

Anglogold Ashanti

Comparative study of human and environmental rights in three African countries

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This is a summary of a research project undertaken by the Institute for African Alternatives (IFAA) with the assistance of HakiMadini Tanzania and the Centre for Social Impact Studies (CeSIS) in Ghana. The research set out to establish the extent to which AngloGold Ashanti (AGA), a major goldmining company, complied with the human rights and environmental laws within South Africa, Ghana and Tanzania during the 10 years between 2008 and 2018. Read the full research report on IFAA's website

Introduction

The question we pose in this study is: Can mining be a catalyst for the realisation of human rights within the context of climate change and the

increasing recognition of the need for a clean, safe environment for communities to flourish?

This study considers the operations of AGA in Tanzania, Ghana and South Africa between 2008 and 2018. It is important to note that AGA has a different track record in each of the three countries. By focusing on the question of whether human rights and the environment are being respected and protected, we attempt to understand the multi-faceted nature of mining's role in development. The purpose of the research was also to find gaps in the existing accountability mechanisms with the aim of raising the need for states and regional bodies to consider better accountability frameworks if necessary to protect the communities impacted.

AngloGold Ashanti

It is also important to note that after more than 100 years of mining in South Africa, AGA sold up its assets and no longer operates in the country. The company sold its last mine in South Africa in 2020. This came amid a general exodus of gold mining companies from South Africa. The move was not positively received by the communities

affected, who raised concerns about AGA's lack of communication, specifically about its plans to move, and the negative impact this had on the mining communities affected. As this study covers a period up to 2018 this does not affect the research findings; respondents were asked about their interaction with AGA during the 10 years the study covers.

International human rights and environmental rights mechanisms

International laws¹ have been enacted to protect human rights and the environment, but many of these laws have not been domesticated. Although they are progressive and constructive, communities generally struggle to access the implementation and accountability mechanisms and frameworks that hold these corporations accountable.

Furthermore, although these international laws cover a range of basic and social rights, they usually place responsibility for upholding them on the state, rather than corporations. Civil society organisations (CSOs) and activists have taken a critical look at >>

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the role of corporations in adhering to these rights and have demanded that human rights standards be specifically applied to them as well. As a result, the United Nations Human Rights Council developed and endorsed the “Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect and Remedy’ Framework.” The Business Human Rights group website declares this “provides a universally recognised, people-centred approach to companies’ social and environmental impacts” (Business and Human Rights Resource Centre, n.d.).

Advocacy for the human rights-based approach to environmental protection is growing and has multiple facets. Brei (2013) identifies three different positions that rights-based duties and obligations regarding nature and the environment stem from: the human right to a healthy environment, the rights of nature and the environment’s constituents (its fauna and flora); and the human right to health. The research report shows how these three elements are interlinked.

Accountability mechanisms considered in the study

The research considered some of the current accountability mechanisms and how effective they are. It focused on the right to free, prior and informed consent (FPIC) for



indigenous people, a principle that has been recognised under international law.² It requires that indigenous persons be informed of the impacts any planned project may have on their resources, land and rights in a timely manner without coercion or manipulation and be afforded the opportunity to accept or reject a project before commencement (Oxfam *et al.*, 2018).

However, while on paper communities seem to have accessible remedies available, in practice they are often at a great disadvantage and are unable to hold corporations to account. A framework may be in place for corporations to report the impact of their activities and how they plan to address any negative impacts or any other concerns, but this cannot be legally enforced and gives too much leverage to the corporations to not only give a representation of the most favourable reports but also evade accountability where they do not live up to standards.

In a response to this concern, during a Human Rights Council (HRC) assessment of transnational corporations in September 2013, member states proposed that there be a legally binding instrument to hold these corporations to account for human rights and environmental abuses (Kassa & Nyirongo, 2022). The HRC established the Open-Ended Intergovernmental

Working Group (OEIGWG), which was tasked with drafting a Binding Treaty. It has held six sessions so far, but CSOs have expressed concerns about the draft treaties not prioritising human rights over trade and investment interests (Global Campaign, 2020).

AGA compliance with accountability mechanisms

AGA has been very clear about its commitment to prioritising human and environmental rights and has declared multiple times on public platforms that it intends to comply with the relevant international and national policies and frameworks.

The company has developed an internal framework composed of a Human Rights Policy and a Human Rights Due Diligence Standard and Guideline. However, its responsibility is narrowly interpreted as the responsibility to “do no harm”, which can be interpreted in ways that allow it to escape responsibility for certain actions.

AGA’s guidelines are regulated internally and there are limits to how they can be applied. For instance, accountability processes determining the human rights baselines to implementing the remedies are internal and overseen by the manager in control of the site, which could present a conflict of interest.



Findings summary

The research conducted by IFAA and its partners assessed how compliant AGA was in meeting international and national standards and its own declared commitments. It looked at environmental abuse and how that impacts human rights in communities associated with AGA in the three countries. It also looked directly at human rights experienced in these communities, including the rights of artisanal miners.

Environmental abuses impacting human rights

a. Acid mine drainage

Acid mine drainage was a concern brought up by all the communities and informants interviewed. In Ghana, community members said no one drinks water from taps or streams. All the streams in the areas surveyed are polluted and the tap water has a high concentration of heavy metals rendering it undrinkable. All the respondents indicated that they purchase sachet water instead, which pushes up the cost of living for the already impoverished communities. Other sources of water provided by AGA, such as the boreholes in Tebrebie, are also not usable, according to the community members interviewed.

The Tanzanian community of Nyamalembo reported that their water sources have been affected by AGA mining operations. This was confirmed by an inspection by the Tanzanian Mining Commission, which declared that the water is not safe for human consumption and alternative water sources will have to be secured. In addition, when the company leaves the unused residual exposed to the environment, rainwater carries it off, affecting other parts of the ecosystem. The community also reported that there have been some leakages from the chemical waste dam, exposing acid to the environment.

In the South African town of

Stilfontein, the Margaret Village community has been suffering for a long time from acid mine drainage into the tap water and tests carried out by the Municipal Health Manager proved the water was contaminated with high sulphate content (present in acid mine drainage) and coliforms (normally found in faeces).

b. Dust and noise pollution

There are widespread complaints about dust and noise pollution from mining activities in Ghana, especially in Taberebe and Anwiam. AGA is still carrying out open cast mining in the Tebrebie communities and dust from the blasting activities poses a danger to the health and safety of residents. Moreover, the company vehicles drive above the speed limit on the untarred roads and raise even more dust.

In Tanzania, the communities reported that they have been disturbed by noise and dust pollution at unexpected times. In the past, they were informed in advance of the scheduled blasts.

In South Africa, there have been reports of dust from tailings containing toxins such as silica, arsenic and uranium. An expert shared information from a scientist who found high levels of metals in the hair and fur of the people and their animals. The community members also complained that AGA operates its trucks at night without informing them in advance, which causes high levels of pollution.

Human rights abuses

a. Limited community engagement

In Ghana, the community acknowledged that AGA's communication with the local community is an improvement on its predecessor in that country, Ashanti Goldfields Company (AGC).³ However, this was not the case in the other two countries.

In Tanzania, the community reported that there is limited

engagement between the community village governments and AGA. The company mostly engages with the district leaders who, recipients said, are generally not aware of the challenges facing the community. The community members complain that the local government, which has not been much help to them, appears to be in partnership with AGA. This prevents AGA from addressing the needs of the community.

In South Africa, the community said AGA had not communicated with them when the company was still in operation and that AGA left without informing the community they were selling the mine to Harmony. A community member said AGA also used to attempt to bypass formal procedures to obtain community consent, for example by rescheduling meetings at the last minute, which prevented the community from calling in CSOs to assist in their communicating and negotiating with AGA. In Margaret Village, AGA attempted to move the community before their sale to Harmony became known, which they viewed as a disregard for the rights of the community members.

b. Access to housing

In Ghana and Tanzania, community members said AGA abrogated their rights to housing by the damage its operations caused to the people's homes. In Ghana, the incessant blasting in AGA's open cast mining sites located close to the communities has rendered most houses in Anwiam and Tebrebie uninhabitable, with deep cracks.

In Tanzania, two out of the three communities have experienced severe damage to housing due to AGA's explosions. AGA had provided some compensation, they said, but it was only enough to patch up the cracks. In reality, the houses had become inhabitable and needed to be completely rebuilt.

In South Africa, the problems faced were over ownership of the properties. ►►



... Communities generally struggle to access the accountability mechanisms that hold these corporations accountable.

In the Vaal region, the community had asked AGA to build houses for miners but after AGA left the houses were handed over to the local government, not the miners. The mineworkers who had lost their jobs after AGA left could not afford rent and the lack of maintenance after the mines closed made things worse.

c. Safety and security concerns

In Ghana, AGA has erected a giant wall around its main operational area in Obuasi. The company says the wall is to prevent “trespassing” by people from the surrounding communities who it says have been stealing from its residential quarters. People in Anwiam can no longer access the shortest route to the main Obuasi township. Children now have to walk about four miles to catch the school bus and women say that the road they now have to use is not safe at night and becomes unusable whenever it rains.

South African communities said criminal syndicates have emerged since the mine closed and unemployment in the area increased. Abandoned buildings have been occupied by criminals, making the areas extremely dangerous. They reported this has made these mining communities into crime hotspots and women have reported sexual violence.

d. Lack of compensation

In Ghana, respondents complained about the appropriation of their land by AGA without adequate compensation, depriving them of their sources of livelihood. Some of these respondents, mostly farmers, had to endure years of litigation at great cost to get the company to pay them the compensation due to them.

In Tanzania, respondents said AGA had violated their human rights by failing to compensate them for land that has been seized by the mine since 1998. The community was prevented from developing large swaths of community land that had previously been used for economic activities, including farming and grazing, and communities are no longer allowed to access these areas. A few of the villagers were compensated, but they said the process was not transparent and the amount they received was unreasonable.

In South Africa, during the apartheid era, many indigenous people were stripped of their land rights and have not received compensation. In addition, mineworkers have been struggling for compensation from multiple mining companies, including AGA, after developing silicosis as a result of their exposure to toxic dust. In one case affected mineworkers won a case against AGA but not all have been fully compensated to date.⁴ Other former mineworkers said AGA had not assisted them in accessing their pension or provident funds after their employment with the company came to an end.

e. Corruption

There is anecdotal evidence of corrupt practices in all three countries, including around the involvement of local government structures and traditional authorities who apparently undermine transparency.

In Ghana, community members who had grievances against AGA were told to remain silent by the chief, who has ties to AGA. One interviewee in Tebrebie

was summoned to the local chief’s palace and warned to stop criticising the company or “face the wrath of the elders”. Residents of communities in Anwiam, Anyinam and Sanso in Obuasi as well as Tebrebie in Iduapriem said they live in constant fear, always looking over their shoulders before voicing an opinion against AGA. Moreover, respondents from Anwiam, Anyinam, Sanso and Tebrebie all complained about difficulties related to organising peaceful demonstrations against AGA. The problem appears to start with the police who erroneously tell the communities that they need a permit. However, the Public Order Act requests protestors inform the police in advance about planned protests but they do not need a police permit to protest. It is believed the political leaders of the district try to stop protests because they are concerned this will “dent” the company’s image.

In Tanzania, community members claim that members of the council and some local government officials benefit from the few projects that AGA funds, but they as the community don’t. They say contributions from AGA for community development usually don’t reach them; projects are implemented in the town council but not in the villages or areas close to AGA mines.

In South Africa, community members in Margaret Village expressed difficulties with contacting local government officials for help and said when they do make contact the officials seem to be working in the interests of AGA, not the community.

f. Abuse of power by security forces

The involvement of the police in violent actions against miners and community members is not uncommon, and in some instances, attacks are carried out by private security forces.

In Ghana, reports of security operatives working on behalf of AGA and harassing members of the



communities were rife. These security operatives accused some community members of being illegal miners or trespassing on the company's concession. In the process of driving them away, some community members were injured. Sometimes the presence of the security officers in the communities alone caused fear and panic. A female interviewee from Anwiam near Obuasi recounted an incident when she fell and was injured when the military stormed her community and chased them away because they were suspected of being illegal miners. Another interviewee from Anyinam, a community in Obuasi, cited how all the leaders of a demonstration against AGA were arrested and detained for more than two weeks.

In South Africa, artisanal miners shared accounts of AGA using police and private security to intimidate them.

g. Artisanal miners' rights to make a living

All the communities that participated in this study indicated that many residents turned to artisanal mining as a means to make a living and survive, even though artisanal mining poses a health risk and the constant danger of being arrested.

In Ghana, since November 2006 the military and police have been conducting a country-wide operation named Operation Flush Out, in which hundreds of people known as "galamsey" are forcefully removed from the land they are working on. An unknown number of galamsey have been shot, beaten and maimed by members of the private and state security forces. When the mine was closed between 2014 and 2019, numbers of miners who had been laid off came back as artisanal miners because they needed to earn a living. When the mine reopened, AGA worked with the police to have many of those miners removed from the site.

In Tanzania, AGA has appropriated almost all the land that contains gold

in Geita Town District Councils and some areas in Geita District Council. Only one ward, Mgusu, allowed a licence for a single plot for artisanal mining. The plot was granted to a local community cooperative that permitted artisanal miners to conduct mining operations. Many more community members are involved with artisanal mining compared to the few that work for AGA. The artisanal miners have no interaction with AGA and operate independently although they say they would like to work with the company and get its support.

In South Africa, artisanal miners are found in mines in Carletonville and Stilfontein formerly owned by AGA. They face high risks whether they are working on the surface, at tailing storage facilities or mine dumps, or underground where they risk robbery, kidnapping and rape by syndicates underground. They are also exposed to a toxic mixture of chemicals that pose health risks. However, artisanal mining continues as it offers alternative livelihoods to the otherwise unemployed or laid off AGA mineworkers in the towns of Margaret and Kuma.

Conclusion

The research has shown that while there is no evidence presented here that the company did not comply with national laws in the three countries AGA has been able to evade accountability, which amounts to the violation of human or environmental rights. In many cases, AGA has indicated that it does not intend to communicate with the communities or to be transparent when it comes to how communities are impacted by the mines. Although the three countries have different laws and policies, we see similarities in how AGA operates. As a corporation, AGA only has a duty to respect the rights of the mining communities, while the duty to respect, protect, promote and fulfil the communities lies with the government.

This is of concern to those communities because in most cases local government structures are seen to be protecting the interests of AGA and not those of the community.

It has also shown a disregard for the environmental impact of mining on the community and the ecosystems. In all three cases, acid mine drainage was a major problem that infringed on the community's rights to clean water and damaged the natural water sources within the communities. This study shows that AGA is failing to respect basic rights such as housing, access to clean water and the right to a healthy environment.

IFAA would like to thank the Open Society Foundation – Africa for its support for this research project.

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ENDNOTES

1. UN General Assembly *International Bill of Human Rights*, 10 December 1948, A/RES/217(III)A-E.
2. Article 32 of UN General Assembly, United Nations Declaration on the Rights of Indigenous Peoples: resolution adopted by the General Assembly, 2 October 2007.
3. AGA was formed in 2004 after a Ghanaian High Court passed a highly contested judgment to merge AngloGold and Ashanti Goldfields Company (AGC).
4. See <https://www.qhubekatruster.co.za> and <https://www.tshiamisotruster.com>