study to fully capture inadequacies in land compensation the study sought to explore. The quality of responses in the interviews was affected by the low educational background of some of the selected participants which necessitated the need for the questions to be interpreted into the local language.

1.6 Organization of the study

The report on the study is arranged in six chapters. Chapter one comprises general introduction, problem statement, the aim and objectives of the study, Research questions, Significance of the study, limitations and organization of the study. Chapter two reviews literature relevant to the problem under consideration. Basically it touches on Impact of Mining, Concept of Environmental Resource Values, Concept of Land and Land Ownership (interest) patterns in Ghana, Principles and Statutes of Compulsorily Taking and Compensation, Resettlement and Indigenous People, Impact of Mining-induced Displacement or Involuntary Resettlement. Also the Concept of Social Responsibility in a Mining Context and Trends of development in Ghana Mining Industry are discussed under this chapter. Chapter three consists of the research design and methodology. In addition, it presents the background of the study area and the corporate profile of Newmont Ghana Gold Limited. Chapter four presents the findings of the research. Chapter five discusses the findings of the study. Finally, chapter six comprises the recommendations and conclusions of the study.



CHAPTER TWO

2.0 LITERATURE REVIEW

This chapter examines the relevant literature and key concepts that frame the study and justifies their use. These concepts include Impact of Mining, Concept of Environmental Resource Values, Concept of Land and Land Ownership (interest) patterns in Ghana, Principles and Statutes of Compulsorily Taking and Compensation, Resettlement and Indigenous People, Impact of Mining-induced Displacement or Involuntary Resettlement. The review also touched on the Concept of Social Responsibility in a Mining Context and Trends of development in Ghana.

2.1 Impacts of Mining

Mineral processing activities involve the use of substances like cyanide and generate by-products, which can be harmful to the environment and create other risks; for instance, geological uncertainty such as collapse of pit wall. Again, it poses risks to sustainability of many people. These include landlessness, homelessness (forced relocation) loss of income (from traditional sources), loss of access to communal resources vital for survival, cultural destabilization, food insecurity and health degradation. Other risks are marginalization, corrosion of the community sovereignty, disruption of the social organization and traditional leadership, spiritual uncertainty, restriction of the civil and human rights, limitation of the capacity to participate in the broader economy/society, and threats from environmental disaster-exposure to noise, vibration, contaminated ground water and pollution due to dust and gaseous emissions (Mines & Communities 2007; Lahiri-Dutt, 2006; Boateng, 2003; MMSD, 2002; Veiga et al, 2001; Akabzaa and Darimani, 2001).

Indeed, the industry appears to pose an enormous problem on sustainability of the host communities. Third World Network Africa (2005) observes that, the mining industry carries with it cost, such as environmental degradation as well as social problems in local communities that need to be taken into account in any cost-benefit analysis of the contribution of the sector to the national economy and development objectives. As stated by Aubynn (2003), theories such as “resource dependency” and “resource curse” have been applied to answer the questions or problems in resource communities. To some extent, these theories best relate to less developed economies, where most of the companies operating in the communities are extra-local with no obligation to invest in the community (Aubynn, 2003).

Lahiri-Dutt (2006) contests that, some theories concerning natural resources—‘resource security’, ‘resource conflicts’, ‘resource wars’ and ‘resource curse’—have entered the popular domain in discussions on resources. To her, their “simplistic and generalizing appeal instigates widespread and uncritical acceptance”. And the import of these theories threatens to undermine possible alternative explanations of mineral use by communities in the third world. She argues that, alternative explanations or approaches exist, that is there is the need to “identify the actors in the area of resource management and listen to their concerns, ensure the relocation of decision making powers, implement pragmatic and realistic social responsibility and again, to understand the ordinary people of the resource community and that instead of criminalizing their protest find ways of compensating their losses”. She concluded by indicating that though minerals occur as natural phenomena, it must be remembered that they are also “constructed by the political economic discourse that describe them”. Therefore, the blessing or curse of it depends on the governance (Lahiri-Dutt,

2006). This is also echoed by Stevens (2003) who observes that clearly the whole issue of what causes a “curse” rather than a “blessing” and how to enjoy the latter and avoid the former is an extremely complex issue. He however hinted that, the distressingly high indices of poverty in the resource community should be blamed on a number of factors ranging from poor governance and corruption to volatility of the mineral market and failure of the host nations to retain fair share of profit from mineral extraction.

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Ambali (2005) indicated that, it is an obvious truth that mining spoil the natural beauty of areas that are producing the precious mineral like gold. He put forth a sarcastic analogy that one cannot eat the nitrous yellow yolk of an egg without breaking the shell, meaning the positive impact of mining cannot be enjoyed without a cost. That is, notwithstanding the popular minuses associated with mining. There are some positive impacts (Lahiri-Dutt, 2006; Akabzaa and Darimani, 2001). According to Lahiri-Dutt (2006), large scale mining leads to influx of migrants into the community resulting in urbanization and an overall higher standard of living; building of more infrastructures; increasing access to training and better employment opportunities. It increases economic opportunities and the youth also aspiring for better futures within the region (Goldfields Annual Report, 2003).

At the macro-economic level, the contribution of mining investment to socio-economic development and poverty reduction can be significant. In Ghana, the Mining sector accounts for approximately 3-4% of fiscal revenues, 6% of the country’s GDP and more than 40% of the country’s total exports. In 2004, the Government of Ghana earned forty one (41) million US dollars in tax revenues from mining alone. The sector paid approximately sixty two (62) million US dollars in

gross salaries plus additional nine (9) million US dollars social security contribution to its estimated 20,000 employees, introducing strong wage economy; with small scale mining employing additional forty to fifty thousand people (MBendi, 2007; Lahiri-Dutt et al, 2006; Ghana chamber of mines, 2007; IFC, 2006).

2.2 Concepts of Environmental Resource Values

Natural resources, such as forest and commercially exploitable fisheries, and environmental attributes such as air quality are valuable assets in that they yield a flow of services to people (Freeman, 2003) Typical of environmental resources is that they provide many different values. Boyle & Bishop (1985) indicates four values of environmental resources - as **consumptive use** value, non-consumptive use value, indirect use, and existence value. Similar to Boyle & Bishop, Spurgeon (1998) outlined that the total economic value of environmental resources is the sum of the direct-use value, indirect-use value, non-use value and intrinsic value. Use values, such as fishing are direct and quantifiable category of environmental values, but indirect-use values, non-use values, and intrinsic values are also associated with preserving environmental resources.

Indirect-use values include biological support, physical protection, climate modulation, and global life support. Non-use values are less direct, less tangible in benefits to society and include option and existence values. The option value is the value an individual places on the potential future use of the resource; existence values include bequest, stewardship, and benevolence motives. Bequest value is the satisfaction gained through the ability to endow a natural resource on future generations. The stewardship motive is derived from an altruistic sense of

responsibility toward the preservation of the environment and a desire to reduce environmental degradation. The benevolence motive reflects the desire to conserve an environmental resource for potential use by others. Finally, the intrinsic value of nature affects the belief that all living organisms are valuable regardless of the monetary value placed on them by society. Freeman (2003) recognizes the set of environmental assets or capital but he indicates that the effects of public policies and action of firms or an individual can change the flow of these services to people thereby creating benefits and costs.

Conflict over environment/land-use has posed the greatest challenge in land acquisition for development projects in Africa. According to some scholars the conflicts are over material assets as well as over meaning or perceived value the people associate with the resource (Luzinda, 2008). It appears the different values that resource owners attached to their resources make the land compensation negotiations difficult. And therefore it may require proper appreciation of the resource owner's construct on the asset to ensure satisfactory or adequate compensation.

2.3 Concept of Land and Land Ownership (interest) Patterns in Ghana

Generally land is considered as an input and a factor of production which is not consumed but without which no production is possible. This concept of land is appropriate for the study because it best explains the foundation and the sustainability of both mines and indigenous people in the mining communities. It encompasses all physical elements in the wealth of a nation bestowed by nature, such as climate, environment, fields, forests, minerals, mountains, lakes, streams, seas, and animals. It includes anything on the ground (such as buildings, crops, fences, trees, water), above

the ground (air and space rights), and under the ground (mineral rights), down to the center of the Earth (FAO/UNEP, 1997). As a Latin maxim states *Cuius est solus eius est usque ad coelum et ad inferos* (the owner of the land owns everything up to the sky and down to the centre of the earth). This maxim, relates to the extent of the ownership enjoyed by the fee simple owner. However there are limitations on the ownership - Some are statutory and others are founded in the common law.

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Land has been viewed variously by different communities. Land in most countries has the socio-religious, economic and political dimensions or connotations (Dadson, 2006; Kuntu-Mensah, 2007). Anonymous (1994) points out that the land, as an economic asset, is the most important input in subsistence agriculture and housing. And in the religious sense, the land is tied to the dead and the unborn in a perpetual fellowship which requires the living to honor ancestors through management of land to the benefit of descendants. Politically, land expresses territorial sovereignty and that is guarded by a stool. Land ownership is therefore perceived as a corporate trust, belonging not only to the living, but the dead and countless generations yet unborn (Sarpong, 2006). The Constitution of Ghana accepts the corporate nature of land ownership and states (Article 36-8) that the state recognizes that ownership and possession of land carry a social obligation to serve the larger community and, recognizes that the managers of public, stool, skin and family lands are charged with the obligation to fulfill their functions for the benefit of the people of Ghana and the stool, skin or family concerned and are accountable in this regard. The 1992 Constitution also prohibits the creation of freehold interest out of stool land in favour of a grantee (Article 267-5). Therefore the constitution ensures that, no one is entitled

permanently to a land in Ghana with the exception of the stools, skins and people who had the freehold interest before 7th January, 1993, when the constitution was formally inaugurated. However, Article 257-4 of 1992 constitution again enjoins that lands in the three northern regions of Ghana which were held as public land are returned and vested in original skins and individual owners. Land tenure and the land administration systems in Ghana have evolved overtime from the interplay of the socio-political factors and that the basic land laws in Ghana are embedded in the socio-cultural systems and political institutions of its indigenous societies (Dadson, 2006)

Land ownership in Ghana can broadly be divided into three, namely: customary ownership, state ownership and a partnership between the state and the customary owners (split ownership) (Larbi et al, 2005).

2.3.1 Customary ownership

Customary lands are lands owned and controlled by stools/skin(ethnic groups) clans or family where traditional and customary norms and practices govern their tenures and administration(Esi Fiadzigbey, 2006). The control or administration of the land is vested in a community leader or his appointee (Gyasi, 1995). Normally chiefs in Akan setting or *Tendana* - the land priest (in the North) hold the land fiduciary for the whole community (Acquaye, 1972). And thus serves as a trustee (Asabere, 1994). Individual rights to land for farming or housing are acquired through the community or by inheritance. Customary lands are believed to belong to the past, present and future generations and is roughly 80% of the land holdings in Ghana (Esi-Fiadzigbey, 2006). Rights and interest in Customary land range from allodial (free-hold), through

usufruct to tenancy. The allodial interest is the highest proprietary interest known to exist in customary land. Allodial/freehold implies full ownership of land in English law, providing the owner with the largest bundle of rights (fee simple absolute) (Esi - Fiadzigbey, 2006). Such interest may reside in a stool, a clan, a family, an earth priest or a private person. This interest or title can be transferred from one owner to the other through - Compulsory acquisition by the state for public purposes, purchase or gift. A lesser interests that flow out of the allodial interest include the following: usufructuary interest (customary freehold).

Usufruct is an interest in land held by groups, subgroup and individual land acknowledged to be owned allodially by larger community of which they are members. Usufruct applies to land holding arrangements where the right to use land is one of the essential elements of land ownership. Such individual has the right of beneficiary occupation of the land concerned, which may devolve upon his successor ad infinitum but which may come to an end on the failure of his successors.

Another lesser interest is the tenancy – owners of the allodial title or customary freehold, which create some lesser interests in land. Tenancy implies the right to use land for a specified period of time (lease). The tenant has a bundle of rights as benefits. Tenancy can be share tenancy or Land rental. Share Tenancy is the most familiar customary tenancy in Ghana. Usually, share-cropping is done through contractual arrangement by which the tenant farmer gives a specified portion of the produce of the farm to the landlord at each harvest time. The two best known of such tenancies are the Abunu and Abusa system. Principles of “abunu” involve sharecropping such that the sharing is 50:50 bases between the land owner

and tenant; while abusa is sharing on a 1:2 between the landowner and tenant. Aidoo, (1995) observed that the application of any of the tenancy principles and what a tenant or his landowner could get from tenanted land depend on each relative's contribution to the farming operation. If the landowner provided part of the farm inputs and capital in addition to his land, the basis of sharing was "abunu". However, if the landowners' contribution was only the land, leaving the remaining resource investment to the tenant, "abusa" was applied in favour of the tenant; another 1/3 went to the landowner for his land.

It is worth noting that recent commercial opportunism in the face of capitalist developments involved acquisition of the land, thus undermining the communal ownership.

2.3.2 State lands

These are lands that have been expressly acquired by the state through compulsory acquisition using appropriate legislation. Article 257-1 of 1992 constitution stipulates that "all public lands in Ghana shall be vested in the President on behalf of and in trust for, the people of Ghana". The boundaries of these lands are cadastrally surveyed and are scattered throughout the country. Adu-Gyamfi (2012) observed that successive governments in Ghana before and after independence have used compulsory acquisition to acquire land from stools and these lands are managed by the Land Commission, the state agency responsible for managing and administering government lands. The 1962 State Land Act enabled governments to acquire any land for "public interest" and this has enabled for government to expropriate land for state or private economic ventures (Amanor, 1999).

2.3.3 Vested lands

The vested land (Split ownership) which occurs when the state takes over the legal incidents of ownership (the right to sell, lease, manage, collect rent, etc.) from the customary land owner and holds the land in trust for the land owning community (Larbi, 2008). The land owners retain the equitable interest in the land –the right (surface right in mining context) to enjoy the benefit from the land. This is generally referred to as vested stool land and it is managed in the same way as state lands. Unlike state land however, the boundaries are not cadastrally surveyed and they are usually larger in size, covering wide areas.

The universal principle in Ghana is that “there is no land without an owner”. Therefore any piece of land will fall into one of the three ownership categories discussed. Thus state and vested and are acquired expressly through legislation; all other lands outside these categories belong to the class of customary lands.

2.4. Principles and Statutes on Compulsory Taking and Compensation

Compulsory land acquisition is the process whereby a land user is compelled by a public agency to alienate all or part of the land he/she owns or possesses to ownership and possession of that agency for public purpose in return for fair compensation (Asian Development Bank, 2005). The State’s power of eminent domain has been exercised in Ghana since colonial times under various enactments with the objective to acquire lands for socio-economic development for the public good (Larbi, 2008). The current laws that govern compulsory taking in mining context are 1992 Constitution, State Land Act 1962(Act 125) and Mineral and Mining Act, 2006(Act 703). Article 18 (1) of Ghana’s Constitution provides that ‘every person has

the right to own property either alone or in association with other.’ Article 20(1) provides that ‘no property of any description, or interest in or right over any property shall be compulsorily taken possession of or acquired by the State unless the taking of possession or acquisition is necessary in the interest of defense, public’s safety, public order, public morality, public health, town and country planning or the development or utilization of property in such a manner as to promote the public benefit’. It is argued that acquisition in the public interest could mean acquisition by government for public bodies and statutory corporations, but also for private companies and individuals for purposes which although may contribute to public welfare, confer a direct benefit, including profit on the user (mines, real estate development etc). Compulsory acquisition of mineralized land is explicitly enshrined in the 1992 constitution. Article 257(6) of the Constitution states:

Every mineral in its natural state in, under or upon any land in Ghana, rivers, streams, water courses throughout Ghana, the exclusive economic zone and any area covered by the territorial sea or continental shelf is the property of the Republic of Ghana and shall be vested in the President on behalf of, and in trust for the people of Ghana.

Essentially the above constitutional provision confirms that the ownership of mineral resources is vested in the President and held in trust for the people of Ghana. Thus whenever it appears to the President to grant mineral right to a mining company he does so through concession or permit. Meanwhile surface rights to land are publicly or privately owned in Ghana. And it is believed that 80% of land holdings in Ghana is privately held (Esi-Fiadzigbey, 2006; Ayitey et al 2011). The surface rights include the farming rights, right to alienate, etc. these surface rights may be derived from allodial interest and can range from usufructual interest to lesser interest such as “abunu” or “abusa” tenancy arrangement. Apparently, regarding mineralized land,

except the state, any individuals' rights or interest exclude the right to the mineral beneath.

Again, the state by executive instrument such as State Land Act 1962 (125), empower the President to compulsorily acquire any land for mineral exploitation. Section 1(1-4) of State Land Act 1962 (125), states: where it appears to the President in the public interest so to do, the President may, by executive instrument, declare the land specified in the instrument, other than land subject to the Administration of Lands Act, 1962 (Act 123), as land required in the public interest.

The Act also adds that:

On the making of the instrument under subsection (1), a person acting in that behalf and subject to a month's notice in writing may enter the land for a purpose incidental to the declaration so made. And ...An instrument made under this section may contain particulars in respect of the date on which the land so declared shall be surrendered and any other matter incidental or conducive to the attainment of the objects of the instrument including an assessment of the compensation that may be paid.

Clearly, the above stated sections of the Act 125 indicate Powers of the President to compulsorily acquire land, provision for affected interest holders to be notified ahead of entry into the land and the right to be compensated of any expropriated land.

Also, crucial legislation which regulated access to land for mineral exploitation was Mineral and Mining Law, 1986 (PNDCL 153). There were other legislations and amendments, but all have since been repealed by the Mineral and Mining Act, 2006 (Act 703). The Mineral and Mining Act 2006 (703) section 1 (1& 2) states that:

Every mineral in its natural state 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. And that where land is required to secure the development or utilization of a mineral resource, the President may acquire the land or authorize its occupation and use under an applicable enactment in force for the time being.

Basically, the above quoted sections of Act 703 collaborate with other provisions in the 1992 constitution and the State Land Act 1962 (125) on the powers of the President to compulsorily acquire land to facilitate granting of mineral right to mining companies for mineral exploitation in Ghana. As a principle, once a mineral right or a mining lease is obtained it authorizes the lease holder, the holder's agents, employees and persons authorized by the holder to enter upon the land to engage in mining activities as prescribed by the mining lease (section 46 of Act 703).

It is evident that the statutes empower the President to compulsorily acquire and authorize occupation or utilization of a particular land by either Public or Private Entity with the purpose to ensure public good or welfare. Viitanen et al (2009) however, hint that land acquisition for overriding public interest is easily accepted by the people if the object is seen to be communal infrastructure – like hospital etc, otherwise, the project may not pass “public purpose or public good” test and may be resisted if perceived to have subsisting private interest or profit making motive (see also Denyer Green 2000). In the mining communities, the resistance may be in the form of physical denial of access to the land or unfair compensation demand (Aubynn, 2003). The contention may also emanate from the perception that Mining Companies have brought hardship on communities, particularly women through compulsory acquisition of large tract of land which is even hardly used by the mines – and in return, pay pittance as compensation which often comes after months and years of struggles (Mines and Communities, 2009). Nonetheless, the Ghana National Land

Policy (1999) seeks to address such fundamental problems associated with land management in the country including:

“...a weak land administration system and conflicting land uses such as the activities of mining companies, which leave large tracts of land denuded as against farming, which is the mainstay of the rural economy...” thus the policy seeks to “protect the right of landowners and their descendants from becoming landless or tenant on their own lands”

The above scenario of land use deprivations and challenges in the mining context seem to suggest a contrast between the reality of land use in mining communities and what the National land Policy seeks to address.

Meanwhile, as per principle and the statutes, land acquisition should be effected under the condition of prompt payment of fair and adequate compensation (State Land Act, 1962 (125); Ghana Constitution, 1992; Denyer, 2001). Compensation is referred to as the measures intended to make good the losses suffered by people displaced and/or negatively affected by projects (Bartolome et al, 2000). According to World Bank (2002), the intent of compensation is to “improve or at least restore the income or the standard of living of all the displaced” (as cited in Hoadley, 2005).

Unlike direct state acquisition (Public Agency) where a compensation claimant should submit in writing to the minister particulars of his claims/interest including the amount of compensation being claimed and the basis of calculation, mining companies are required to duly negotiate and agree on compensation with the person whose interest is affected (Mineral and Mining Act, 2006). The various claims for which an expropriated owner may be compensated are: market value of the land taken; or replacement value of the land taken; and cost of disturbance; and other damage (severance and injurious affection); or granting land of equivalent value

(Ghana State land Act 1962(125); Denyer Green, 2000; IFC 2007; Larbi, 2008). It is again, recommended that Compensation for land and other assets should be calculated at the market value plus the transaction costs related to restoring the assets (IFC, 2007).

Section 74(1) of Minerals and Mining Act, 2006, clearly instructs that the compensation entitled to a surface right holder may include:

- a) “deprivation of the use or particular use of natural surface of the land or part of the land;
- b) loss of or damage to immovable properties;
- c) In case of land under cultivation, loss of earnings or sustenance suffered by the owner or lawful occupier, having due regard to the nature of their interest in the land,
- d) loss of expected income, depending on the nature”.

However, the Act indicates that no compensation lies in consideration for permitting entry to land for mineral operation or in respect of the value of the mineral in, on or under the surface of the land, the loss or damage for which compensation cannot be assessed according to the legal principle of in the monetary terms. It is also internationally recognized that some types of loss, such as access to public services; customers and suppliers; and fishing, grazing, or forest areas, cannot easily be evaluated or compensated for in monetary terms – but there must be an attempt to establish access to equivalent and culturally acceptable resources and earning opportunities (IFC Operational Directive 4.30). Thus for such losses in-kind compensation is recommended to be in the form equivalent to goods or resources that are culturally appropriate (IFC, 2007). Meanwhile the study community perceives that a gap of inadequacy and sustainability constraint exist due to lack of evaluation of some environmental services or value during compensation, noncompliance of some compensation principles by the mine as well as some inherent limitations in the

statutes governing land compensation in mining (see appendice 1 – Gap Analysis of the national statutes and IFC on land compensation).

The rights and interests in land that are currently eligible for compensation are the allodial interest, freeholds, and leaseholds. It is even hinted that no compensation is paid directly to informal occupancy and as at now not recognized by the existing law as being rights eligible for compensation. Owners of such rights therefore are not entitled to compensation as of right (Larbi, 2008). If any payments are made they are ex-gratia and are based on the value of the structures and other assets situated on the land. However, World Bank recommends that customary and formal rights should be treated as equally as possible in devising compensation rules and procedures (IFC Operational Directive). Those with legally recognized rights, customary claims tool land, and those with no legally recognized claims, and seasonal resource users (herders, hunters and gatherers) may need to be considered in compensation due to probable existing interdependent economic relations with the project area/land (IFC, 2000). Thus principles and statutes require that all forms of losses without exception should be compensated in the event of project development. However, regarding resettlement as a form of compensation it is said that in a number of cases, displacement of people has not been effected with full regard to the displaces' livelihood, right and property and without adequate compensation (Tumushabe, 2005). Meanwhile it is believed that if identified areas of law and policies are observed, it would enhance resettlement programs (Luzinda, 2008). For instance mineral and mining law stipulates that inhabitants who prefer to be compensated by way of resettlement as a result of being displaced by a proposed mineral operation should be settled on suitable alternate land, with due regard to their

economic wellbeing and social and cultural value, and that the resettlement would be carried out in accordance with the relevant town planning law (Mineral and Mining Act 2006 –Act 703). Hoadley (2005) indicates that cost-minimizing principle in business means that efforts are made to pay little compensation and externalize the real cost, and that is in conflict with the principle of social justices, development theory and good practices.

2.5 Resettlement and Indigenous People

Resettlement covers all direct economic and social losses resulting from land taking and restriction of access, together with consequent compensatory and remedial measures (WB, 2004); thus the entire process of relocation and rehabilitation of a population as a result of a Project related activities. Resettlement is considered involuntary when affected individuals or communities do not have the right to refuse land acquisition that result in displacement. This can occur under the conditions of lawful expropriation or restrictions on land use based on eminent domain or negotiated settlements in which the buyer can resort to expropriation or impose legal restriction on land use if negotiations fail. Involuntary resettlement refers both to physical displacement (relocation or loss of shelter) and to economic displacement (loss of assets or access to assets that leads to loss of income sources or means of livelihood) as a result of project-related land acquisition (IFC Performance standard 2007); thus involuntary resettlement involves displacement, which is loss of land or other assets, or access to resources and rehabilitation – where affected people are assisted in their efforts to improve, or at least restore their incomes and standards of living (MMSD, 2001). Involuntary resettlement is therefore not only about housing but also development and reconstruction of lives of the displaced who mainly use to

be indigenous people. According to Bladh et al (2005) if resettlement is well implemented it can turn into a development opportunity. I think it is from this same perspective that governments are being advised to adopt Resettlement-with-development approach where affected people are provided with benefits from project that displace them (WB, 2004).

According to provision in ILO convention no. 169 “Indigenous people” are descendants of people who lived in an area before colonisation; or because they have maintained social, economic cultural and political institutions since colonisation and the establishment of a new state. Thus self-identification is crucial in the definition of the concept indigenous peoples. IPACC (2008) indicates that they are expert knowledge holders and managers of natural resources, however they are continually subjected to denial of human right and even sometime their citizenship; and that economic policies do not take into account their knowledge of ecosystem, their value system, and legal right to land resources.

Indigenous people are emotionally attached to their land (resources) while non-indigenous stakeholders (like mining companies) perceive the land as ordinary commodity for which the loss can be compensated with cash payments or with possibly short term material benefits. In contrast, there is intrinsic spiritual strength in indigenous people’s attachment to land. This is summarized by the late DulagMachiling who lost his life defending his land in the Philippines maintaining that “Land is life and that land is sacred. It is the duty of every indigenous person to defend and protect the land (Dowing et al, 2002). Indigenous people’ social organization, cultural values and their deep spiritual attachment to the land and place present a special case for either resettlement avoidance or effective resettlement planning.

2.6 Impact of Mining-Induced Displacement or Involuntary Resettlement

Resettlement impacts refer to direct physical and socio economic impacts of resettlement activities in the project and host areas. Unlike voluntary resettlement which is more or less pre-planned and population selective, involuntary resettlement involves people of all ages and gender, some of whom are evicted against their desire. Many of such are risk-averse and may lack dynamism and initiative to get themselves reestablished in new location or vocations (Asian Development Bank, 1995) According to World Bank Operational Directive, 1990, 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 on 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. Thus involuntary resettlement may result in long-term hardship and impoverishment for affected persons and communities, as well as environmental damage and social stress in areas to which they have been displaced (IFC Performance standard 2007). Hoadley (2005) noted ironically that involuntary resettlement and displacement may cause severe long-term hardship, impoverishment risks, and environmental damage. However, they go hand-in-hand with development. Cernea (2000) itemized eight development-induced displacement or resettlement impoverishment risks as: landlessness, joblessness, homelessness, marginalization, food insecurity, increased morbidity and mortality, loss of access to common property resources and Social disarticulation (MMSD, 2001). Among the impoverishment risks, loss of land is most visible loss and seems to be that one which has received considerable progress toward

amelioration. However it accounts for only 20% of the impoverishment risks associated with resettlement (Downing 2002, cited in Hoadley 2005). Thus inability to deal with resettlement problem can cause a significant additional cost to the main project through local resistance and political tension and can have long term consequences for the affected population and the surrounding region. In effect sinking the affected communities into deeper poverty and leaving the government to deal with the future problem of the unsuccessful resettlement (Hoadley, 2005). The strategic consequences of the ramifications of involuntary resettlement require appropriate tools (sociological tool) of analysis and resources to address such a development issue as process of planned change (IPACC.2008).

When compared to other major developments, mining does not feature in terms of the absolute number of people it displaces or resettles. However, this does not diminish the impacts that mining-induced displacement has. The number of people displaced as a result of the mining projects covered in August 2001 MMSD report alone totals about 37,000 (MMSD, 2001).

2.7 Corporate Social Responsibility in Mining Context

In law, after incorporation, corporations assume legal personality and in many respects, they are treated similarly to private individuals (company code-Ghana). Like individual citizens they have rights and responsibilities to the society which supports them. Companies need to play a wider role in society as well as pursue the maximizations of their self-interest. Good corporate citizenship today is not just doing business and giving to charity. It is the behavior in all areas of corporate life that defines a corporate citizen (Logan, 1998).

There are a number of ideological outlooks that could be used to view corporate social responsibility. These include market ideology, corporate responsibility ideology and others. Market ideology emphasizes centrality of profit in all business endeavors and therefore considers any non-profit engagements as unproductive. Corporate social responsibility ideology is used by companies to deal with the dilemma of private versus public interest and they are broad statements of principle detailing corporate responsibility to communities (Downing et al, 2002).

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The effects of mining companies on environmental social development can be categorized within three spheres; that is Biophysical Sphere, Economic Sphere and Social Sphere (MERN, 2007; Jenkins, 2006; Accountability, 2007). It is believed that mining companies will increasingly be obliged through public pressure to make pledges and set targets regarding environmental and social responsibility within these spheres.

Walker and Howard (2002) among other authors outline several reasons why CSR and other such voluntary initiatives are important for mining companies. These includes the: poor public opinion on natural resource extraction industries, consistent attack or challenge of pressure groups on the sector at local and international levels (challenging the industry's legitimacy), conditionality or increasingly focusing on the financiers' screening on the sector from both risk management and social responsibility perspectives and maintaining 'a license to operate', international Codes of Conduct, regulatory requirements, equity investment, political and social risk insurance (Walker and Howard, 2002 cited in Jenkins et al, 2006; MERN, 2007).

It is postulated that in the mining industry, progress within the three dimensions of sustainable development (economic, environmental and social) could be achieved through – economic development, environmental protection and social cohesion (Jenkins et al, 2006).

2.8 Trends and Developments in Ghana Mining Industry

2.8.1 Pre-Independence Period

West Africa has been a key source of gold for 2,000 years. It is believed that initially gold reached the Mediterranean Sea by camel caravan across the Sahara Desert. By 1460 Portuguese navigators were shipping Africa gold back to Europe directly, and later English and Dutch ships brought gold to London and Amsterdam (Newmont, 2005). By 1500s Ashanti goldsmiths in Ghana were famed for their distinctive ornament (Newmont, 2005).

The pre-independence era witnessed fluctuations in the rate of mineral production. For instance mineral production between the periods of 1480 to 1954 was characterized by two major periods of peak production referred to as the “Jungle Booms” and three periods of depressed production, attributed to various reasons including the influence of the two World Wars. Some classified reasons were rapid closure of small and medium mines due to starved supplies as a result of the wars (first and second) affected output, the drifting of men and miners who could handle explosives to the warfront and the internment of German concessionaires by the British as well as labour scarcity. The labour scarcity was also partly due to the preference of Ghanaians to work in their own small mines rather than work for the Europeans (Akabzaa and Dramani, 2001).

This preference of Ghanaian workers encouraged the Colonial Office to pass the Mercury Ordinance of 1932, making it illegal for Ghanaians to use mercury for mining. This led to the banning and the criminalization of indigenous small-scale gold mining and the subsequent edging out of Ghanaian gold producers until 1989 when the Small-scale Mining Law was enacted to give legal backing to the sector again (Akabzaa and Dramani, 2001).

The banning of indigenous gold mining increased the output of large-scale mining as more labour was drifted to the latter in the period 1933 to 1942. However the increased production rate dwindled due to the emergence of major new producing countries and the growing struggle for independence creating political risk and dwindling share of world production from 1943 to 1954 (Akabzaa and Dramani, 2001).

2.8.2 The Post-Independence Period

Following independence Ghana's mining industry has undergone various changes generally, which meant that they sought to align themselves with the global trends in the industry and to address national economic issues. For instance the period between 1965 and 1980 was characterized by the declaration of permanent sovereignty over natural resources by developing countries (Akabzaa and Dramani, 2001), of which the policy shift then was nationalization of private-led investment or mineral extractive facilities, the renegotiation of existing arrangements and the creation of state enterprises (Aubynn, 2003; Akabzaa and Dramani, 2001). Ghana's mining industry was then made state controlled from 1957 to 1986. It was against this background that the Government of Ghana established the State Gold Mining Corporation

(SGMC) in 1961 to take over the five gold mines (Bibiani, Tarkwa, Prestea, Konongo and Dunkwa mines) from British companies.

The cardinal objective of government's take-over of these mines was to preserve employment for Ghanaians and ensure access to foreign currency, mostly generated by the mines (Akabzaa and Darimani, 2001; Government of Ghana, 1998). Since the policy direction at the time was geared toward maximizing government revenue, control of resources and employment generation, state mines were subject to government intervention for purposes often incongruent with efficiency or economic integrity. Consequently, the sector was plunged into a number of production, technical and financial limitations, making the companies under-capitalized, obsolete and uncompetitive (Akabzaa and Darimain, 2001; Sweeting and Clark, 2000).

2.9 Land Compensation Valuation Process in Mining

Compensation for land taking is to be fair, adequate and prompt or within reasonable time (Constitution, 1992; Ghana National Land Policy, 1999; Mineral and Mining Act, 2006 (703). Hilson (2002) adds that community consultation and appropriate compensation packages, among others, can help prevent or effectively resolve land use conflicts in mining areas. It is observed that there are various forms of compensation for land taken; the determination of the amount of compensation in monetary terms is by the process of valuation in which values are not created, but arrived at through the application of relevant economic and legal principles (Ayitey et al, 2006).The current legal regime in mining spells out the how field assessment should be conducted for compensation as well as the stakeholders required to be

involved in the process. Essentially the Mineral and Mining Act, 2006 section 72(5) states that:

The owner of a mining lease shall, in the presence of owner or lawful occupier or accredited representative of the owner or lawful occupier of land, subject of a mining lease and in the presence of an officer of the Government agency responsible for land valuation carry out a survey of the crops and produce a crop identification map for the compensation in the event that mining activities are extended to the areas.

The Act 703 further indicates that the owner or lawful occupier of any land subject to a mineral right is entitled to and may claim from the holder of the mineral right compensation for the disturbance of the rights of the owner or occupier. However the amount payable is required to be by agreement between the parties but if the parties are unable to reach an agreement as to the amount of compensation, the matter shall be referred by either party to the sector Minister who shall in consultation with the Government agency responsible for land valuation determine the compensation payable by the holder of the mineral right (Mineral and Mining Act, 2006 section 73(3)).

Again, inhabitants who prefer to be compensated by way of resettlement as a result of being displaced by a proposed mineral operation are required to be settled on suitable alternate land, with due regard to their economic well-being and social and cultural value and set town planning standard. And the mining company is obliged to bear the cost of the resettlement (Mineral and Mining Act, 2006). The legislative instrument (LI 2175) attempts to outline the requirement, process and matters to be addressed in the mining induced resettlement implementation. However, it appears the instrument does not directly empower the impacted individuals to participate in the final approval of the resettlement action plan designed by the mineral right holder.

CHAPTER THREE

3.0 METHODOLOGY

This chapter describes and discusses the methods employed in collecting and analyzing the study data. The chapter touches on the theoretical foundations of the methodologies adopted, data collecting procedures and the rationale for selecting the methods and study participants

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3.1 The Philosophies of the Methodological Approach

The study was undertaken using ‘Constructivism’ philosophical outlook and its suppositions on the nature and form of the social phenomenon. ‘Constructivism,’ one of several interpretivist paradigms, is concerned with the ways in which people construct their worlds (Williamson, 2006).

In the mining company-community context, the individual stakeholders may perceive different environmental values in varying ways as a consequence of their own worldview of the resources and interests. There is a conventional thinking on resource that suggests that the word resource is not a thing or substance but the function that the thing performs. Zimmerman (1983) observed that resource is an abstraction reflecting human appraisal and that is essentially human construct. From this standpoint, the researcher attempts to explore the subjective reality of the stakeholders (of land compensation for Mining Project Affected People) in order to be able to make sense of and understand their motives and actions in the way that is meaningful (Saunders et al, 2005).

Given this background, Constructivism is the most appropriate approach for answering the research questions. This enables subjective understanding of land compensation and community expectation in mining better than what positivism and other conventional paradigms could allow. Thus, constructivism enquires about the ideologies and values which lie behind a finding (Perry et al 1998) Constructivism was used because in the construction of participants' expectations the researcher may not objectively de-couple his values, orientation, and human complexity from the information participants provide - making him "passionate participant" (Guba and Lincoln 1994 as cited in Perry 1998). Constructivism is appropriate because the researcher shares the belief that the reality of Mining Company and stakeholders land compensation expectation is a projection of human mind and so it is socially constructed (Schwandt, 1994). Constructivists believe that objective knowledge and truth is a result of perceptions and thus knowledge and truth are constructed, not discovered outside of the human mind (Baxter and Eyles, 1997; Guba and Lincoln, 1994; Schwandt, 1994).

The choice of constructivism therefore called for the use of the qualitative method for the study. This method was adopted because most leading researchers in social research recommend that research about opinion or experience should employ qualitative interviews in order to find out values or influential factors of which the respondents are conscious of but unknown to the investigator (Guba and Lincoln, 1994). Again, the qualitative approach is predominantly used by most leading researchers in community studies as well as in socio-environmental impact assessment of project development hence its adoption in this study (see Veiga et al. 2002; Macfarlane and Akabzaa, 1999). Mainly qualitative method is used in the collection and analysis of the data; however some quantitative descriptive statistics were also used.

3.2 Data collection

The research made use of basically primary and the secondary data. With respect to the qualitative approach the study employed semi-structured interviews and focus group discussion as methods of data collections. These are considered appropriate for the study because they allow for assessment of people's experiences and perceptions with coherent pre-determined questions or theme (Saunders et al, 2005). The rationale for this choice of method is discussed below.

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3.2.1 Interviews

Qualitative research employs a variety of techniques to explore and interpret the way in which a social actor experience or perceive the world and make meaning of the experience. According to Saunder et al (2007), in an exploratory study (like this), semi-structured interview is helpful in finding out what is happening in order to seek out new insight, hence its adoption.

Interviews attempt to understand the world from the subjectivist's point of view, to unfold the meaning of people's experiences, expectation and actions. Interviews therefore provide deep and meaningful data that reveal each individual's perspective. Semi-structured interviews allow the researcher to access another person's opinion and discover things that cannot be directly observed – that is offer the opportunity to probe into answers to questions in order for the interviewee to explain, or build on the responses to understand the meaning the respondent ascribe to the phenomenon (Saunder et al, 2005; Dunn, 2000). The conversational nature of an interview enables the respondent to give detailed data. Again, apart from using the semi-structured interview; focus group discussions were used to obtain information from some key

stakeholder groups or committees such as Ahafo South Resettlement Negotiation Committee.

3.2.2 Focus Group Discussion

Focus group meetings were held with identifiable stakeholders within the study communities among which were traditional authorities, expropriated landowners or impacted people, staff of the Company, Local Government staff and civil society organizations, youth representatives and the government valuers. The participants involved in the focus discussion were about fifty (50). The discussion focused on the various thematic issues in land compensation. Group views were also sought on the application of the relevant statutes on land taking for mining, the company's land access practices, level of farmers' satisfaction on the company land compensation and other issues. There was also observant participant approach where the researcher participated in the company and the communities meeting on crop compensation and resettlement. This helped to gather group expectations or perception on the mining land acquisition statutes and the Company's practices.

3.3 Selection of Participants

It is said that Qualitative (interpretive) research depends on small samples that are purposively or purposefully selected (Williamson, 2006). Based on this, Project Impacted People of the large scale gold mining company in the Ahafo were selected for the study.

Criterion sampling which involves selecting participants that satisfy some pre-determined criteria was used. Research has shown that the impact of mining activity go beyond the immediate community of the project site, however such impacts

decrease with distance from the mine site (Rickson et al. 1995). Hence proximity to the mine site was taken as criterion for the selection of the study participants. Therefore communities within 7 kilometers around the mine were considered since some members have suffered from expropriation of land. Again, perceived severity in impact of the mine on the community was considered as a weighting factor. This led to selection of four communities three from Ahafo South district and one from the Ahafo North district of the mine. Therefore participants selected were individuals who have experienced relatively permanent impacts through damage to crops or dispossession/deprivation of land use at permanent land-take areas (excluding exploration) and consequently had received cash compensation or resettlement were selected. Finally accessibility of all the relevant informants was taken as a key consideration. In view of the stated criteria, Project Impacted People who have once been cash compensated for crops or land (deprivation of land use) and by way of resettlement or both were selected.

In all two (2) out of the three (3) major Resettlement communities of the mining company were selected based upon the stated criteria (see the table 3.1 below)

Table 3.1 Study Participants

Company	Community & others	Sample Size
The Mining Company	Ola and Ntotroso Resettlement Communities	20
	Crop compensated farmers	30
	Deprivation of land use compensated farmers	20
	Structures & immovable property compensates	30
	Representatives from Stakeholder committee on resettlement & immovable property negotiation	3
	Representatives from Stakeholder committee on Crop	3

	compensation negotiation	
	Chief Farmers in the area	2
	Gov't Representatives (DA & min com) & Relevant NGOs	4
	Representatives Land Valuation Division& Practicing Valuers	2
	Representatives from the Company	6
Total Sample Size		120

Given the sum of populations of all the Mining Project Impacted People in the area which is approximately 12,000 (over 1704 households), the sample size of 120 seems inadequate. And it could have effect on the research results or generalization of the findings. This weakness was mitigated by purposively selecting key informants who are abreast with the subject matter to respond to the research questions. In any case, the number of participants required for any research project is a function of the purpose and nature of the study and that a small sample size does not necessarily impair the credibility of qualitative research (Baxter and Eyles, 1997). Again, regarding qualitative data, the sample size is dependent on the research question or the objective and that credibility, validity or understanding that can be gleaned from the data have got more to do with the data collection and analysis skills than the size of the sample.

The researcher developed tripartite interview schedules meant to obtain three major view-points on the issues; hence one interview schedule was dedicated to the community participants (PAPs), another to the company and last one to the government personnel, relevant NGOs and independent valuers with valuation experience in mining. The sample size of one hundred and twenty(120) comprises one hundred and ten(110) informants from the community including representatives

in the relevant stakeholder committees that work with the mine on land compensation, six (6) company participants and four (4) government/NGOs or valuation personnel.

Since the non-probability sampling was the main strategy adopted, purposive sampling procedure including expert sampling and snowballing was used to select 110 key respondents from each project affected community/people, six (6) from the company and four people from government agencies/NGO. The respondents were persons from various focus groups (traditional leaders, farmers groups, youth group, Assembly members and a group of the company's officers) or project affected people that have sound knowledge of the community and land compensation issues or the research problem under study. Other focus groups were direct project impacted – example “primary resettlers” (those who were actually impacted and staying on resettlement site), traders, the company's local employees (i.e from the host communities) and unemployed people of the area under study. Purposive sampling was used to select four(4) key informants from the traditional area or District Assembly. The aim was to maximize the variation and similarities of perspectives across groups (Baxter and Eyles 1997).

3.4 Rationale for the Selection of Participants

Most of the respondents/informants were leaders or farmers in the project affected community or the resettlement communities, stakeholder representatives mandated by the project affected people, leaders in compensation or resettlement negotiation activities with the mine and those who were basically opinion leaders, affected immigrants and indigenes of the community. The selection of indigenous opinion leaders/primary resettlers was critical to the richness of the data or the information for

the study. The indigenes/primary resettlers were assumed to have stronger attachment to their communities and felt the project impact than other residents. Moreover, indigenous people are believed to be able to offer insightful information about pre-mining and current socio-economic condition of the impacted people.

Aubynn (2003) stated a number of reasons why the opinion leaders are chosen as preferred respondents in a study like this; first they are commonly used in socio-economic impact studies on resource development in Ghana. Second, opinion leaders are normally residents in the community and are mostly directly impacted by the project. Third, opinion leaders are normally traditional political figures and thus might have special insights into the companies' impacts on their communities than perhaps average residents. Fourth, community opinion leaders were automatic members of company/community liaison or stakeholder committees set up in some mining communities to handle community complaints and carry out negotiations. Fifth, most mining companies in Ghana deal with communities through elected and / or appointed leaders. Again, the problem with land compensation can often be traced to local leaders since "The land is traditionally held by the chiefs in trust for the people" (Akabzaa, 2010)

Residents often channel issues of concern that need attention from the companies through opinion leaders. The leaders therefore have more in-depth knowledge on the concerns of mining than average residents. Beside the leaders or representatives views of groups of directly impacted landowners and farmers were taken. Other important groups were the valuers due to their valuation experience in the area.

In addition, an experienced mining related valuer and four personnel from government policy making and administrative bodies/institutions overseeing the mining industry in Ghana as well as relevant NGOs were interviewed – mainly, representatives from Asutifi District Assembly, Ghana Mineral Commission, EPA, NGO, and land valuation division representative. The participants were selected on the basis of their knowledge and experience relating to the subject under investigation (land compensation and community expectation).

Finally, the company’s responsible site managers or senior officers in charge of its Land Access, Community Relations, Community Development, Human Resources, Finance and the Environmental departments were selected. This selection was based on the closed relationship the officers functions have with land compensation issues.

3.5 Selection of the Study variables

The effects of mining companies on socio-environmental development fall within three spheres; that are environmental, economic, and social spheres (MERN, 2007; Jenkins, 2006; Accountability, 2007): Thus, impact variables of socio-economic and legal issues in land taking were chosen for the study in order to have baseline idea of mining impacts on the affected people. This was intended to put in context the land compensation and community expectations.

Table 3.2: Study Variables

Economic	Social	Environment
Agriculture	Education	Water quality
Trade and Commerce	Housing / Settlement	Noise and Vibration
Cost of Living	Land Tenure & Alienation	Diseases
Income Level	Legal provision	Land degradation

These variables appear to fairly represent the sustainability purpose of the study. Again the variables have been documented in the study of the company's EIS report, which provided the baseline information about the communities. Also they have been used in other similar studies (see Veiga et al 2001; Akabzaa and Dramani 2001). And as such give credence to their suitability in the context of this study.

3.6 Data collection process

Data collection started by mid-March 2011 ended in June the same year. Semi-structured interview schedules with similar content were administered to the community or project impacted respondents, the company and government/NGO participants. The interview schedule served as a guideline and helped to structure the discussion to some extent. As much as possible, all interviews were carried out in convenient places mostly in respondents' homes, offices and in some occasions in hotels. Again the interviewer made the participants to feel at ease, and built their confidence by using a conversational or informal approach in order to let them have sense of equal power in the interviewer-interviewee relationship.

Apart from the interpersonal interview, focus group discussions were held for the chief and elders (Nananom), the Youth, Assembly members and a group of Project Affected People in two communities (Kenyasi and Ntotroso) where the activities of the mining were perceived to be heavily concentrated (and invariably impacted most). These sessions were held in settings that befit the respective groups. For instance the discussion with the chief and elders were held in a palace – this offered the natural environment to illicit traditional knowledge and perception and sense of power on issues discussed. In all, the participants involved in these focus discussions were

about fifty (50). This was done to provide the opportunity to challenge of some of the claims, concepts, ideas or assertions made by the respondents/stakeholders in the presence of other stakeholders. This approach made it possible for them to verify, challenge or repudiate claims accordingly in order to streamline the themes or the issues in the findings.

In the communities, the interviews were predominantly conducted in the local language due to the low educational background of the informants and the ability of both the informants and the researcher to understand and speak the local language.

Again, desk research was done on the entire documents that relate to the Company's land compensations – crop, deprivation land use and resettlement facilities. These include the Company's Environmental Impact Statement, Resettlement Negotiation Committee meeting minutes and Crop Rate Negotiation Committee minutes since the time the company started compensating project affected people (farmers or landowners)

3.7 Data Analysis

Qualitative data analysis requires complex interview data in defined and presentable framework for readers (Nueman, 2000; Miles and Huberman, 1994). This essentially involves detection, defining, categorizing, theorizing, explaining, exploring, and mapping of themes or concepts. Also, SPSS was applied on the data obtained from the field both the primary and secondary and were statistically analyzed. Tables, averages or means, frequencies, percentages and proportions were largely used. Some important comments were also used to reflect the non-quantitative findings. This provided a good description and presentation of the data.

3.8 Characteristics of the Study Site and the Company Profile

3.8.1 Characteristics of the Study Site

This section provides a brief profile of the study area in order to contextualize the study. The study area falls within Brong Ahafo region of Ghana but precisely Ahafo sub-region and it basically stretches to inside Tano North and Asutifi districts. The Brong Ahafo region supplies on the average 30% of Ghana's locally produced food hence known as Ghana's "breadbasket" (pA, 2005). The Ahafo sub-region has historical background on artisanal mining. It has also witnessed exploration activities by a number of mining companies over a decade ago but without a history of industrial mining operation until 2003. The Asutifi District has an area of 1,500 km² (plan alliance, 2005). The population of Tano North and Asutifi are 123,500 and 89,000 respectively (Newmont, 2005). The Ahafo People constitute the dominant indigenous ethnic group in the districts but there are varied ethnic classes due to farming and mining activities in area, 51% of the population is female; 50% is of working age (18-64) and population growth rate is 2.8% per annum (pA 2005). Mining communities selected in the Districts for the study, generally have similar physical, social, and economic characteristics; the economy of the Districts is dominated by Agriculture mainly subsistence farming and forestry followed by industry, service and commerce. In the Ahafo area, customary system of land ownership predominates. Within this type of ownership, the main categories of interests and rights identified are: Customary Law Leasehold (for non-agricultural purposes), Tenancy/Sharecropping Interests (for agricultural purposes *Abunu* and *Abusa Agreements*): Paramount of the above in the area is *Abunu* and *Abusa Agreements* where land owners and farmers agree to share proceeds in a predetermined ratio. 'Abunu' involves crop sharing into two (2) equal parts, while

‘Abusa’ is sharing according to the ratio 2:1. Currently, however, mining has become another economic activity in the area since it employs over 2000 people; more than 95% are Ghanaians of which approximately 40% are from the local communities (speech of vice president–Africa operations of Newmont, 2006).

The district contains a repetitive mosaic of land cover composed of: Farmland, Fallow Land (fallow thickets, secondary forests and elephant grass), Settlements (homestead plots, villages, towns and roads)

Climate data in the study area indicate precipitation in the area ranged 539 to 551mm, minimum hourly rainfall ranges 46mm to 49.8mm; the temperature is 25.5oC and the averaged humidity is 72% (NGGL Environmental and Social impact Assessment, 2007).

The physical landscape of the settlements is generally undulating and is drained by rivers and streams of which Tano River is the main drainage that contains the area, is about 512km long and third largest River in Ghana. It has drainage area of approximately 16,060 km². The River serves as main sources of drinking water for several towns and villages in and near the Ahafo and other parts of the region (NGGL Environmental and Social Impact Assessment, 2005). Apart from the physical importance of Tano and Subri rivers in the area, they are considered by the Ahafos as deities, described as “sons of God” and divine intermediary for the serving communities (interview with Nananom of the study communities, 2008).

The vegetation of the area consists of tropical rain forest, mosaic of fallow and crop land and plantation of exotic timber species including Teak. The fauna include small

mammals, large mammals and special status species, bat and birds (NGGL Environmental and Social Impact Assessment, 2005).

The communities operate within similar framework of legal, political and cultural authority. With respect to general political system, the District Assembly is the highest administrative and political authority in the district. In addition to the democratic governance is the traditional political structure which is basically the chieftaincy institution.

The aforesaid demographic, climatic, drainage, biological and political, characteristics of the communities have implication on the company/community relations as well as the mineral production rate of the mining companies.

3.8.2 Profile of Newmont Ghana Gold Limited (NGGL)

The Newmont Ghana Gold Limited's (NGGL's) Ahafo Mine is located in the Brong Ahafo Region of Ghana, West Africa. The Project Area is located approximately 300 km northwest of the capital city, Accra, 107 km northwest of Kumasi, and 55km south of the regional capital of Sunyani, as shown in Figure 3.1. It is Newmont's first African operations. The Ahafo Project currently involves 774 square kilometers of land covered by mining and prospecting licenses and 834 square kilometers of land covered by reconnaissance licenses, together with an approximate 48km strike length. It is separated into two components, Ahafo North and Ahafo South all consisting of approximately eleven (11) pits. Active mining began at the Ahafo south mine in January 2006 with commercial production commencing in July 2006. The mine hasten (100 million ounces of gold reserves as of December 31, 2010

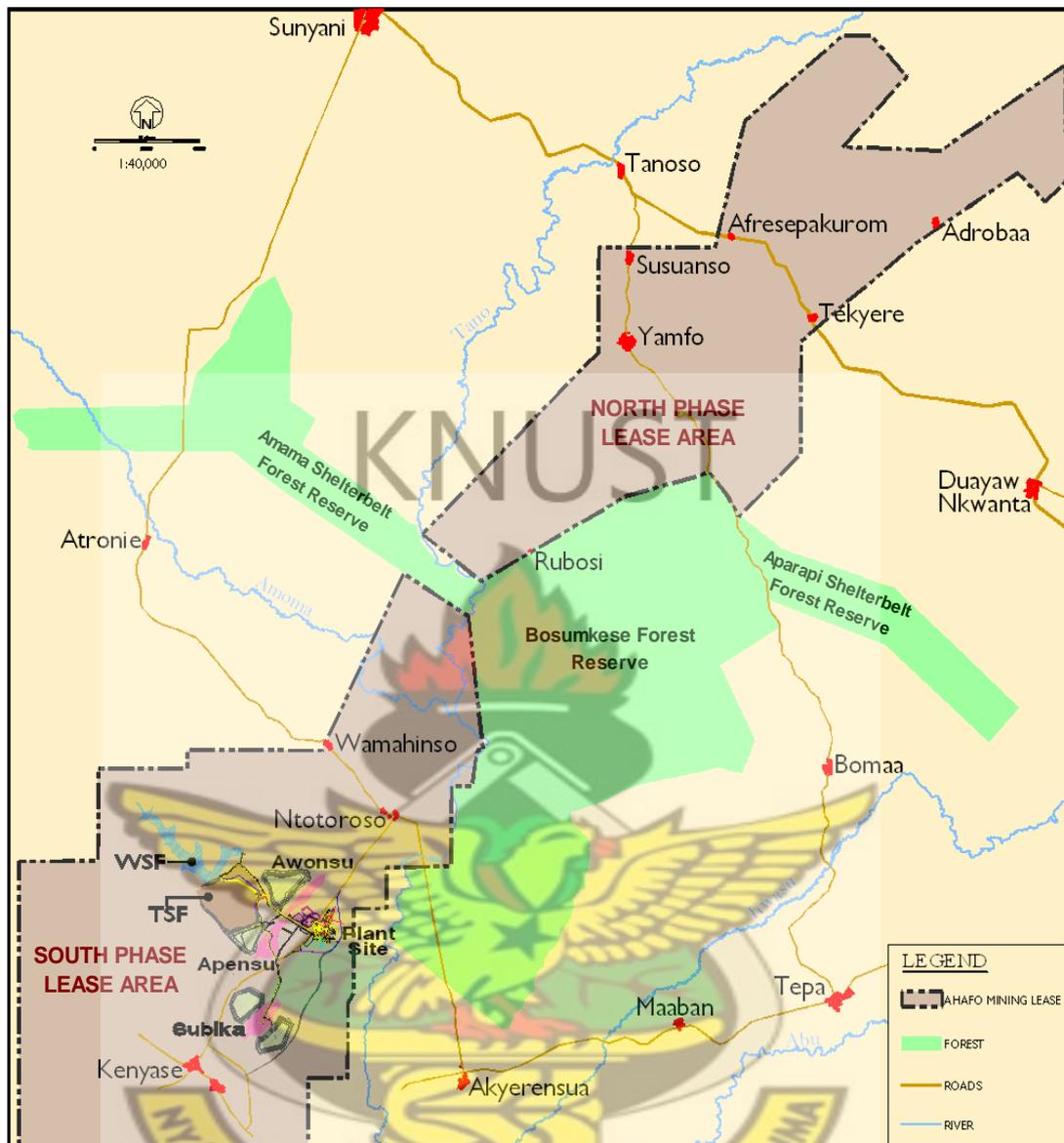


Figure 3.1: Map indicating the location of the lease areas and adjacent forest

Source: Newmont Ghana Resettlement Action Plan 2009

The Ahafo South Area extends from the Amoma Shelterbelt/Bosumkese Forest Reserve on the north and east; the communities of Kenyasi No.1 and Kenyasi No.2 on the south; and to head water of Subri and Awonsu drainages in the west (figure 3.3). The Ahafo area extends from the northern boundary of Amoma shelterbelt and Bosumkese Forest Reserve north-east to the known extent of the Ahafo mineralized

CHAPTER FOUR

4.0 FINDINGS

This chapter first describes statistically the attributes of the participants. It then presents the findings/results of the various themes. Direct quotations from the interviews were made to show particular themes and to provide the context of the responses.

4.1. Characteristics of Study Participants

Individual participants interviewed were one hundred and twelve (112) from the impacted communities including personnel from relevant local Government agencies/NGO, and two (2) practicing valuers and six (6) senior officers from the mining company.

Table 4.1 shows the socio-demographic characteristics of study participants.

Table 4.1: Characteristics of Participants

	Sample Size	Sex (%)		Age (%)		Marital Status (%)		Indigenous Status (%)	
		Mal	Fem	21-60	60 Up	Single	Married	Indig.	Non Indig.
Project Impacted Persons	112	62.5	37.5	74.1	24.1	31.2	68.8	40.2	59.8
Gov't & NGO Reps	2	100	0	100	0.00	0.00	100	0.00	100
Company's Representatives	6	90	10	100	0.00	0.00	100	0,00	100
Total	120								

Field Survey, 2011

Table 4.2: Educational Background

Educational Background				
Educational level	Frequency	Percent	Valid Percent	Cumulative Percent
Tertiary Education level	3	2.7	2.7	2.7
Second Circle Education level	21	18.8	18.8	26.8
Basic Education level	37	33.0	33.0	59.8
No Formal education	51	45.5	45.5	100.0
Total	112	100.0	100.0	

Among the Project Impacted People, the company and the government/NGOs, the respondents were mainly males who represented over 62%. This reflects that farming, which is a major means of livelihood in the study area, is mostly carried out by men, and the culture of the people does not easily permit females to assume leadership roles in the society. This finding also gives credence to the fact that mining related works are male dominated.

Regarding age, majority of the participants fell into age range of 21-60, that is land related working group represented about 74.1% of the total sample size or respondents.

The educational background of the respondents particularly among the project impacted people was found to be generally low. The majority of them have no formal education and such represented 45.5% while those with basic education were about 33%. It was identified that only three (3) of the respondents of Project Impacted People have tertiary education and these represent about 2.7% of the total respondents from the community. Meanwhile, all the company representatives have tertiary educational background.

About 40.2% of the 112 respondents from the Project Impacted People were indigenes and the rest, representing 59.8% were long-term immigrants who were deriving their source of livelihood from lands impacted by the mine. None of

respondents from government institution/NGOs and the company was a native of any of the mine host communities.

4.2. Statutory Provision in Land Taking and Compensation in Mining

Table 4.3: Level of awareness on compensation statutes

Awareness on Land Compensation Statutes and Rights			
Issues	The Relevant legal provisions on compensation	“legal document”	Right for Compensation
Community Awareness (% of 112 respondents)	33.9%	61.6%	74.1%
Community no awareness (% of 112 respondents)	55.4%	35.7%	25.9%
Company Awareness (% of 6 respondents)	83%	100%	100%
Company no Awareness (% of 6 respondents)	17%	0.00%	0.00 %

The respondents were asked to rate their level of awareness on relevant statutes in land taking and compensation in mining. It was found out that the Project Impacted People have little knowledge in land-taking provisions. That is, about 62 respondents out of 112 representing 55.4% indicated they have none or limited knowledge on the existing statutes or standards on land taking or compensation while 33.9% claimed that they are moderately aware of the existing laws. Nonetheless, 61.6% of the respondents were able to state that the Constitution and the Mineral Mining Act, 2006 are the legal documents that relate to land compensation in mining. About 35.7% indicated that they have no idea about statutes or standards that guide land taking in mining.

It was found that 74.1% of the respondents were of the view that Project Impacted People have the right to compensation for any loss they may suffer and that, after the compensation, they do not have the right to re-enter the land or obstruct the activity of the mine on the land, particularly, in a case of permanent land take (which is not for exploration). However 25.9% of the impacted people did not have any idea on their right. Meanwhile 83% of the company's six (6) respondents was found to be much informed on the various statutes and the principles in land taking and compensation. It was also found that 85% of the Project Impacted People respondents who claimed to be aware of the provisions on land taking indicated that they got their knowledge through the mine staff.

4.3. The Mine land-taking Practices and use of Compensation statutes and Principles

In an effort to find out about stakeholders' knowledge on land taking practices in the mine, 44.6% of the total 120 respondents indicated that the company secures the relevant authorization or permits from the government and then inform or engage the community (stakeholders) on the permit obtained and associated authorized land taking activities, before entering the land for the mine activities. The Company then, subsequently or concurrently, pays the due compensation. As stated by an impacted farmer:

“the mines officers come ‘suddenly’ to inform us of the permit they have obtained from the government to take our land, ask us to stop our activities on the land and that same material moment start their survey work, later in weeks compensation chits (“cheques”) are issued for compensation; which is paid in about three or more months’ time” (interview of impacted farmer, 2011).

Out of total 120 interviewees 21.4% believes that the mine identifies a particular site, obtain permit and then carry out its activities. About 29.5% of the 112 community respondents believed that the company simply informs Project Impacted People (PIPs), pay compensation and then carries out a proposed mine activities on the land.

As stated by an interviewee

“the mine simply announces to us that we should stop work on our land because they have secured permit to take over the land for mine activities, then they issue chits for compensation and start their mine activities immediately” (interview with an impacted farmer, 2011).

When the respondents were asked whether the company works within relevant Ghanaian laws on land taking and compensation, 75.9% of 120 respondents indicated in the affirmative that the company applies the statutes; 14.3% claimed that the law is misapplied while 6.2% was of the view that the company does not apply the statutes at all. Meanwhile, about 80.4% of the 112 community respondents believed in or accepted the existing statutes even though they have reservation with some portions of the legal provisions on land takings and compensation for mining project. One respondent stated,

“It is the prevailing provision in land taking in mining. Even though most of us don't know much about the laws, we accept it in good faith since it is from the government and we don't have any option” (interview with an impacted farmer, 2011)

Even though the laws are accepted, the respondents indicated some disagreement with some of the mining practices. An example is the declaration of permit/moratorium by the mine itself and its compulsory entry into lands/farms without enough prior information or notice to the directly impacted land owners. Said another respondent:

“The agency responsible for issuing the permit for the mine to have access to our land should announce or declare the acquisition to the community or the potentially impacted people rather than the mine doing that” (interview with community leader, 2011)

However, when it was enquired whether the company applies general compensation principles such as severance and injurious affection and payment of cost of disturbance, about 95% of the respondents indicated that the company does not practice that. Meanwhile about 86.6% of the respondents indicated that the predominant land tenure system or land ownership pattern in the area is tenancy and mainly sharecropping, making Project Impacted People suffer great economic losses.

4.4. The Mine Compensation Assessment and Determination Processes

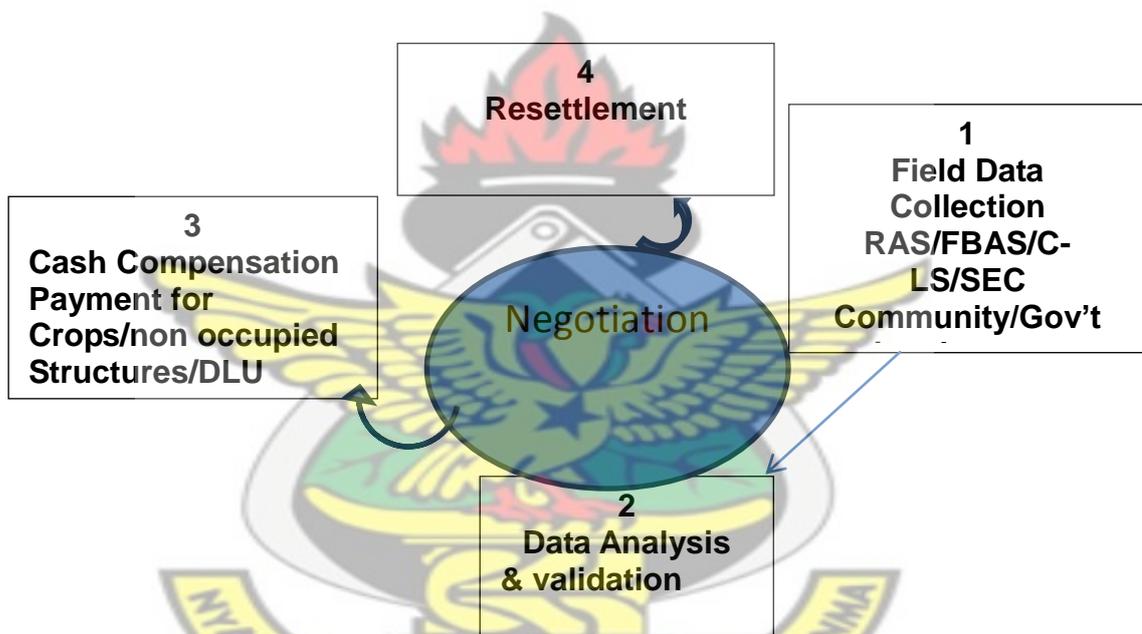


Figure 4.2

Figure 4.2 depicts what appears to be the land compensation assessment process being operated by the mining company. A review of secondary data and primary data gleaned out of focus group discussions and observer participations in some of the company-community meetings on compensation revealed the above model. Thus upon receipt and declaration or announcement of a mining permit to enter a land, field data collection ensue immediately. As per Section 72(5) of the Minerals and Mining Act, 2006 (Act 703), the mine and the owner or lawful occupier or accredited

representative of the owner or lawful occupier of the land, under the surveillance of Land Valuation Division assess crops and other improvement on the land. This assessment or survey was found to be led by a qualified surveyor hired by the company. The Surveyor surveys all the individual affected farms, plots the farm polygons and generates farm map which is otherwise known as crop identification map. There were two main types of crop assessment methods; the Head Count Method/Tree Counting Method and the Acreage Method. Essentially the data that are collected include: the size of farm/land, type and density of crops, immovable properties such buildings/structures, pond/well and other physical properties.

Again, as part of the assessment or survey and as required by Act 703 section 73(4) the INHABITANTS who prefer to be compensated by way of resettlement as a result of being displaced by a proposed mineral operation are identified.

The findings however, revealed that in practice the compensation assessments do not include that of environmental impacts like water quality, and impact of land degradations.

After collection of the field data which sometimes include socio-economic survey particularly for resettlement purposes, the information/data is analyzed. However it was obvious in the inquiries that the data gathered by the surveyor appeared as much as possible controlled, managed and processed by the company. And that the impacted community or the stakeholders only get to know the processed information during the negotiations.

Following the data analysis a committee, comprising the representatives of directly impacted people/farmers, traditional authorities, the Company and the local government authorities, was formed to negotiate the compensation. Crop rates were negotiated in this committee which members include Land Valuation Division. The agreed crops rates between the community and the mining company, the affected communities/farmers were then multiplied by the applicable crop density for each farm field to arrive at compensation due. Regarding crop density for crop compensation, the modern agricultural practices or “conventional” density of each category of crops was applied by the committee. Thus negotiated set of rates and applicable densities were applied in payment. Subsequently, a chit is issued to the affected farmer to indicate the number of crops damaged or would be damaged and that would be processed for payment in a period of three month from date of issuance of the chit. Even though the mine communities are used to that mode of compensation process, it was found that affected people sometimes get agitated on why their property should be damaged first before compensated. And why they should frustratingly follow the company to process their properties for compensation or delay payment for about three (3) sometime six (6) months before receiving their compensation. The main indicators for compensation here are crop rate and crop assessment methods. Crop rate are determined and reviewed annually to reflect current markets prices and other factors including: maturity of the crop and life expectancy of the asset. The land *per se* and the interest held did not attract compensation from 2004 till 2006. Since the compensation process was carried out under the repealed PNDC Law 153, 1986. Again, it was also revealed that from the year 2004 till 2010 the actual negotiation was done between just the community (without a support of any valuation expert) and Company which was led by much

learned officers. However, after some massive community resistance or agitation against the compensation rates the company started hiring a valuer to support the community in 2011.

In the same vein, Resettlement entitlements were discussed at Resettlement Negotiations Committee (RNC) which comprises of; elected and mandated Community representatives, the Company's Representatives, Local and Regional government representatives, NGO's representatives and independent Moderator. They review and recommend eligibility and entitlement with potential residents to resolve Resettlement related issues/concerns. However since 2004 the community undertakes the negotiations with company **without support of** Resettlement experts.

Regarding application of general principles in land acquisition, such as severance, injurious affection and payment of cost of disturbance, about 95% of the respondents indicated that the company does not practice that. An impacted farmer stated

“I know about more than thirty (30) mine project affected people whose depreciated retained lands were not compensated or whose house or land has been affected as a result of the mine haul road constructed (interview of impacted farmer, 2011).

Meanwhile about 86.6% of the respondents indicated that the predominant land tenure system or land ownership pattern or interest in the area is tenancy and mainly sharecropping practices, hence “smaller” lands do not attract sharecroppers to farm on them which making landowners suffer loss of such pieces of land, even though general land acquisition principles require that payment is made for permanent depreciation in the value of any retained land (“injurious affection”); damage to any

land; disturbance resulting from the acquisition (newzealand.govt.nz; Gibbard, 2001, Larbi, 2000; Denyer-Green, 1994).

4.5. Community Expectations on Land-taking and Compensation Statutes and Principles

When the respondents were asked questions on their expectation on the statutes regarding land taking and compensation, about 54.5% of the respondents indicated their satisfaction with the payment of compensation for deprivation of land use since 2006. The rest claimed to be satisfied with the determination of compensation through negotiations. However about 86.6% of the 112 project impacted people or community stakeholders interviewed indicated their disappointment that the statutes do not make any provision for livelihood restoration and payment of any compensation for caretakers or squatters in the Project area. They claimed that the mine Project adversely impacts caretakers worse than any other group.

The mining Company disturbs us so much and ruins our life and future because the farm we care for livelihood is taken/damaged, our cottage is demolished and compensation or resettlements offered are given to our landowners/landlords only. The landlords do not also give us a room/shelter anymore because they do not have business with us and company too does not care leaving us frustrated (A Caretaker at Amoma Project, 2011)

Nonetheless, about 72.3% of 112 community respondents shows detest for the community's non-involvement in granting the mine with mining lease or permit. In their view the government holding of unilateral and sole authority in granting the permit is inappropriate and needs review. Again, 90.2% of the 120 respondents were of the view that provisions on payment of compensation should be reviewed to give a clearer definition of what constitutes fair and adequate compensation. Also 50.5% of the respondents indicated that portions of the provisions in the Mineral and Mining

Act, 2006, that put development constraints on mining communities and give excessive power to the mineral right holder need to be reviewed. For instance Act 703 section 72(6) stipulates that “an owner or lawful occupier of a land shall not upgrade to higher value crops without written consent of the holder of mining lease, or if the consent is unreasonably withheld without the consent of the minister. In answer to question on the issue, one leader stated:

“Even if the company does not enforce it, potentially the provision inhibits the development initiatives of many people, considering the large size of concessions given to the mining companies; apart from individual limitation, we have witnessed corporate bodies or institution on one or two occasions having stopped embarking on projects such as palm plantation etc in this area. After conducting a search at the land commission and found out the area has been leased out to mining Company (interview with community leader, 2011).

4.6 Community Expectations on Land Compensation; Perceived Inadequacies

When the 112 community respondents were asked of their views on their level of compensation expectation before the project or the impact, 44.6% said the expectation was very high, 48.2% indicated it was high while 6.2% indicated that they had low expectations.

On the reason why the impacted people stated “very high” or “high” expectation, about 71.4% of the 112 community respondents indicated that land constitutes their livelihood so deprivation of it or loss of such land resource forever predisposes them to long term livelihood problems or sustainability concern hence such expectation.

One of them indicated,

“As you may have noticed our lands or farms are the only means of survival for us. Beside we have large families to take care of and this is the only asset we can give to our children as legacy, therefore losing the land forever makes us have high compensation expectation”(an expropriated landowner, 2011).

About 19.6% of community respondents claimed they had such expectation because the mining company was perceived to be rich while 8.9% thought the compensation was an opportunity to alleviate their poverty.

Again, when the respondents were asked of the extent to which their expectations had been met in terms of land resources considered for compensation, 42% indicated that it is moderately met, 42% claimed it was low while 16.1% was content with the resources considered for compensation. With respect to the adequacy of compensations in general, 54% indicated it was low, 46% claimed it was moderate while the rest said what was being paid was high.

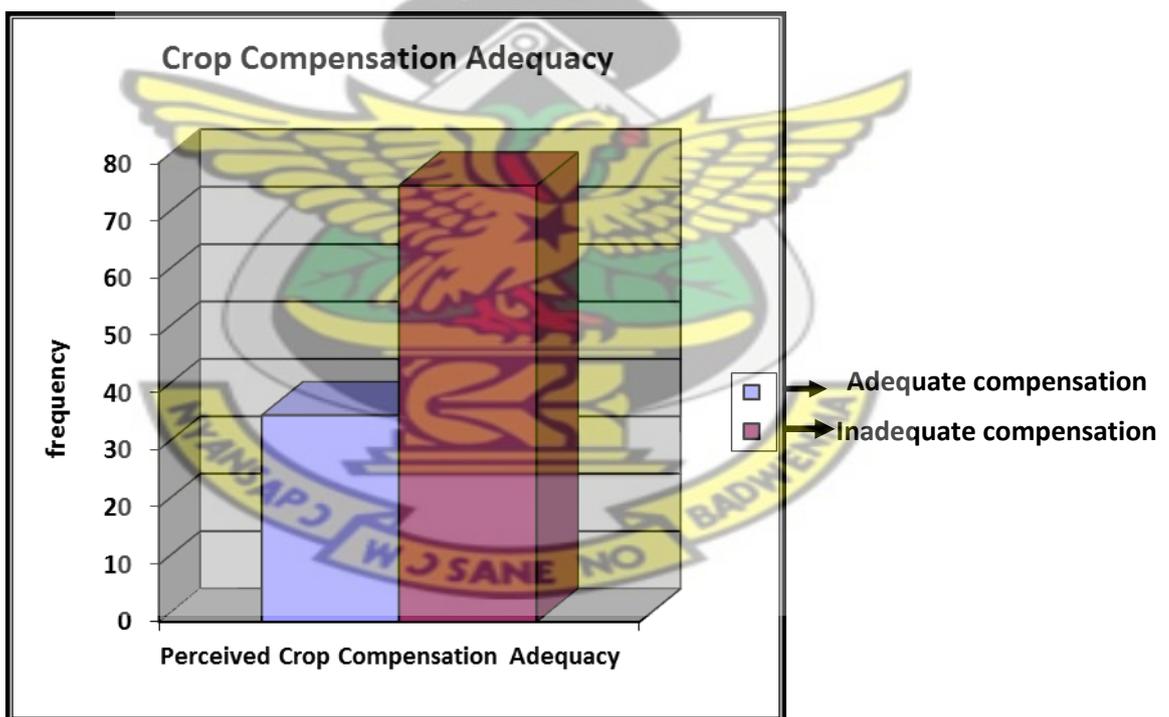


Figure 4.3: Bar charts of perceived inadequate compensations

As shown in figure 4.3, for crop compensation in specific, 70% of 112 community respondents bemoaned it was inadequate while 30% indicated their content with the

payment received. They believed some of the basis upon which rates were determined differs from the community's experience. One such basis is life expectancy or economic life for crops applied by the company. For instance life expectancy for cocoa is believed by the community to be over seventy (70) years while the mine applies 30 years in its valuations. Another issue is consideration of density of crops per acre also considered to be underestimated since the community planting distances differ from the conventional distances being applied by the mine.

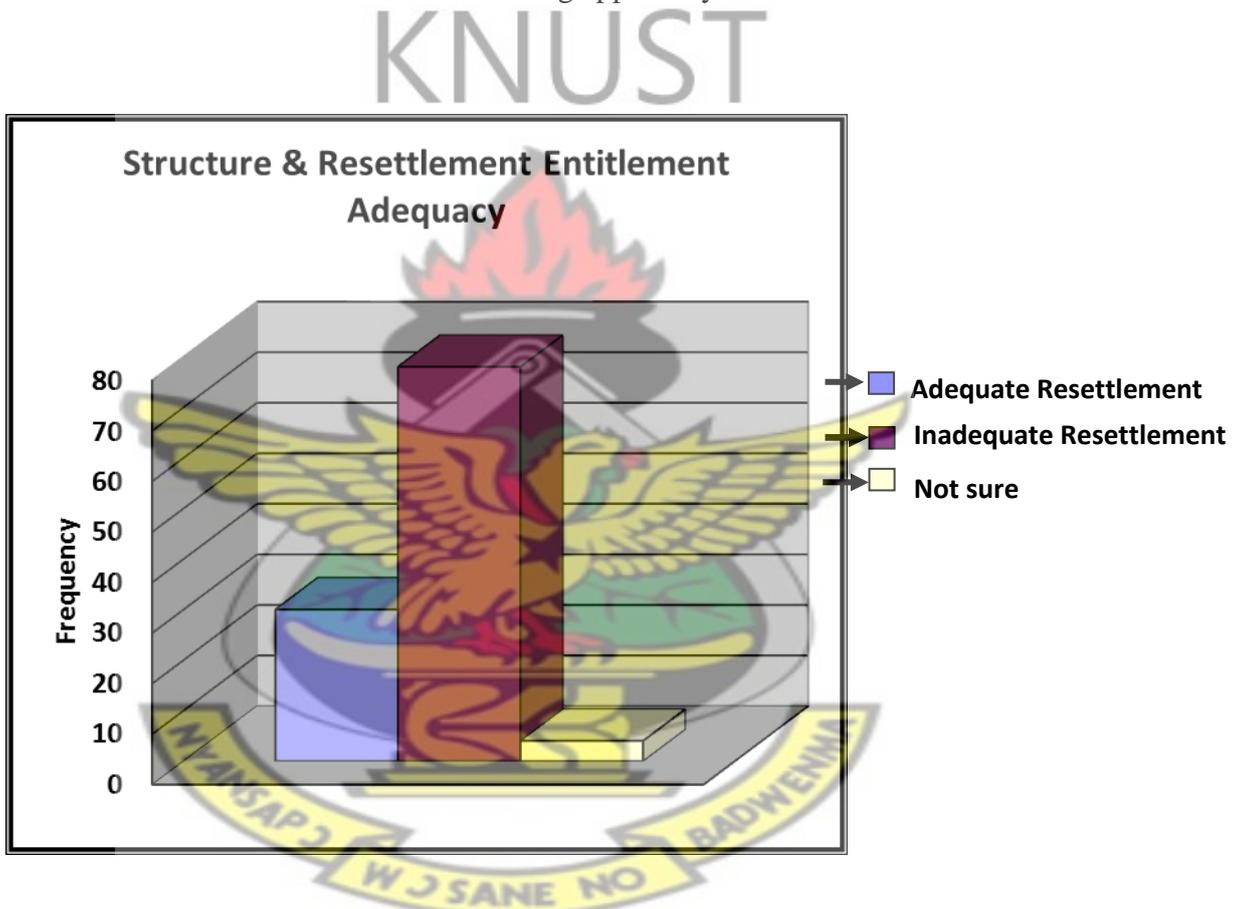


Figure 4.4: Structure & Resettlement Entitlement Adequacy

Generally regarding resettlement, 66% of entire study participants believed the entitlement were not adequate while 30% of them perceived the resettlement provisions as normal. Again, 52.8% of the community respondents indicated that they have concerns on the resettlement package given to the affected people who are

resettled. These include issues like size of the room offered, inadequate facilities like toilet that do not commensurate with the apartment offered as per town and country planning standard, and general infrastructure such as road network etc. 47.2% also have concerns about the resettlement process. Comparatively it appears the community respondents were satisfied with the compensation for deprivation of land use with perceived adequacy level of 43%. Perhaps due to the fact that it was not paid until the company made an effort to pay after coming into force of the Mineral and Mining Act, 2006 (Act 703) which made provision for such payments. See the figure 4.5 below which depicts the percentages of perceived adequacy and inadequacy of the Deprivation of land use.

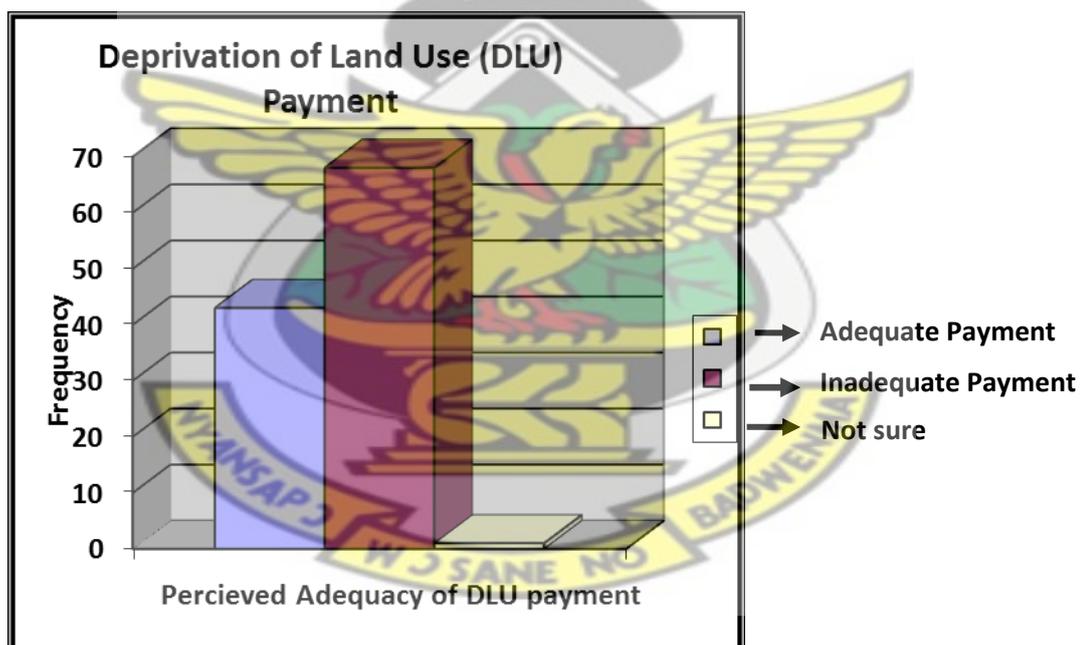


Figure 4.5: Deprivation of Land Use (DLU) Payment

Feedback showed that 76.8% of the respondents indicated that the various compensations (for Crop, Resettlement and immovable properties/structures and land deprivation) were determined by negotiations between the company and the

community representatives. And 17.9% of the 112 community respondents perceived that the compensations were determined by the company since it was believed that the mine predetermined the quantum of compensation before the negotiation knowing that technically, the impacted community was incompetent in compensation negotiation and could not match the representatives from the company. This seems to be confirmed by the study; since 68.8% of the entire 120 respondents of study believed the project impacted people's representatives in the negotiation do not have the capacity to bargain well while 31.2% believe that they do. On the other hand 83.9% of all the study respondents indicated the company has the expertise to negotiate better than the community.

The study also revealed that various heads of compensation such as relocation or loss of shelter, loss of assets or access to assets and loss of income source or means of livelihood were paid but loss of access or restriction to communal resource or service were generally not compensated. This concern was articulated by a resettled farmer:

“We have been removed far away from Bosomkese forest which has been a source of herbs and games – the support from the forest was the bedrock of my family sustenance but all these were not considered in our compensation or resettlement”(Ola resettled farmer, 2011) .

Again, on questions to explore other “things or resources” that Project Impacted People think deserved compensation, 31.2% of the 120 respondents believed there was nothing else that needed to be compensated for. While 42.8% believed “wild resources” (medicinal herbs, hunting gathering and wild food source such as mushroom) should be compensated. Also 29% claimed that an easement right deserves compensation. One farmer lamented:

“The various mine projects have lengthened the distances to our farms since people may have to seek for lands far from their places of residence,

or because of redirection of Access routes” (interview Project impacted farmer, 2011).

The search further indicated that 85% of the respondents from the resettlement communities’ strongly recommended that compensation for what has been termed as “wild resources” should be paid. Speaking for his household and community a head of a household stated

“we deserved to be compensated for the loss or deprivation of our mushroom, hunting gathering, medicinal herbs and other resources we were freely accessing or depending on at our old place of residence; most of us could depend on those things without buying meat for about one or half a year. The cost of meat or fish affects us so much at our current resettlement site. We believe that if those items had been duly compensated for it would have made a difference in our livelihood here “(head of a household at resettlement site, 2011)

However, 83.9% of the entire respondents indicated that the mine has in place programs that aimed at enhancing, or tried to restore their livelihood. Conversely they hinted that it had been much restricted to those who were impacted in terms of crop without considering those who were with other means of livelihood such as hunting, palm wine tapering, petty trades or “indigenous manufacturing ventures” etc.

4.7 Land Compensation Conflicts and Strategies to enhance Compensation Practices

The study revealed three major sources of conflict for the mine in the event of a land taking and compensation project. These were mainly perceived inadequate land compensation and delay in its payments; speculative or land development control issues; and resettlement eligibility, entitlements and infrastructure issues. A senior complaints and grievance officer in the mining Company lamented:

“The key sources of tension and disruptions in the mine land access endeavors are high community compensation expectation and sometimes

delays in payment, the community difficult stance when the mine refuses to pay speculative development or control developments as well as resettlement issues. Land issues remain one of the mine's headaches"(Newmont Senior Grievance Officer, 2011)

Review of meetings minutes of the company's stakeholder committees responsible for negotiation of crop compensation and that of resettlement entitlements revealed that there have been a number of occasions when Youth, concerned farmers and organization have stormed meeting room to disrupt and reject negotiated rates or petitioned the committee or regional minister on issues of inadequate compensation. For instance in 2010 Youth groups from ten (10) Newmont affected communities stormed and disrupted signing of negotiated crop rate by Committee responsible for determination of crop rates on the grounds that the rates were inadequate, community representation was inadequate and incompetent (March 5, minutes of Newmont Crop Rate Committee, 2010)

Exploring how some of these land compensation issues could be resolved, 65% of the 120 respondents indicated that the appropriate way to avert the conflicts and help to improve the practices and application of statutes in land acquisition and compensation in mining were among others; to ensure adequate education on the statutes of compensation and the practices of the mine in land taking. The respondents also suggested building the capacity of the project impacted people or resource them with experts in land compensation negotiation. Again, they proposed that company would be required to add more human face or adopt the best practices in applying the compensation statutes and principles. In addition, it was suggested that there should be timely involvement of the relevant government representation in the land taking.

CHAPTER FIVE

5.0 DISCUSSION

The discussion of the results of the study is considered within the following thematic areas: the Statutory Structures and Community Expectations on land taking for mining; The Mine Compensation Assessment and Determination Issues; Ahafo mine Land Taking Practices; Land Compensation and Perceived Inadequacies in mining; the Role of Actors in Mineral Development in Land compensation for Sustainable Mining; and finally Enhancing Mining Land Takings and Compensation for Sustainable Community.

5.1 The Statutory Structure and Community Expectation on Land taking for Mining

5.1.1 Land-taking and Compensation Statutes in Mining and Stakeholders'

Awareness

The findings and the literature reviewed indicated that the statutes are explicit on the acquisition of land for mineral resource development or utilization – thus constitutionally 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 (Mineral and Mining Act 2006). It is by virtue of this ownership over minerals that the President may compulsorily acquire mineralized land and authorize its occupation and use by a mining Company – making the mine a mineral right holder. Once a mineral right over an area of land (concession) is given to a company, the surface right of lawful occupiers or land owners is reduced to compensation. This requires that the Company

does negotiation and pay off appropriate compensation to the surface right holders who are landowners and lawful occupiers. This simply means that government offers to mining companies the mineral right but not the surface right.

In the study it was apparent that the statutes on land taking for mining empower the government to have virtually the sole right to grant mineral right to mining company without much consultation with the custodians of the land or customary land owners or its lawful occupiers (sections 1, 2 & 5 of Mineral and Mining Act, 2006). Ghana mineral right application guidelines of Mineral Commission do not give platform for effective consultation with community ahead of issuance of major mineral right or permits. Indeed, it may be during twenty one (21) days publication of mineral right application at the district level that information of potential land take drifts into the community. Perhaps this approach is intended to facilitate release of mineralized land for development for public good. This analysis agrees with position of other scholars such as Denyer (2001). However it appears the approach encourages disconnection between the mine and the impacted community stakeholders. This seems to explain why the mining Companies are challenged or resisted by the impacted community in accessing the land that has been permitted by the government. Fraser Institute (2012) observed that local communities may oppose mining operations if they perceive that the projects have been imposed on them without sufficient consultation. This presupposes that earlier and effective consultation on land taking for mining purpose would contribute to stall social unrest in mining communities.

Another observation that was apparent in the study was the fact that the statutory provisions on the land taking appeared to be not much appreciated by the community

or project affected people. From the findings it appears that the level of awareness and acceptability of the provisions on mining land takings are low. Perhaps this is due to the general low level of education, inability of the affected people to access relevant information on land taking, perceived distrust of the mine-source of information on land takings provision (thus education on land taking by the mine is received with mistrust considering as bias or an attempt to cheat the community). Also, possibly lawful occupiers perceiving themselves as natural ownership of the lands, and perhaps perceived impacts suffered by the affected people due to land takes. The community seeming detached from land taking provisions can pose land tenure issue to the mine and social conflicts in the community in relation to the mining activity. And this has the potential to affect investment by trans-national mining companies since land tenure is the first factor considered in investment decision.

5.1.2 Perceived Limitations in Land Take Provisions

The 1992 Constitution of Ghana (267) states that “all stool lands in Ghana shall vest in the appropriate stool on behalf of and in trust for the subjects of the stool in accordance with customary law and usage”. To this end, no individual or body of persons can have freehold interest howsoever described in any stool land in Ghana. Individuals are only entitled to user-rights also known as lesser interest in land. However the state by law possesses the right to compulsory acquire any property in the interest of the state and allow the interference of private right to land (State Lands Act, 1962 (Act 125);

In Ghana, it appears the State is the only agent, which by law can grant mineral right – a sufficient authority to corporate or an unincorporated body of persons registered/established in Ghana for mineral operations. That is,

“Subject to sections 73 &74, a mineral right granted by the Minister under this section is sufficient authority for the holder over the land and entitles the holder to enter the land in respect of which the right is granted”(Minerals and Mining Act, 2006 (Act 703) Sec 13).

Hence, once the right is granted by the Minister, any other right a person has, is reduced to a compensation claim. And therefore becomes illegal to prevent or obstruct the operation of a lawful holder of mining right issued by the State (Minister). Perhaps this is where affected people on land taking for mining seem to have issues regarding the State’s unilateral grants of mineral right or mining lease to registered bodies to extract minerals. The indigenous people believe that the land was bestowed on them by their ancestors and as such they have the natural ownership right and therefore need to consent to any occupancy. Perhaps it is also considered that they are the immediate impacted people in land taking and therefore have the right to be consulted in decisions that affect them. Again it is believed that compulsory and sudden detachment or alienation from their land is an unfair treatment that the impacted people are made to suffer. ICM (2013) position statement on mining and indigenous people essentially codifies the perceived expropriation concerns of indigenous people and advises stakeholders to:

“Respect the rights, interests, special connections to lands...and perspectives of Indigenous peoples, where mining projects are to be located on lands traditionally owned by or under customary use of Indigenous Peoples”

The government or the mine arguably may claim to inform the impacted people on dispossession of their land through publication of mineral right application and

through a perceived sudden announcement or what is termed as declaration of moratorium or mining area declaration. It appears these modes of communication do not align with the community's ways of engagement and therefore arguably invalidate the communication. It is not surprising therefore that the ICMM recommends mining stakeholders to adopt and apply engagement and consultation processes that ensure the meaningful participation of indigenous communities in decision making, through a process that is consistent with their traditional decision-making processes (ICMM, 2013). These reasons perhaps explain why the community believes that the statutory provision should be reviewed to respect the view or involvement of lawful occupiers before the land taking. This in essence does not invalidate the government power of eminent domain in compulsorily taking land for mining projects.

From the findings, it could be deduced that the mining project affected people do not seem to oppose the state's exercise of eminent domain to compulsorily acquire land for the purpose of public good. Given this is so; it is probably because of lack of information from the government on where and when it grants permit for occupancy of particular land.

The study reveals that another portion of the provision that the community perceived as problematic is the supposed constraints that Mineral and Mining Act (2006) places on people living in mining leased or concessional area. Perhaps the community agitations come from the threat in terms of the vastness of lands that are given as mining concessions and the legal regime that governs those lands. This concord well with The lamentation of former for Environment, Science and Technology, Ms. Sherry Ayittey, over the large tracts of land given to mining companies as

concessions, which deprives indigenous people of their lands for farming and other economic activities(Chronicle, 2012) That is as per the provisions in Mineral and Mining Act (2006), once a mining lease is granted to a mine, the inhabitants or lawful occupiers of the land are not supposed to erect structures or upgrade crops without written consent of the mine or (resource) Minister. They are expected to avoid grazing or cultivation if the mine determines that such would interfere with the mineral operations in the area. Hence developments after declaration of a grant are unacceptable before the law. It could amount to fraud if proven. Limitations such as these are perceived as inimical to individual and group/institutional development initiatives in such an area. This becomes more problematic in a situation where the leased land may not be in active mining operation for a number of years.

On other hand, surface right holders have the right to compensation for disturbance of owner's surface rights (Ghana 1992 Constitution; Mineral and Mining Act 2006). Fair and adequate compensation is expected to be paid. If it involves displacement of any inhabitants, they should be resettled on a suitable alternative land with due regard to their economic well-being, social and cultural values. The study revealed that the majority of the Project impacted folks are much aware of these provisions and press for their due compensations. However, what seems vague in the minds of the stakeholders in land compensation, as per the provision is what constitute fair, adequate and prompt payment of compensation. The findings indicate that both the mine and the impacted community seek for minimum definition or indices for what is termed as fair and adequate compensation. This perhaps is due to the thin and unstable trust between the mine and the community. Therefore the quest for such minimum guideposts on the determination of compensation would enhance trust in

compensation rate negotiation, ensure satisfaction of project affected people and acceptability of negotiated outcome, ease negotiation as well as the mine land access.

The findings revealed that the nature of compensation to which an owner or lawful occupier may be entitled, may include, without limitation to the cost of resettlement, the annual ground rent, and work that the holder has carried out on the land and improvement. However much concern is being raised that the provision failed to consider livelihood restoration of caretakers or squatters on the project area of the land taking who are considered to be normally hard hit by the project impacts. World Bank also recognises that squatters are generally among the poorest people, and that resettlement programs should direct special attention and support to them, to prevent further impoverishment (World Bank, 2004). Maybe the mining statutes require some caveat on the needs of squatters or caretakers.

5.2 The Mine Compensation Assessment and Determination issues

According to Section 74(2) of the Minerals and Mining Act 2006, Act 703, in the case of compulsory acquisition of property, prompt payment of fair and adequate compensation shall be made. As part of the effort to achieve the purported compensation, the Mineral and Mining Act 2006 prescribes that the impacted person(s) and the mine conduct joint field survey under the surveillance of Land Valuation Division to assess crops and other improvement on the land. Ordinarily, this collaborative approach should offer right footing for mutual understanding and trust in identifying assets or values on the field that need to be considered for compensation. Tagoe et al (2012) believe that it is “to enhance peaceful negotiation in the compensation process”, that Article 72(5) of the Minerals and Mining Act, 2006”

instructs that joint field assessment is done. But the question is - does that process bring the anticipated trust and peace in the follow-up negotiation? I think the contention has been on what assessment method favours the community or the company. Particularly with respect to crop assessment methods – is it the tree counting or the acreage method that assesses well to reflect the traditional planting distances or the conventional planting (being applied by the mine)? Perhaps there is the need to properly consider and streamline the traditional planting style and modern agricultural conventional practice to let the assessment capture and fairly reflect values on the ground. More so, the variables set or values being assessed need revision, particularly environmental elements which are conspicuously discounted. Again, regarding structure valuation, it appears how a hired surveyor or valuer is solely managed by the company, and how valuation data gathered are controlled, processed and managed by the company till it is submitted later to be negotiated on perhaps give some doubt to community to trust the adequacy. It also seems the level of involvement and authority of Land Valuation Division in the assessment processes are not well defined and known to the community to explore the opportunity of check and balances in the process.

Even though the law require that the compensation should be based on negotiation but it seems the issue has been more of the trust in the basis and the assessment process more than the science of the assessment or the valuation. Under the law, with particular reference to Section 73(3) of Act 703: “The amount of compensation payable shall be determined by agreement between the parties but if the parties are unable to reach an agreement as to the amount of compensation, the matter shall be referred by either party to the Minister...” apparently the ‘agreement’ or ‘negotiation’

factor is the bedrock of the compensation. However, there are questions of whether or not the community can engage in win-win negotiation with company: do they have adequate negotiation skills? Are they adequately resourced in all the various compensation negotiations – Crop compensation, structure/immovable properties, deprivation of land use and resettlement? It appears the community perceived land compensation negotiation incompetence and lack of resourcefulness undermine the opportunity to have the supposedly fair and adequate compensation. Ghana Chamber of Mines and the Business Sector Advocacy Challenge intimate that without clear acceptable national standards as benchmarks the negotiation becomes the breeding pot for controversies between the parties involved (Ghana Chamber of Mines and BUSAC, 2008).

5.3 The Company's Land-take Practices Versus the Communities' Expectation

The study revealed that the stakeholder community believed that regarding land taking, the company secures the relevant authorization; communicate the permit acquired to stakeholders and pay compensations to the affected people. It seems the community is aware of this chain of the mine land access process. However it appears they have concern on what was claimed as sudden announcement or declaration of permission and entry into a particular piece of community land. Mining in Malawi (2012) posted a sentiment of a paramount chief Kyungu for Karonga District, northern Malawi who observed that it was not appropriate for a mining company to just come into community land without prior information and “surprisingly expect the members of the community not be worried” as they see aliens in their homes/land doing their mapping. The perceived or supposed sudden approach in entering the community land after acquiring requisite permit may somewhat be justified by the

Company due to the supposed community's tendency to engage in speculative activities which add cost to the business and mostly engender company-community conflict (Chamber of Mines & BUSAC, 2008; Tagoe et al, 2012). It may also partly due to potential project delays as results of delays in backend process from the government institution responsible for permitting (Ghana News, 2009). Again is it perhaps the failure of the government agencies responsible for granting the permit to proactively get the stakeholders informed on any permitted land takings. While this approach is plausible in the business sense it appears to be of somehow a social problem – in terms of the sudden disruption or disarticulation to some people.

Another issue is the seeming disagreements on the practices where the mine declares a moratorium or its permit by itself and compulsorily enters into lands/farmers. The act of the mine in communicating its acquired permit and restricting access to permitted area, in itself, is not a violation of any mining Act or land taking laws. However, due to trust issues and the mine being perceived by the community as an alien (Aubynn, 2003), such a communication to the community members does not go down well with them who consider themselves as “natural” owners of the land. Even though it appears the mining company has over the years been communicating directly to affected communities on their permitted area but did so amidst community agitation, complaints or conflicts regarding land use limitations. And this situation has the tendency to affect Company- Community relations.

Payment of compensation to the affected farmers and households for their damaged properties was determined by well constituted and structured company-community stakeholders' negotiation committees. The committees have the mandate from the

communities to negotiate the compensation rate and entitlements for the affected people. The study revealed that there was in place a stakeholder participatory process for determining resettlement entitlement and other payments for immovable properties or deprivation of land use for eligible project affected person. It appears the set out process is in conformity with the provisions which require that an agreed compensation should be paid to affected farmers. However the issue of whether the negotiation should be conducted through only representatives/committee or with an individual was observed to be silent in the Act. The implication of this gray space is that while the Mine for the sake of consistency and conformity across the community, and easiness to meet projects' timelines may insist on the committee negotiation, while some individuals may want to have one-on-one negotiation. This contention as consequence, may often leads to open and sometimes violent negotiations about the use of land in mining.

Regarding application of general acquisition principles, such as severance, injurious affection and payment of cost of disturbance, it appears the company was not known to practise that - apparently causing economic loss or externalities to project impacted people. It appears this is contrary to land acquisition principles which require that payment is made for permanent depreciation in the value of any retained land ("injurious affection"); damage to any land; disturbance resulting from the acquisition (Gibbard, 2001, Larbi, 2000). Perhaps the affected people feel the effect of the associated economic lost but have not demanded that payment as a matter of right. Presumably this state of affairs is due to lack of awareness or knowledge on these principles, or it may also be that the provision (Minerals and Mining Act 2006) seems to be silent on severance and injurious affection as heads of compensation claim or

problem associated with identification and assessment of such agricultural land (Gibbard, 2001).

5.4 Inadequacies Issues in the Mining Land Compensation

From the results obtained, the community appears to aspire for sustainability after a project and after the mine closure. This aspiration was manifested in the high land compensation expectations. The findings gathered shared that the high expectation was due to the community perception that land is the only source of livelihood and the bedrock of their sustainability; the community land is lost forever, the mining companies are rich, the company should be socially responsible, and that the community members are the owners of the land who deserve additional payments and thought such is their opportunity to alleviate poverty. The community's high expectation vis-à-vis its sustainability, is probably based on a number of considerations. First of all, the communities seem to have better appreciation of the negative socio-economic impacts they are exposed to by the mines' operation. This is because communities close to the mines operations bear the direct effects of the mines activities (Yirenkyi, 2008). Therefore the current effects of the impacts that are being felt by the communities could make them sense the gloomy future hence the high demand. Also, given the poor pre-mining social-economic conditions of the communities and the perceived richness of the mining companies, the residents may have been compelled to perceive the company as surrogate government. This analysis is in line with the work of other researchers on the subject (see Downing et al, 2002; Aubynn, 2003; Veiga et al., 2001; Akabzaa and Darimani, 2001). Again, it appears the thought of losing the community land forever (considering the land as the only asset for posterity and the bedrock for sustainability of the community) may have

motivated the community to make high demand that could arbitrarily commensurate with the value of the lost land.

The study also gathered that as per mineral and mining Act 2006 the various compensations (Crop, Resettlement and immovable properties such as structures and land deprivation) were determined by negotiations between the company and the community representatives. This is also in line with IFC performance standard which stipulates that there should be consultation and informed participation of affected persons and communities in decision-making processes related to resettlement or compensation (IFC Performance standard, 2007). Nonetheless it was generally perceived that the impacted people have relatively no capacity to help them achieve win- win negotiation outcome or adequate compensation. This outlook seems to be explained by three fundamental factors. The first one is predominantly low educational background of the project impacted people (community) as against high educational status of the company officers who lead in the negotiation. Confirming this is UNESCO which recognizes indigenous communities' low education since they are generally discriminated in terms of access to basic social services, including education (UNESCO 2012). Also the community has relative lower negotiation skills as against the higher negotiation skills of the company representatives. This is supported by World Bank observation that indigenous people Lack the skills to negotiate their interests effectively, and as such bear the high cost of the depletion of their natural resources without the benefits of economic development, making their lives and livelihoods being threatened(World Bank, 2012). Again, the company seems to have easy access to and apply land valuations or compensation expertise (from

valuers and other relevant institutions) due to its financial strength and search ability as compared to the community.

The study observed another land compensation inadequacy issue arising from supposedly lack of compensation for loss of access or restriction to communal resource or service, uncommon plants and other “things or wild resources “such as medicinal herbs, hunting and gathering, mushroom that the mine resettlement community think deserved compensation but are not paid. Meanwhile the World Bank’s involuntary resettlement policy (Operation Directive 4.30) makes reference to “loss of access....fishing, grazing, or forest area” and goes on to note that such losses “cannot easily be evaluated or compensated for in monetary terms” However it advises that ...“attempt must be made to establish access to equivalent and culturally acceptable resources and earnings opportunities(Operation Directive 4.30).

Again, it appears in practice or per statutes no attempt is made to compensate impacted people environmental elements such as water quality, land degradation/erosion, noise and vibration that are disturbed and invariably affect them economically or socially. Perhaps this is so due to the notion that environmental assets or services often fail to be valued in conventional markets or are generally not traded on markets. Or the fact that Markets do not exist for these Environmental services as they are public good and considered externalities which are not duly taken into account in resource allocation. However it is believed that if markets can be developed for environmental services it could address flow of revenue to landowners and communities in rural areas contributing to poverty reduction. Any case Craig and Ehrlich et al (1996) observed “It is unwise to separate environmental and social

impacts, since they are interrelated through indigenous culture and perceptions.”(Cited in Kahn, 2003). Freeman (1993) argued that well-established indirect methods based on universal principles of valuation can be used, however, to estimate natural capital values in the absence of market prices. It seem there is the need to explore how best environmental variable could be considered for compensation maybe to complete compensation component for the purposes of sustainability of the impacted community

However, the mine has in place programs that aimed at enhancing or tried to restore livelihood but appears to be much restricted to those who were impacted in terms of crop but not considering other means of livelihood such as hunting, palm wine tapering, squatters etc. Perhaps this is due to the virtual absence of provision on livelihood restoration and compensation for the squatters/caretaker who are paradoxically mostly heavily impacted by the mine project.

The study finally touches on the issue of compensation inadequacies in relation to resettlement entitlement including size of the room offered, inadequate facilities like ratio of toilet to house size offered not as per town and country planning standard, and general infrastructure such as road network. Other concern was about the resettlement process.

5.5 Role of Stakeholders in Taking and Compensation process

From the study it appears there are three key stakeholders in the mine land taking and compensation – the Government, the Community and the Mining Company. Each stakeholder seems to have a unique responsibility to ease access to land and its compensation for mineral resource development in the country

5.5.1 Role of Government in Land Taking and Compensation

The provisions in the constitution of Ghana and the mineral and mining Act, 2006 entrust any mineralized land in Ghana to the president of the nation. By virtue of this power the government is able to lease out mineralized land to any interested mining company at his will with virtually no consultation with the impacted communities (Aubynn, 2003). Findings gathered revealed that the only time communities were actually made to partake in the permitting process was during the Environmental Protection Agency (EPA) public hearing. Perhaps this gives the community the opportunity to express concerns on the proposed project including decision on land taking. The community's perceived isolation from the contractual process rendered the community weak or powerless in the land taking process.

In any case, it is believed that for fear of losing effective social control through interference from citizens, governments exercise its power in taking some critical decision (Downing et al., 2002; Kuyek, 2002). For instance the complexity of the land tenure system in rural Ghana (where most mineral resources are located) might frustrate investors and thus impede the government's ability to attract more foreign investment.

However government seems to have a key role to play to facilitate access to mineralized land by bodies which have been offered mineral right by the state and in the same vein ensure that the lawful occupier or land owners are supported to have sustainable livelihood through due compensation and other sustaining assistance from Projects established in the community land. A former vice president and also minister of trade and industry (Haruna Idrisu) once commented that Land acquisition should not be a “hindrance” or “stumbling block” to investing in Ghana because the government will facilitate to ensure that land acquired is devoid of any controversies to enable investment thrive in peace (Ghana News, 2007; Daily Graphic, 2013). Apparently this is an admission of the challenges in land acquisitions and perhaps what is required is the demonstration of government commitment to ensure that the companies have peaceful access to land and community’s has due compensation/benefits for sustainable livelihood.

5.5.2 Role of Mining Company in Land taking and Compensation

Historically, the mining industry has taken a 'devil may care' attitude to the impacts of its operations (Jenkins et al, 2006). However, mining companies during this recent phase of globalization have contributed towards improved social development (MERN, 2007; Jenkins et al 2006; MMSD, 2002). The latter observation seems to occur in the study communities; where the company has contributed to the communities with some employment and sustainable agricultural development supports.

That notwithstanding, it seems there is difficulty in determining or reconciling what a community’s “acceptable compensation demand” is on one side, and what the

company's "acceptable land taking and compensate rate" is on the other side. Thus, whilst the company perceives its assistances aside compensation as voluntary and based on moral imperatives, the communities consider their request or demands as obligatory. Perhaps this dichotomy of interests in land compensation requires effort of the stakeholders to fix.

Maybe the company should educate or engage the community adequately and appropriately in consistent with the traditional decision-making processes on the land taking processes (ICMM, 2013). Or tap into the government commitment to facilitate land acquisition devoid of controversies and proactively involve the relevant institution and the community in the land taking process. Ultimately the company's effort is to manage the community expectation in order to have unimpeded access to the land offered by the government. And this include the strategy to build the capacity of the impacted people and resource them adequately to be able to negotiate with company appropriately.

5.5.3 Role of the Community in Land taking and Compensation

From the results obtained, the community appears to aspire for sustainability even after the mine closure. This aspiration was manifested in the high land compensation expectations and better land taking provision and process.

However, in order for the community to have realistic and flexible stance regarding land taking and compensation for losses, it may have to endeavor to commit to some processes. Perhaps it may have to seek for education on the relevant laws and practices being applied by the mine in land taking and gets itself involved in the

valuation and assessment of the impacted people assets. Nevertheless, overall there seem to be the need for some level of capacity building for indigenous people to appreciate and deal well with the mine in compensation discourse. At the community level, capacity includes the broad abilities to design communal responses to environmental and natural resource management issues, seize the opportunity to improve community socio-economic conditions, and develop strategies to protect and enhance the community's varied interests – traditional or contemporary. This presupposes that the community should have the ability to use dialogue to manage misunderstanding between the mine and the community regarding land taking and compensation and seeks for support from relevant government institutions in land takes and compensation.

5.6 Enhancing Mine Land takings and Compensation for Sustainable Mining

The study revealed that there had been three major sources of conflict for the mine in the event of land taking and compensation project. They are mainly perceived inadequate land compensation and delay in its payments, Survey and speculative development control issues and finally resettlement entitlements or infrastructure issues.

5.6.1 Managing Perceived Inadequate Compensation to Enhance Mining Land takings

Land access for mining involves the compulsory taking of land, often against the will of the landowners. The law in Ghana requires the mine to pay compensation adequately and promptly; however, adequate compensation and prompt payment are not defined clearly and comprehensively in the statutes. The questions are what

monetary quantum is appropriate to constitute the constitutional mandate of adequate compensation? What should be the measure of compensation? What makes compensation adequate? And what are the tests of adequacy? What timelines make compensation payment prompt? It appears that compensation attributes under the stipulated laws are not adequate to fulfill adequate compensation and prompt payment notion under the spirit of Article 20 of 1992 Constitution. It seems the attributes are totally abstract and have no meaning from a practical standpoint, unless it is related to something which has a concrete value. These subjective, relative and undefined statutory provisions on land compensation in effect subject the stakeholders (in this context the mine and the impacted community) to three major uneasy conditions. First, they are left to interpret the provision to suit their understanding, perception and aspiration. Second, they are required to have high negotiation skills or expert knowledge in compensation to have better deal (of which the community is perceived to be disadvantaged). Third the mine and the community are put in conflict and dissatisfied mode in dealing with land taking and compensation payment (Ghana Chamber of Mines and BUSAC, 2008). These underlying factors perhaps in part explain re-occurring conflict and stalemates during land taking and compensation payments. This situation may affect sustainable mining, the community and mining investment interests in the area and perhaps the nation as a whole.

Maybe this observation from the statutes and other findings on mine practices require some steps to avert the situation and streamline dealings in mine land taking landscape. Particularly regarding heads of compensation structures and definition of compensation attributes (Market Value of Land Taken, Injurious Affection, Severance, and Disturbance). And non-compensation for non-title holders (squatters,

caretakers and others) who paradoxically appear affected heavily by the mine project. as well as consideration of payment of solatium or premium as over and above total compensation pay to project impacted people.

5.6.2 Managing Lands-take, Speculative Activities and Development Constraints

Issues

As per the provision in mineral and mining Act 2006, once mining lease is granted to a mine the inhabitants or lawful occupiers of the land are not supposed to erect structures or upgrade crops in the concessional area without written consent of the mine or (resource) minister.

Based on the spirit of this provision the mine could declare an area as a mining area within the leased zone and to some extent freeze activities leading to upgrade of crops and erection of structures for a period ranging from months to years. The mine can also declare an area as Moratorium Area- that is a portion of the land which the Lease holder (mining company) requires for the actual mining operation as well as adequate safety and environmental buffer zones around various components of the mining operational infrastructure and where the affected people are compensated. The mine sometimes declares a control Area- that is portion of the land around a moratorium area that requires controlled and regulated development such that the potential for nuisance, confrontation, speculation, is minimized as well as catering for the potential for mining operation expansion without necessarily paying compensation to the affected people. It appears all these land take practices are allowable because of vagueness and perceived weakness in the mining land take statutes. This seems to confirm lamentation of once Minister for Environment, Science and Technology, Ms.

Sherry Ayittey, over the large tracts of land given to mining companies as concessions, which deprives indigenous people of their lands for farming and other economic activities (Chronicle, 2012)

Even though some of these land take practices appeared as disincentive to the affected people, it appears they have helped the mine to manage speculative activities in its mining projects and reduced the company's land access cost. Nonetheless these affected farmers seem to have been managed by the mine amidst community complaints or agitations. However, the reality is that there have been considerable speculative buildings at the mine project areas where over thousand (1000) additional structures were speculatively built in less than a year with the purpose of extracting compensation from the mine.

This suggests that managing speculation is good. However the socio-economic implication of the provisions is enormous, given the large sizes of mining lease or concessions that are given to the mines. For example the mine under study has a lease of over 536.56 square kilometres that run through two districts Asutifi and Tano North in Brong Ahafo with approximately population size of over 200 000 people of which about 64 are into Agriculture.

This implication undoubtedly expose the weakness of some provisions in the Mineral and Mining Act 2006 (Act 703) and practices in the mine land taking that need to be reviewed and streamlined.

5.6.3 Managing Resettlement Eligible and Entitlements Issues

Mineral and mining Act 2006(Act 703) section 73(4-5) states that

“The Minister shall ensure that inhabitants who prefer to be compensated by way of resettlement, as a result of being displaced by a proposed mineral operation, are settled on suitable alternate land, with due regard to their economic well-being and social and cultural value, and the resettlement is carried out in accordance with the relevant Town Planning laws. The cost of resettlement shall be borne by the holder of the Mineral right as agreed by the holder and the owner or occupier.

This provision guides resettlement implementation in the event of a mining project that requires displacing affected people. However, the contention has always been determination of eligible people for resettlement, adequacy of the entitlements and infrastructure at the resettlements site. It was apparent in the study that the company conducts discussions and negotiations in an open and transparent manner. It defines compensation policies and procedures in a comprehensive manner through discussion and negotiation with representatives of impacted peoples, households and communities (the Company’s resettlement action Plan, 2010). For instance it defines in collaboration with the community who an inhabitant is as “an individual who has established a permanent residence (dwelling) in the project area with the intent of establishing a locally-recognised livelihood”. The study gathered that the criteria for determination were mainly based on the indication of residence fit for habitation; design resettlement community infrastructure to conform to Government of Ghana and international standards.

This notwithstanding, it appears impacted people have concerns with resettlement entitlements and the process for determining the eligibility of the various entitlements. Probably the community still sees itself as incompetent to engage the company alone on matters of resettlement, perhaps suggesting the need for a resettlement consultant

to support the community in resettlement negotiation and processes. Even though the company has put in place social responsibility framework for the broader community (Newmont Ahafo Social Responsibility Agreements, 2008), the company is expected to adopt non-agricultural sustainable support such as a well-defined community employment provision and benefit sharing for the actual project affected people. Maybe considering some of these issues will influence the community's satisfaction in the resettlement entitlements.

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CHAPTER SIX

6.0 CONCLUSION AND RECOMMENDATIONS

6.1 Conclusion

Central to this study was the exploration of the legal provisions and principles in land acquisition and compensation systems in the mining context, in relation to community expectations in Ahafo - Ghana. It also sought to understand the mine land taking practices with the purpose of determining appropriate strategies that are likely to enhance the practices and principles in land taking and compensation for sustainable community.

Considering the statutory provisions that regulate the land taking and compensation, it was revealed that there is lack of provision for traditionally appropriate engagement with the community in granting mineral right. Also the stakeholders, particularly the community have a low appreciation of the provisions and find it difficult to accept some of the provisions even though they seem powerless before the law. Again, there is sufficient evidence to suggest that there exist limitation and gaps especially if the nation's statutes on land compensation are benchmarked against other international standards. Basically the law fails to have provisions that address issues on squatters or caretakers and the vulnerable group in relation to compensation, livelihood restoration, and monitoring of land taking and compensation performance of the mines, as well as information disclosure and consultation. Finally, the analysis established that some of the provisions in relation to the mining context overly empower the government or the mine which situation leads to limiting of consultation or community involvement in the granting of permit for land access. Also some

provision in Mineral and Mining Act 2006(Act 703) and consequent practice of the Mine restrain or have the potential to put development constraints on communities situated in a mining leased concessional area. This invariably has negative implication on the mine – community relations and the sustainability of the impacted people livelihood.

In concluding the examination of the statutes, it would be a reasonable assertion that if the statutes particularly the Mineral and Mining Act 2006(703) would seek to be functional to make land access easy and to facilitate sustainable mining it should be reviewed. This would help the mine to acquire and maintain the social license to operate in the community.

On compensation assessment and determination, the Mining Act (703) provides some road map. However there is contention on which assessment method reflects the real values on the field and represents fair compensation. There is also issue of trust in assessment data management as well as community competence to have win-win negotiation outcome.

Touching on the mine land access practices, the findings seem to suggest that chronologically the mine acquires a requisite permit for land taking, engage the community or announce the mineral right over a particular area, conduct necessary surveys and assessment of properties on the land, and finally process data from the field for payment of due compensation (in kind or cash). The compensation is determined through negotiations with the affected people using some established company- community stakeholder committees. The analysis however shows that the community has concerns on the practices. These were identified, as first, the sudden

announcement of the permission to take land by the mine which thus disrupt their livelihood. The second concern is that the mine instead of the government does the declaring of the permission known in the local community as ‘moratorium’ or cut-off date for preventing lawful occupiers or affected folks from their use of the land

Regarding the perceived inadequate compensation and the communities’ expectations, the analysis showed that generally there was demand for high and sometime unrealistic compensation particularly given the fact that the company is a profit-making entity. Again, it appears that the economic or sustainability expectation was the communities’ highest priority demand from the mining company because is a source of open confrontations between the company and the Communities. While the communities regard their compensation expectations as normal because of perceived loss to the mine, the company considers them as unrealistic and arbitrarily based.

The factors that appear to influence perceived mine compensation inadequacy issues include: The Communities’ high land compensation expectation (due to sustainability concern, some precedence set by the mine elsewhere, opportunity to alleviate poverty, and the perception that the mine is rich); No clear definition for what constitutes adequate compensation; The Community’s relative lack of capacity to negotiate fairly with the mine; Perception that the mine predetermines compensation ; Supposedly limited scope of resources(not including medicinal herbs and other source of livelihood and environmental variables) considered for compensation; Inconsistency in compensation rate among the company’s project sites which prompt comparison and dissatisfaction; The mines supposed non-commitment to compensation of Severance & injurious affection; No legislative provision on

Livelihood restoration consideration for mine impacted squatters and caretakers; Length of time of payments and in tranches (arrears) with which compensation is paid and associated devaluations; And Legislative gaps as shown in appendix 1.

Touching on the sources of conflicts on land taking and compensation, and the strategies to remedy them, the study revealed that the major sources of the conflict were perceived inadequate compensations and delay in its payments, disagreements on perceived development constraints and speculative activities, and inadequate resettlement entitlements and infrastructure issues. These contentions appeared to be controlled by the company through community engagements, efforts to develop the community through a development foundation and an attempt to increase the transparency and the quota of the local employment. However, the community engagement was perceived to be limited to the chiefs and elders of the mining community and established committees instead of actual affected people.

In view of these, it would be a reasonable assertion that if the company wants the community to be much supportive of its operation and land compensation facilities, then it needs to manage the community compensation issues very well. This could be achieved by the collaborative effort of the three major actors/stakeholders in the mineral development sector being the government, the company and the community.

In concluding, it is worth noting that the power imbalances among the actors in the mineral development, coupled with the weakened community trust, greatly affect the compensation negotiation and their outcomes as well as relationship building between the company and community in particular.

6.2 Recommendations

Considering the statutory provisions on land taking and compensation in mining, It is recommended that government should review existing Mineral and Mining law – first of all to incorporate provisions that would take care of vulnerable group and those without legal titles but are paradoxically much affected by the mine land takings. Secondly, review the provision that gives the government the sole mineral land permitting authority to involve the community appropriately without undermining the power of eminent domain. Thirdly review portions of Act (703) that put development constraints on impacted community and set minimum time frame within which mining lease should be developed into mining operation to avoid undue delays and land use deprivations.

On compensation assessment and determination, it is recommended that local planting style is reconciled and streamlined with the modern conventional practices in compensation assessment. Again, the community and company should have independent Surveyors to assess and value properties for negotiations.

Touching on the mine land access practices regarding ‘self-declaration’ of permit or mineral right by the company; it is recommended the Mineral Commission communicate directly to the community/impacted people on land approved for the company to take before accessing it.

To promote commitment to adequate land compensation and sustainable mining it is recommended that the nation’s compensation regime clearly define the attributes of fair and adequate compensation. There should be a review of the heads of

compensation structure by incorporating other countries' or international best practices. There should be compensation for the loss of the common property resources and environmental effects which constitute a valuable productive base of the community. Thus, highlights the need for compensation to be relocated in a framework of restitution of rights, beyond even replacement value. A solatium or premium should be paid to compensate the impacted people for the compulsory nature of the acquisition. To collaborate this would be the need to employ consultants or experts to support the community in negotiation on the various compensation packages namely resettlement, deprivation land use, crop compensation and other land improvements.

The actors in mineral resource development should ensure the enhancement of mining land taking practices. In consideration of this, it is hereby suggested that government should first involve directly the affected communities or potential affected people in decisions regarding land acquisition. Secondly it should set minimum land taking and compensation standard or process for mining companies, monitor and ensure its compliance. Thirdly it should facilitate the company-community relation and land access through periodic joint forums for the community and the company on the right and powers as well as the limitations in land taking and compensation. The community on the other hand should as much as possible use dialogue and other amicable conflict resolution procedures rather than violence. Again community should appreciate the position of the company as a business entity and sympathize with it regarding the cost-profitability consideration. The community should be sanctioned for speculative development if proven. Also the company should be

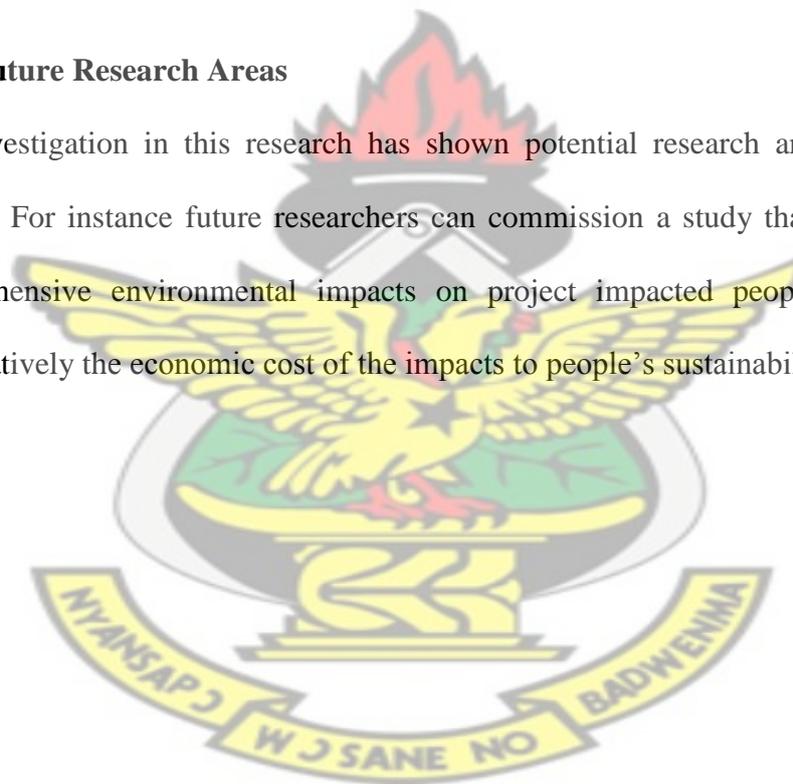
proactive in educating the mine communities on land acquisition and compensation issues and openly share or have consistent communication on its land Access process.

Finally, the problems of compensation are more than just a matter of law and valuation; it is also a matter of justice between society and man. Compensation would be a mockery if what was paid was something that did not comparatively compensate. Hence the need to ensure equitable determination and payment of compensation to the impacted community folks

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6.3 Future Research Areas

The investigation in this research has shown potential research areas that can be studied. For instance future researchers can commission a study that would look at comprehensive environmental impacts on project impacted people and measure quantitatively the economic cost of the impacts to people's sustainability.



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APPENDICIES

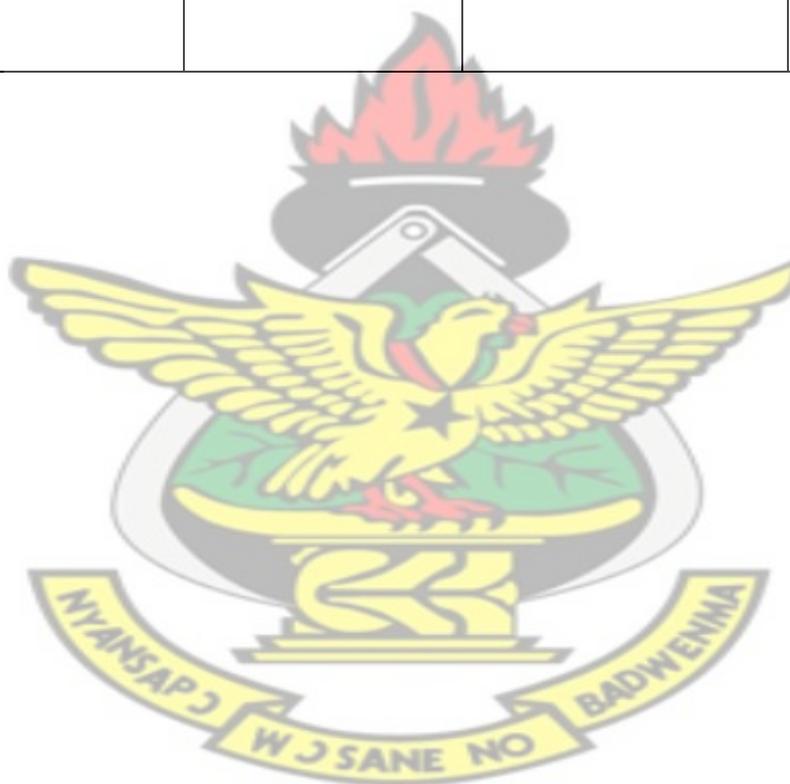
APPENDICE1

Table 5.1: Gap Analysis of Mineral and Mining Act 2006(Act 703) and IFC Requirements for compensation

Compensation issue	Ghanaian Legislative Requirements	IFC Policy	Gap
Timing of compensation payment	Prompt	Compensation must be transparent and consistent	National law does not stipulate time frame and consistency as requirement in payments
Calculation of compensation	Fair and adequate. Must be per agreement between the concern parties <i>(much subjective)</i>	Cash compensation should be sufficient to replace the lost land and other assets at full replacement cost in local markets	National law stress on approval of Government valuers. Does not stress on full market replacement costs as minimum basis
Squatters/caretakers	No provisions. Squatters/caretakers are deemed ineligible for compensation	Establish a cut-off date for eligibility for inhabitants regardless of tenure	IFC recognizes squatters rights before cut-off regardless of legal tenure
Resettlement	Displaced persons are to be resettled on suitable land with due regard for their economic well-being and social and cultural	Physically displaced persons will be offered a choice of replacement properties of equal or higher value, equivalent or better. Cash compensation must be at full replacement value	IFC specifies that replacement properties must be equal or higher value, and that there must be both a choice of properties, replacement in kind being the

			preferred option, and a cash alternative where appropriate
Livelihoods & Resettlement Assistance	No provision	Provide additional targeted assistance (e.g. credit facilities, training, or job opportunities) and opportunities to improve or at least restore their income earning capacity, production levels and standards of living to economically displaced persons	National Law does not specify assistance, but IFC requires targeted assistance in terms of livelihood supports
Vulnerable Groups	No provision	Must develop RAP(Resettlement Action Plan) with particular attention being paid to the needs of the poor and the vulnerable	IFC requires focused measures for vulnerable groups
Consultation & Information Disclosure	No specific Provisions	Must ensure that resettlement activities are implemented with appropriate disclosure of information, consultation and the informed participation of those affected	IFC requires active participation of those affected
Grievances	If an agreement cannot be reached, it be referred to Minister	Must establish a grievance mechanism to receive and address specific	IFC requires specific grievance mechanism to be in place

	responsible for mining.	concerns about compensation and relocation, including a recourse mechanism designed to resolve disputes in an impartial	
Monitoring & Evaluation	No provision	Requires monitoring and reporting on effectiveness of RAP implementation	IFC requires effective monitoring and evaluation of the effectiveness of RAP implementation



APPENDICE2

Interview Schedule for Community Members

RESEARCH: LAND COMPENSATION AND COMMUNITY EXPECTATION IN MINING CONTEXT

**THE PURPOSE OF THIS RESEARCH IS TO OBTAIN INFORMATION ON
THE STATED RESEARCH TOPIC. THE REASON FOR THIS WORK IS
MAINLY ACADEMIC AND ANY INFORMATION PROVIDED WILL BE
TREATED RESTRICTLY CONFIDENTIAL.**

PERSONAL CHARACTERISTICS OF INTERVIEWEE		
1	Age	below 25 []; 26 – 35[]; 36 Above[]
2	Sex:	Male [] Female []
3	Marital Status	Single [] Married [] Divorced [] Widowed []
4	Educational background	➤ tertiary education level [] ➤ second circle education level [] ➤ basic education level [] ➤ no formal education []
5	What ethnic group do you belong to?	-----
6	Are you an indigene?	Yes [] No []

AWARENESS AND APPLICATION OF STATUTES AND PRINCIPLES IN LAND ACQUISITION AND COMPENSATION IN MINING CONTEXT

1. How would you **rate** your level of knowledge on statutes of land compensation in mining? Very High [] High [] Moderate [] Low []
2. What are the Statutes or Acts and Standards that are applied in land acquisition and compensation in mining? a)----- b)-----
----- c)-----d)-----
3. e)-----f)----- others (if any) -----
4. How did you get to know of it (them)? Through the Mine Staff [] Gov't/NGO [] Other(s) specify

5. State some provisions (right & don'ts) in the statutes(eg mineral & mining Act 2006) that relate to you as a Mine Project Affected Person -----

6. state the processes and the procedure the mine adopts in getting Access to community land for mine project development-----

7. In your view do you think the company applied, misapplied, abused or did not applied the laws & principles of land acquisition and compensation in acquiring your land for the mine project? What are your comments -----

8. Do you believe in, or accept the statutes being applied in land acquisition and compensation in mining? YES [] or NO []; give comment if any
9. What are predominate land ownership patterns in this area? -----

10. What land ownership right is much recognized in the acquisition land for mining project? And-why? -----

11. What advantage(s) and or disadvantage(s) has the New Mining and Mineral Act brought to impacted persons in terms of compensation?-----
12. What provision being applied from the statutes or mineral and mining Acts (2006) that do not meet your expectations, and also found difficult to comply? Particularly in the area of
 - a. Acquisition of the land(permitting)-----
 - b. Declaration of land Acquisition & entering into land-----

13. Compensation negotiation -----

Adequacy, fairness, and time of payment of Compensation-----

14. As mine project impacted community, do you think you should be educated on land compensation statutes? YES[] or NO[] if Yes, which agent(the mine, government, NGOs etc) should lead in the sensitization on the statute or principles in land compensation, and why?-----

CONCERNS AND EXPECTATIONS OF PROJECT IMPACTED PEOPLE

15. How are the various land compensations determined in your area?-----

16. Were you or a representative from your community involved in the determination of the compensation? Yes [] No [] if yes
17. (from Q14) Do the impacted people have the expertise to negotiate and determine fair and adequate compensation for their losses? YES [] or NO []
18. Do you think the mining company has the expertise to determine fair and adequate compensation for your losses? YES [] or NO []
19. Do you think the company use to apply compensation principles such as Severance, and injurious affection in compensation practices; Are you aware of any one denied of such provision?
20. what concerns do you have on:
- a) crop compensation regarding -adequacy, mode of payments, time of payments etc -----

 - b) resettlement entitlement regarding - determination , the package and the process etc-----

 - c) deprivation of land use payments regarding – valuations & payments , those entitle to, etc
21. What land resources of value were lost as you were impacted by the project?
- a. Relocation or loss of shelter? []
 - b. Loss of assets or access to assets? []
 - c. loss of income sources or means of livelihood, whether or not the persons must move to another location; []and
 - d. Loss of access or restriction of access to communal resources and services? []
 - e. Others (if any) -----
22. Which of the resources lost were compensated? a)----- b)----- c)----- etc
23. What other “things” do you think deserved compensation but were not paid off? --

24. (from Q18) How do you think it should have compensated? Cash[] or in-kind[]
25. What were your pre-project compensation expectations? -----

26. Give reasons for that expectation -----

27. To what extent has your expectation been met in terms of land resources valued for compensation? Very High [] High [] Moderate [] Low []

28. Rate how your expectation has been met in terms of adequacy of compensation for the lost resource(s)? Very High [] High [] Moderate [] Low []

Apart from compensation does the company have in place programs to assist Project Affected People to have their livelihood enhanced or restored? Yes [] or NO [] If YES how, have that help to meet your expectations in compensation and sustainability? -----



CONFLICTS IN

COMPANY – COMMUNITY (PAPs) RELATIONS

29. What are the key sources of conflict or dissatisfactions between the company and the PAPs on land acquisition and compensation? -----

ENHANCING PRACTICES & PRINCIPLES OF LAND COMPENSATION

30. What strategies can you suggest to improve the practices and application of statutes and principles in land compensation in the mining context? -----

31. As stakeholder in land acquisition & compensation in mining industry, What aspects of the statutes (Constitution or Ghana Mineral and mining Acts 2006 etc) and the mine practices would you recommend to be reviewed (in permitting, declaration of land acquisition & entry, compensation(negotiations & mode), Resettlement, resources consider for compensation etc) and why? -----

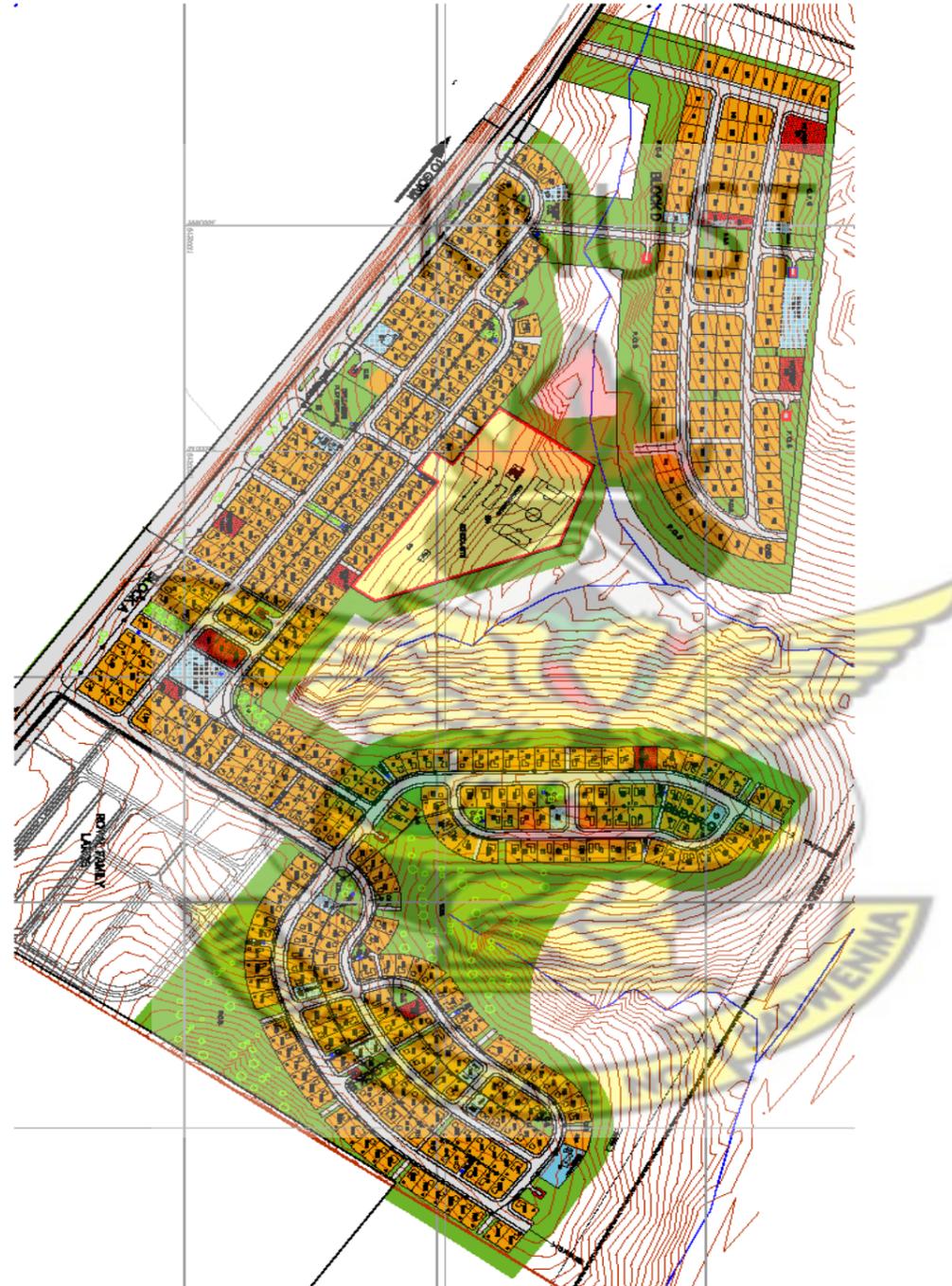
32. What can you suggest to the stakeholders regarding the process and entitlements in your resettlement? -----

33. What should be the role of stakeholders (Community, Government & Mining Company) in enhancing understanding, practices and the application of statutes or principles in land compensation to ensure sustaining and responsible mining?

Thanks for your contribution to the study

APPENDICE3

(A Layout of one of the Studied Resettlement Communities)



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