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# Statement on Illegal Mining

**The Ghana Academy of Arts and Sciences**

Special Edition on Galamsey

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Ghana is on the brink of an environmental, health and social disaster as a result of illegal mining. We are rapidly approaching the precipice despite the efforts by successive governments to address this menace. The latest 'Fight Against Galamsey' has failed in spite of the legal-institutional framework that was put in place. For instance, although the Minerals and Mining (Amendment) Act, 2019 (Act 995) was passed to specifically redefine the offence of illegal mining (including illegal small-scale mining such as galamsey) and to provide punishment for it, the government has proved unwilling, unable and/or reluctant to enforce the law. The two versions of 'Operation Halt,' the military operation to root out illegal mining, have also petered out.

The thrust of the high-profile efforts to stop illegal mining revolved around arresting some of the operators and seizing or burning their equipment, which have not only proved ineffective but has also posed environmental, health and social challenges. Illegal mining has a very large footprint in the form of campsites, heavy-duty earth-moving equipment, processing plants, and large communities of migrant labourers that must be fed and housed. This begs three questions, namely (i) How can heavy equipment reach illegal mining sites without detection? (ii) How can large volumes of fuel and materials reach illegal mining sites without detection? and (iii) How can the financiers providing the large amounts of money necessary for illegal mining conduct their financing and investment activities without detection? Illegal mining continues to thrive because the kingpins who supply and fund the operations have not been vigorously pursued and prosecuted. More detective work to identify and hold the financiers and suppliers liable for illegal mining should be the centrepiece of a rejuvenated 'Fight Against Galamsey'. Civil society has made countless demands on successive governments,

ranging from simply enforcing the law to possibly confiscating lands on which the activity occurs. Some traditional authorities have taken it upon themselves to prevent surface mining activities within their jurisdictions, challenging or invalidating licenses and permits issued by government bodies. Some traditional authorities have destooled or threatened to destool chiefs who are complicit in or condone galamsey activities in their jurisdictions. Meanwhile, there is a continued upsurge of galamsey in our rural communities, stimulating truancy among school-going males and loss of lives and injuries as a result of the collapse of galamsey pits, while the environment is being degraded with impunity. The scale and extent of surface mining, with or without official licenses, buttressed with the use of arms and offensive weapons to protect workers, property and equipment are a major threat to national security, peace, and stability.

Against this backdrop, the Ghana Academy of Arts and Sciences (GAAS) can no longer sit in silence. The Academy is therefore appealing as a matter of urgency to the Executive, Parliament, the Judiciary and non-state actors such as the National House of Chiefs, the Trades Union Congress, civil society, professional associations, media, faith-based organisations and students to take collective action to stop the existential threat posed by illegal mining.

**A Brief Review of the Legal Framework**

Artisanal mining had been part of the political and economic history of Ghana for centuries before the colonial administration introduced legislation that demanded levels of government licensing for mining. This legislation made it almost impossible for the local population to undertake legal mining, which was effectively limited to the state or big-money foreign interests. However, with the

implementation of the Economic Recovery Programme (ERP) by the Provisional National Defence Council (PNDC) in 1983, significant changes were introduced in the mining sector. Key among them is the promulgation of the Minerals and Mining Law (PNDC Law 153) in 1986, which established the Minerals Commission to regulate the sector and further liberalise the mining climate, extending significant new benefits to investors in the area. It also gave grudging legal recognition to artisanal mining, defined as mining 'by methods not involving substantial expenditure or the use of specialised technology.' This made it possible for the local population to engage in legal mining. Perhaps to give more recognition to artisanal mining, the Small-Scale Gold Mining Law (PNDC Law 218) of 1989 was enacted to regularise the operations of small-scale gold miners and to protect the environment.

In 2006, all mining laws in Ghana were consolidated with the passage of the Minerals and Mining Act (Act 703), which is a more forward-looking law and recognises both the potential wealth and potential danger of artisanal mining. The Act has a whole chapter regulating artisanal mining with respect to the subsequent amendments (Act 900 of 2015 and Act 995 of 2019), which have created specific offences and penalties. It requires the designation of areas for artisanal mining; stipulates the terms and conditions for obtaining a license and when it may be revoked; authorises the establishment of District Offices of the Minerals Commission to register, monitor and provide advice to artisanal miners; and orders the setting up of small-scale mining committees in every district to monitor and develop operations in designated areas. In short, the Act provides for the use of effective methods, good mining practices, health and safety rules and protection of the environment. Regrettably, however, successive governments have simply been incapable of translating these fine rules into action. There has been an inexplicable unpreparedness, unwillingness and/or inability of the governments to apply and enforce the law, set up the required structures and resource them to work well. These, in part, account for the lack of proper industry regulation.

A major drawback to the legal framework is the passage of the Environmental Protection (Mining in Forest Reserves) Regulations, 2022 (L.I. 2462), which allows unfettered access to the forest reserves of the country through the granting of Forest Entry Permits for mining by the Forestry Commission. L.I. 2462 was intended to bridge the gaps in environmental regulations in the mining sector and replace the inadequate and unclear guidelines of the Environmental Protection Agency (EPA) that had governed mining in forest reserves since 2000. We consider this legislation to be inimical to good mining practices and environmental sustainability because it has the potential to attract more unregulated mining investments into the forest reserves. This situation is compounded by doubts about the capacity of the Forestry Commission to implement and enforce mining regulations.

### Concerns of the Ghana Academy of Arts and Sciences

GAAS is deeply concerned about the current crisis generated by the wanton destruction of our environment by surface mining. The Academy is concerned that the environment that provides all the natural resources for our well-being as a people is being destroyed and that citizens have become powerless, watching and not able to do anything about it.

GAAS' concerns are because:

1. The topsoils in vegetated areas and the volume and quality of water in riverbeds and other water bodies contain all the necessary elements of biotic nature (living resources including plants, animals, mushrooms, and microbes) and abiotic nature (non-living resources such as soils, wind, currents, temperature, essential chemicals, e.g., carbon, oxygen, rocks, substrates, and sediments).
2. These elements create a sustainable soil and water structure for production.
3. Production is maintained because of the delicate and intricate balance between these elements.
4. It is through sustained production that energy (captured and accumulated in food substances and other materials) and matter (the assimilated substances that create growth and which are noted as productivity) are distributed in a structured manner to create an ecosystem.
5. Terrestrial and aquatic productivity is maintained in natural environments, on agricultural and plantation fields, and in fishery locations in rivers, lakes, ponds, lagoons, estuaries and the shallow and deep waters of the ocean;
6. The disruption in this ecosystem arrangement reduces productivity and compromises the environment.
7. The loss of productivity reduces and/or completely depletes the goods and services that the ecosystem can provide for socio-economic development.
8. Water bodies are destroyed, water is polluted, and potable water is unavailable or difficult to find. This generation is, therefore, creating the conditions to deprive our children, grandchildren and future generations of water, a basic necessity for survival.
9. The health of communities in areas with surface mining is compromised, and hitherto uncommon diseases and medical conditions associated with heavy metal poisoning, including cancers, birth defects, kidney dysfunction and nervous system disorders, are aggressively manifesting themselves in our communities.
10. The phenomena described in 6, 7, 8, and 9 are occurring in almost all parts of Ghana at alarming rates as a result of surface mining.

GAAS demands that this situation be addressed immediately to prevent a future catastrophe of human suffering from this environmental damage to our landscapes and waterscapes.

## The Way Forward

Crisis times and situations of this kind demand very drastic policy actions, especially when Ghana is committed to sustainable development as declared in signed multilateral environmental agreements such as the Sustainable Development Goals (Agenda 2030), the Africa We Want (Agenda 2063), the Paris Agreement on Climate Change, and the Montreal-Kunming Global Biodiversity Framework.

We are aware that illegal mining and the destruction of our forests are driven by economic as well as political factors. There is a lack of jobs, and therefore attempts to stop illegal mining will face serious resistance since livelihoods will be threatened. However, there is a need for effective regulation and a strong political will to ensure that livelihoods are not unduly threatened while the wanton destruction of the environment is curtailed. Truth be told, funding for political activities has benefited from illegal mining, and politicians have flouted regulations on mining with impunity. We demand that going forward, all political party manifestos explicitly state how the parties intend to address this menace. We will hold them responsible and accountable during their term of office. We demand that traditional authorities educate and mobilise their people to combat illegal mining in their jurisdictions, and we call upon civil society to always hold miners environmentally accountable. Accordingly, GAAS demands that the government implement the following policy actions:

1. Declare a moratorium on all kinds of surface mining activities around river bodies;
2. Revoke all reconnaissance and prospecting licenses, mining leases and small-scale mining licenses in forest reserves and other fragile ecosystems such as Key Biodiversity Areas;
3. Revoke the Environmental Protection (Mining in Forest Reserves) Regulations, 2022 (L.I. 2462); and
4. Establish a plan for land reclamation in all areas destroyed by illegal mining and other forms of surface mining.

A moratorium for ten years or more around river bodies would allow the fragile ecosystems to recover from the destruction. This may not guarantee full recovery in the areas affected, but it would at least help to rebuild the resilience of those components of our ecosystems (including water bodies and forest reserves) to support the ongoing efforts at reducing biodiversity loss, contribute to adaptation to and mitigation of climate change, avoid land and water degradation, and support the global goal of the decade on ecosystem restoration from 2021 to 2030. Surface mining, especially in forest reserves, defeats the main purpose of such reserves because it undermines the fabric of sustainability of the ecosystem in areas where the livelihoods of our local people are guaranteed. When this happens, the subsistence rural economy of the people disintegrates, and they become deprived, leading to extreme poverty. There is, therefore, the need to conduct an immediate forensic environmental audit of all surface

prospecting licenses, mining leases and small-scale mining licenses in forest reserves. Any license or lease holder found to have breached the environmental regulations should immediately lose the license or lease. Those in good standing should be offered new concessions outside of the forest reserves and given the necessary support to enable them to reestablish their operations at the new locations. During the transitional period, they should be subjected to more rigorous environmental monitoring and assessment to ensure that the harm is either eliminated or drastically reduced. Certainly, there should be no renewals if their leases and licenses in the forest reserves expire before they are completely relocated.

While the Academy would have demanded immediate revocation of licenses and leases in the forest reserves, we are fully aware of the legal implications. We know that investors aggrieved by the revocation of leases, licenses and permits may resort to litigation. That is why the Academy is proposing an audit-based revocation, stricter implementation of the laws, allocation of new concessions to operators in good standing and non-renewal of the licenses and leases when they expire. The Academy finds the enactment of L.I. 2462 not simply a troubling contradiction but a completely tone-deaf response to the problem of illegal mining. It beggars belief that when we have proven to be so incapable of regulating illegal mining in open places, the Minister of Environment, Science, Technology and Innovation and the Board of the Environmental Protection Agency (without the necessary stakeholder consultation) would send subsidiary legislation to Parliament in 2022 to license mining in our already-fragile forest reserves. It is even more shocking that Parliament dropped the ball by allowing this L.I. to gestate without annulling it under its Article 11(7) powers enshrined in the 1992 Constitution to protect Ghanaians.

The Academy demands the immediate revocation of L.I. 2462. It was enacted in extremely bad faith. What it seeks to do is not in the best interest of the people of Ghana. The conservation of forests is, in fact, meant for posterity, generations of Ghanaians yet unborn, and it can foster future scientific research to provide solutions for the three global environmental crises, namely climate change, pollution and biodiversity loss. Literally, the entry into forests and other reserved landscapes goes against all the programmes of work of the multilateral environmental agreements to prevent land and water degradation, advance adaptation and mitigate climate change, and reduce and/or stop biodiversity loss.

## An Agenda for Reclamation and Rehabilitation

As a nation, we are at a crossroads. GAAS, therefore, wishes to impress on both the government and stakeholders the urgency of adopting the following measures while we rethink the best ways to exploit our natural resources:

1. A geospatial analysis, over a 10-year period, using Remote Sensing and Geographic Information Systems (RSGIS) to show the open sores of illegal

- mining in our landscapes and waterscapes and assess the damage to our habitats;
2. A national audit of the soils and water bodies polluted by agrochemicals and hazardous organo-metallic chemicals, such as mercury, from mining – there should be suggested solutions by experts to address the problem;
  3. A survey for and assessment of microplastic suspensions floating on our fresh and marine water bodies, which are consumed by aquatic organisms and eventually enter our food chain;
  4. A survey of health implications for communities in the surface mining areas and an assessment of the impact of mining on the health of the people so affected; and
  5. A survey of livelihood losses of communities affected by mining and an estimate of socio-economic implications such as the loss of employment, especially for the youth.

We believe that these surveys and analyses will put Ghana in a better position to assess the damage done and to come up with a comprehensive plan of action to reclaim our health, lands and forests. In making these demands, we remind the government that state and non-state institutions whose mandates are to protect and secure the peaceful functioning of the Ghanaian environmental space should be adequately resourced and should not be under any political influence or pressure whatsoever.

### Conclusion

Illegal mining is destroying the country's lands, rivers and forests. Although mining has been practised over decades in Ghana, wanton environmental destruction has taken a new dimension with adverse consequences, such as the destruction of water bodies and farmlands and the use of hazardous chemicals with long-term damage to our health and vital organs. As we have seen, half-hearted attempts to stop illegal mining will not work. What is required is effective regulation and its enforcement, which must be backed by strong political will and commitment, a common understanding of the threats posed by illegal mining, and a stakeholder consensus on the way forward.

This is a clarion call to all Ghanaians to rally behind a good cause that holds government and community leaders accountable. Collective and sustained efforts are required to deal with the menace of illegal mining. We invite the media to commence and sustain a strong movement that names and shames persons who are found to be behind this menace while highlighting and rewarding those strongly at the forefront of fighting illegal mining. We also invite Parliament, the Judiciary and non-state actors such as the National House of Chiefs, the Trades Union Congress, civil society, professional associations, faith-based organisations and students – indeed, the entire Ghanaian populace – to join forces in combating illegal mining and its deleterious effects, which pose an existential threat to all of us and future generations. The Academy is committed and ready to collaborate with all stakeholders in the fight to stop illegal mining and its destructive effects on our people and our land.

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