



**REPORT ON THE**

**MINING AND**

**REGULATORY**

**FRAMEWORK IN THE**

**MINING SECTOR**

**HELD AT THE HILL VALLEY**  
**HOTEL 29<sup>TH</sup> – 31<sup>ST</sup> MARCH 2006**



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## **WELCOME AND INTRODUCTION**

Mr. Joseph Rahall of Green Scenery welcomed participants to the workshop and thanked them for having left their busy schedules to honour the invitation from NACE.

Participants then introduced themselves and the organizations they worked for, commenting briefly on what they have been doing to promote the work of NACE especially since the last workshop. Participants highlighted the following issues as activities undertaken so far: -

- Research on child mining
- Training on environmental Training on environmental audit
- Training on environmental audit
- Developed a profile on mining companies in Kono
- NMJD launched the 2006 diamond review
- Held discussion programs with the Ministry of Mineral Resources
- Engaged the Vice President and the Ministry of Mineral Resources on the issue of Kimberlite mining.
- NFHL was approached by the NDI on the issues of mining
- Advocated for young women in mining areas to be part of decision making so as to stop prostitution
- Mobilized and sensitized young women in mining areas

## **EXPECTATIONS**

- Explanation of laws on mining be simplified to us as Activists
- Hope of getting vast experience about extractive mining
- Participants would be in a position to know the legal mining law aspect and stand to enforce these laws in all aspects, taking the message to their respective institutions and communities.
- To learn and be able to sensitize grassroots workers and even workers in mining companies in the south region.
- Learn and be au fait with policies that involve mining that will be of benefit to me and my community.
- To learn about (code) laws guiding mining in Sierra Leone.
- Understand more about the mining policies that will make me effective in my job
- To be issued with a certificate in Legal Mining Law Training
- To broaden my ideas about mining laws in Sierra Leone and how effective they are.
- To know what international instruments protect the environment
- To be Educated
- To be conversant with mining laws
- Participants will be well equipped in flexible and implementing legal mining laws
- To get a better knowledge on mining laws and its implementations
- Enable me to know more about my land

- Participants horizons will be widen up to a standard that will help them contribute to national development as well as transforming mining aspirations to reality
- That the mining campaign in our environment will try its level best to get rid of dams to avoid danger in the areas.
- To have an in depth knowledge on how to regulate mining in Sierra Leone
- Mining policy and regulatory framework in mining sector will be clear to most of the participants especially in the Sierra Leone context.
- To be informed on the legal mining laws on the extractive industry
- To have learnt protective strategies for campaigning against illegal mining

### **SETTING NORMS**

- Respect each other's views
- Control mobile phones
- Keep to time
- Speak through the facilitator
- No smoking
- Silent movement in the hall
- No side talks

### **MINERAL POLICY TRENDS IN THE LAST FIVE DECADES – DR. THOMAS AKABZAA (Power point Presentation, see annex i)**

Before this presentation by Dr. Akabzaa, the Sierra Leone's Core Mineral Policy document was distributed to participants. The lead facilitator asked that they read the first four pages in order to get au fait with the basics of the mineral policy.

### **ISSUES**

- A mineral policy is like a constitution by which mining is regulated. It is a framework defining policy objectives, strategies, and general policy, principles addressing geological data base, institutional capacity, incorporation of vulnerable groups etc.
- Sierra Leone has played a leading role in the development of a mineral policy. Most other countries do not have a core mineral policy. Such countries usually refer to their mining laws.
- The policy however lack recognition of the fact that the mineral resource is capable of depletion
- Civil Society groups should therefore be interested in defining mining risk
- The policy also fails to address control of mining.
- A Core Mineral Policy must define specific actions plans to ensure added value

## **FUNDAMENTALS ON HUMAN RIGHTS – AUGUSTINE NIMBER (Power point presentation, see annex ii)**

### **ISSUES**

- Human rights are supposed to ensure that every individual lives a life of dignity.
- But these rights are mere aspirations
- How is the Union working with the Ministry of Labour
- Are rights hierarchical?
- As an advocacy group what strategy should be put in place to rectify these issues
- Civil Society groups can help to rectify some of these issues

## **DEVELOPMENT OF MINERALS CODES IN THE LAST TWO DECADES AND THE ROLE OF IFIS AND OTHER MULTINATIONAL ACTORS – DR. T. AKABZARR (Power point presentation, see annex iii)**

### **ISSUES**

- The Sierra Rutile Act of 1938
- The Sierra Rutile Agreement 1989
- The Mines and Minerals decree 1994
- The Mines and Minerals Amendment Act 1999
- The Environmental Act
- The Core Mineral Act

### **Objective of Codes**

- Improved promotion of private investment
- Provide improved security of tenure of exploration and mining rights
- Improve secure enabling environment for private investors
- Progressively strengthen government role
- Reduce state direct participation

### **CONTENTIOUS ISSUES**

- Stability agreement – bilateral covenant between state and corporate bodies
- Developments – quota of exploit, retention, forex by companies
- GATs – general agreement on trade in services at public procurement e.g. on mining
- Demand for removal of value base taxation e.g. royalties

**EVOLUTION OF THE 2002 GHANIAN MINING CODE LESSONS TO BE LEARNED  
– AUGUSTINE NIMBER (Power point pres. See annex iv)**

**ISSUES**

- A Consultant was engaged with World Bank assistance to review the Ghanaian Code
- The Consultant's proposals were presented to the minerals commission
- However, stakeholders' consultations excluded mining communities and Civil Society.
- Civil Society then formed a coalition to propose a bill that was supposed to be all inclusive
- Each time Civil Society engaged Parliament on the bill the chairman of the Mines Commission in Ghana would call for the bill. The bill would be later sent back to Parliament after inputs were being made. This process continued until the bill was properly framed.
- From the Ghanaian experience, Civil Society groups in Sierra Leone need to make their inputs into the mining policy.
- NACE should get Legal Practitioners to help engage and make inputs to the mining policy. To achieve this NACE needs to approach the Sierra Leone Bar Association through the president of the Bar Association.

End of day one activities

Day 2 – 30<sup>th</sup> March 2006

Recap of day one was done in a round-robin fashion with participants highlighting the key issues of the first day's sessions. Mr. Rahall of Green Scenery then once again welcomed participants to the second day of the workshop and hoped for fruitful deliberations.

## **FISCAL REGIMES AND CORPORATE TAX HAVEN IN THE MINING SECTOR – DR. T. AKABZAA (Power point pres see annex v)**

### **ISSUES**

- Tax havens are referred to loopholes that allow companies to minimize their tax obligations
- As a resource based country, it is important that Sierra Leone mineral code incorporates the fiscal regimes
- One of the areas most abused is the list of items to be imported duty free. Most times many items are imported for mining purpose but once cleared duty free such items are most frequently found in the open markets.
- Sierra Leone says mining companies can keep all their monies in foreign accounts as long as they can pay the little percentage to government.
- Transfer pricing is a major problem because governments lack the capacity to check it.
- If Civil Society groups are keen in poverty reduction, they should have keen interest in the extractive industry.

## **PUBLIC INTEREST LITIGATION IN THE MINING SECTOR (LESSONS FROM CEPIL) – AUGUSTINE NIMBER (Power point pres, see annex vi)**

### **ISSUES**

- Several issues of conflict between mining companies and communities include land user rights, pollution of community water sources, community resistance to relocation or resettlement, lack of adequate housing compensation to communities affected by mining projects etc.
- Most times houses provided are too small in size so much so that you cannot put more than one bed in one room.
- Many people in mining communities are ignorant of their rights and so would accept any ridiculous compensation.
- Most of these people even with knowledge of their rights to access the justice system lack the resources to pay for legal services and there is a marked lack of available lawyers who are willing to take up cases pro-bono
- In Ghana the Centre for Public Interest Litigation (CEPIL) provides free court room representation to mining communities.
- CEPIL also pay filing fees and other court fees on behalf of the communities.
- Apart from educating mining communities on their rights, CEPIL also train paralegals in some of the mining communities.



- The issue of paralegal is very important in the context of Sierra Leone.
- NMJD's Campaign for Just Mining should start thinking about training paralegals in mining communities. Civil Society groups should support NMJD towards the achievement of this goal. NACE should take the leading role in this.
- NACE should replicate the lessons from CEPIL in Ghana and try to thrust forward. NACE should access avenues like the Lawyers Centre for Legal Assistance (LAWCLA) to start something going.
- Series of workshops are being conducted and several action plans are being drawn. But how many of the organisations trained in these workshops have really got back to the communities to implement the action plans?

## **COMPARATIVE OVERVIEW OF THE SIERRA LEONE AND GHANAIAN MINING CODES – AUGUSTINE NIMBER (Power point pres see annex vii)**

### **ISSUES**

- In Sierra Leone, unlike Ghana there are no restrictions on land owner/occupier in mining area.
- Under the Sierra Leone law mineral holders require the consent of land owners
- The provision of such law is, however, merely in theory because paramount chiefs in Sierra Leone who actually hold the land in trust of their subjects just give such land away without the consent of the people.

### **GROUP EXERCISE**

Participants broke into two groups to study Sierra Leone's Core Mining Policy and to

- a. Identify the strengths and weaknesses of the Sierra Leone Mining Policy and
- b. Identify components of the Sierra Leone mining code with implications for communities.

The objectives of the group exercise were to test participants understanding of the typical core mining policy and to test their ability to identify advocacy issues in the mineral code.

End of day 2

## **PLENARY REPORTS**

### **Group 1**

#### **Identify the strengths and weaknesses of the Sierra Leone Core Mining Policy**

##### **Strengths**

1. The Core Mining Policy has provision for general guiding principles such as : -
  - Introduction
  - Objective
  - Strategy and
  - Conclusion
2. It recognises the mineral wealth of Sierra Leone
3. It visualises a vibrant mineral sector
4. Encourages private sector investment
5. Has provision for reviewing and amending the mineral laws
6. It is gender focussed
7. Discourages child mining
8. Addressed issues of human right
9. Serves as a reference point for development mining laws
10. Has provision for environmental protection
11. Encourages local protection.

##### **Weaknesses**

1. Poor monitoring and control of the mineral sector ensured.
2. There is no commitment to added value because there is no provision of energy or tax reduction for the process
3. No provision for the participation of local mining and communities and civil societies in the mining processes
4. The policy is more pro-foreign investors participation.

### **Group 2**

#### **Identify components of the Sierra Leone mining code with implications for communities.**

##### *Part II – Board Composition*

The Board is skewed towards Government without community/civil society representative

*Part IV – Mineral Rights and Surface Rights*

Section 23 B Claw back clause

Despite the protection given to the community but the claw back ensure the protection was watered down by giving power to the Minister to determine whether or not such protection shall be given in a situation of steal mate between community /land owner and mineral rights holder without recourse to a court of competent jurisdiction

*Part 12 – Sec 94.1 sub sec. A*

Protection of Environment

No time limit to when rehabilitation or mitigation measures will take place

*Financial*

- Decree not recognizing emerging issues e.g. Decentralization
- Community not being informed about proceeds form the mines by the mining companies especially on sales
- Decree did not make provision for proceeds from he mining process ploughing back into communities that are directly affected by mining activities

**ISSUES FOLLOWING PLENARY**

- The mining sector is not the private reserve of Ministry of Mines. It should incorporate other key departments of state. This should be included in the core mineral policy.

**ENVIROMENTAL REGULATIONS IN THE MINING SECTOR – DR. T. AKABZAA (Power point pres, (see annex viii)**

**ISSUES**

- It is important to have all mining regulations in Sierra Leone codified in one document
- What are the instruments available in Sierra Leone in terms of environmental promotion?
- One such instrument is the national constitution, the others being the Core Mineral Policy and mining codes, the Environmental Protection Act 2000
- One of the challenges facing Civil Society groups is the participation in the formulation of regulation.
- Civil Society groups should develop strategies for monitoring specifics projects by empowering mining communities
- Popularizing the mining regulation is an important challenge for Civil Society

## **LITIGATING MINING ENVIRONMENTAL PROBLEMS AFFECTING COMMUNITIES - AUGUSTINE NIBER (Power point pres, (see annex- ix)**

### **ISSUES**

- Litigating problems include pollution, land degradation, blasting
- Regulations do not give communities the opportunities to take up actions for the environmental problems affecting them
- It is important to educate the communities on key litigating challenges bordering around nuisance, negligence and adducing evidence.
- If the issue of nuisance is not included in the Sierra Leone mining laws, how do Civil Society groups, take up the challenge?

### **GROUP EXERCISE 2**

On day 3, participants once again broke into two groups to map out case studies of legal aspects involving specific environment. Group 1 looked at case study 1 and group 2 looked at case study 2.

#### *CASE STUDY 1*

B & G Mines Ltd. a mining company carried out mining activities in a community called Bonte for a period of 15 years. B & G Mines Ltd. performed its mining operations on wide stretches of land covering about 8 kilometers.

The company's activities resulted in the stock piling of large quantities of sand, gravel and mine waste.

The land had been degraded, ponds created with stagnant water breeding mosquitoes. The vegetation was cleared leaving the area completely naked and rendering it unsuitable for farming purposes.

The local farmers and property owners who were displaced by the activities of the company and their farms and property destroyed, have not been paid their compensation. In March 2005 B & G Ltd. Closed down its mining activities in Bonte and vacated the area.

The salaries and entitlements of workers of the company were unpaid.

1. Identify the fundamental rights violated in this case study.
2. Identify environmental issues that emanates from the case study.
3. Which of the identified issues been provided for by the Sierra Leone Mining Codes and Environmental regulations and how?
4. Which of the issues have not been provided for these regulations?

5. Make recommendations/ proposals as to how those issues could be address.

## **Plenary Reports**

### **Group 1**

1. Fundamental rights violated
  - a. Right to healthy and clean environment (article 24 of the African Charter of Human & Peoples Right.
  - b. Salary and entitlement of workers not paid
  - c. Livelihood of the community destroyed
  - d. Property right violated
2. Environmental Issues
  - a. Land degradation
  - b. Threat to community health
3. Issues provided for and how
  - a. Environmental protection – EIA development as a condition for major mining projects
  - b. Rehabilitation of mined out areas
4. Issues provided for in the regulations
  - a. All of the above issues are provided for in the regulation/mining code except – payment of wages/salaries and other entitlements
5. Recommendations
  - a. Strict enforcement of environmental regulations
  - b. Provision of upfront payment for reclamation of mined out areas
  - c. Proper relocation and payment of compensation before mining commences
  - d. Provision for litigating measures

### *CASE STUDY 2*

In 2003 a cyanide spillage occurred in the mining concession of Sierra Rutile a mining company operating in the country. A pipe carrying cyanide solution from the mine containment area of the mines broke causing the cyanide solution to escape and empty into a river that serves as a source of water for the communities down stream.

The cyanide killed life forms including fish, domestic animals and affected farm lands destroying crops. The communities down stream unaware of the spillage collected water and used the water for various purposes including drinking etc. Some members of the community harvested the dead fish and ate them including the dead animals.

Members of the community who came into contact with the cyanide or ate the dead animals and fish, were afflicted with various illness including stomach cramps, vomiting running stomach etc.

1. Identify the fundamental rights violated in this case study

- 2.
3. Identify environmental issues that emanates from the case study.
4. Which of the identified issues been provided for by the Sierra Leone Mining Codes and Environmental regulations and how?
5. Which of the issues have not been provided for these regulations?
6. Make recommendations/ proposals as to how those issues could be address.

## **Plenary Reports**

### **Group 2**

1. Identify the fundamental rights violated in this case study
  - Rights to clean and healthy environment
  - Right to food
  - Right to health
  - Rights to development and secured livelihood
2. Identify environmental issues that emanates from the case study.
  - Pollution of water and land resources
  - Loss of bio-diversity
  - Land degradation
  - Disease outbreak/health hazard
3. Which of the identified issues been provided for by the Sierra Leone Mining Codes and Environmental regulations and how?
  - Pollution of water and land resources

Check section 34 subsection 5 of the EPA 2000. also from the Mining Code part XII section 93, 1 ( a & b) says “there shall be included in a mineral right conditions with respect to

  - a. The prevention, limitation or treatment of pollution
  - b. The minimization of the effects of mining on adjoining or neighbouring areas and their inhabitants
4. Which of the issues have not been provided for these regulations?
  - Land degradation
  - Health hazard and disease outbreak
  - Loss of bio-diversity
5. Make recommendations/ proposals as to how those issues could be address.
  - Make provision for land degradation, bio-diversity and health hazard in both the Mining Code and the Environmental Protection Act

- Include omnibus clause that will take care of issues not foreseen around environmental issues
- Penalties should be proportionate to damages caused
- One issue that was not directly related to the case study but will have impact on the environmental regulations code is the issue of communities been empowered to sue companies for environmental degradation/destruction.

## **ACTION PLANNING**

Participants broke into groups by district, Western area, Kono and Rutile. These action plans were read to the plenary as follows:

### **Kono District – Civil Society Group**

<b>No.</b>	<b>Activity</b>	<b>Timeframe</b>	<b>Location</b>	<b>Who i s responsible</b>	<b>Resources</b>
1.	Sensitization meetings and radio sensitization on the Core Mineral Policy and the Environment Protection Act 2000	3 months April – June	14 Chiefdoms in Kono Districts	<ul style="list-style-type: none"> <li>• Civil Society Organisations</li> <li>• LC Committees on mining</li> <li>• Ministry of Mineral Resources</li> </ul>	<ul style="list-style-type: none"> <li>• Training Hall</li> <li>• Stationery</li> <li>• Transports cost for participants</li> <li>• Food</li> <li>• Facilitators fee</li> <li>• Fee for air time</li> <li>• Photocopying of materials</li> <li>• P.A. System</li> <li>• Press coverage</li> <li>• Coordination</li> </ul>
2.	Sensitization meeting on the hazards of in town mining	April	Koidu Town	<ul style="list-style-type: none"> <li>• Civil Society Organisations</li> <li>• LC Committees</li> </ul>	<ul style="list-style-type: none"> <li>• Same as above</li> </ul>

### **Western Area – Civil Society Group**

<b>No.</b>	<b>Activity</b>	<b>Timeframe</b>	<b>Location</b>	<b>W h o i s responsible</b>	<b>Resources</b>
1.	Information dissemination on mineral codes and core mineral policies and the	3 months April – June	Nation-wide	<ul style="list-style-type: none"> <li>• Civil Society Organisations</li> <li>• Ministry of Mineral Resources</li> </ul>	<ul style="list-style-type: none"> <li>• Funds</li> </ul>

	EPA				
2.	<p>Advocacy Policy dialogue with</p> <ul style="list-style-type: none"> <li>• Ministry of Mines and Mineral Resources</li> <li>• Visiting key stakeholders e.g. World Bank, DFID, EU etc</li> <li>• Establish close ties with CEMAAT</li> <li>• Policy dialogue with Western Area Local Councils and Parliamentary committee on Mines and Mineral Resources</li> </ul>	3 months April – June		<ul style="list-style-type: none"> <li>• Civil Society Organisations</li> <li>• LC Committees</li> </ul>	<ul style="list-style-type: none"> <li>• Same as above</li> </ul>
3.	Research on the Constitution of Sierra Leone and the Mining status of the Western Area	April – June 2006		Western Area Civil Society group	Funds from donors C-AID, etc
4.	<p>Members of Group</p> <ul style="list-style-type: none"> <li>• Yusuf Umaru Dalhau</li> <li>• Milton K. Sam</li> <li>• Joseph Rahall</li> <li>• Sheku V. N. Mambu</li> <li>• Margaret Jones</li> <li>• Abdul Rashid</li> <li>• Moi Sellu</li> <li>• S u n a K . Bundu</li> </ul>				



	<ul style="list-style-type: none"> <li>Mark Mahmoud Kalokoh</li> </ul>				
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### Rutile Civil Society Group

No.	Activity	Timeframe	Location	Who is responsible	Resources/Needs
1.	Community sensitization through radio discussions/workshop sessions on mining laws	2006		<ul style="list-style-type: none"> <li>Civil Society Organisations</li> <li>LC Committees on mining</li> <li>Ministry of Mineral Resources</li> </ul>	<ul style="list-style-type: none"> <li>Sponsorship form donors</li> </ul>
2.	Community sensitization on human rights issues through radio discussions/community sessions			<ul style="list-style-type: none"> <li>Civil Society Organisations</li> <li>LC Committees</li> </ul>	<ul style="list-style-type: none"> <li>Same as above</li> </ul>
3.	Environmental awareness raising targeting the local councils and policy makers through media advocacy/and community sessions				Sponsorship request
4.	Sensitization of traditional rulers on mining issues and community livelihoods				Sponsorship request
5.	Establishment of human rights monitoring committees at community levels				Sponsorship request
6.	Training of Paralegals to be based in mining communities				Sponsorship request
7.	Creates community networks for advocacy purposes				Sponsorship request

## EVALUATION

1. % of the participants commented that the content of the workshop was relevant
  - 1.1 34% and 56% commented that the session on Mineral Policy trends in the last five decades was relevant and very relevant respectively. 85% and 15% noted that clarity was very good and excellent respectively. 88% stated that the session was helpful
  - 1.2 75% stated that the session Fundamentals on Human Rights was very relevant 78% said clarity was excellent. 22% said it was very helpful.
  - 1.3.1 68% noted that the session on Development of minerals codes in last two decades and the role of IFIs and Multinationals was very relevant 32% said it was relevant, 55% said clarity was excellent and very helpful.
  - 1.3.2 54% said the Evolution of 2002 Ghanaian Mining Code, lessons learnt was relevant, 40% said clarity was excellent and 72% said it was helpful.
  - 1.5 81% said the Fiscal regimes and corporate tax haven was very relevant, 54% said clarity was excellent, 4% said fairly good and 77% said it was very helpful.
  - 1.6 68% said the Session on Public interest litigation in the mining sector, lessons learnt from CEPIL was very relevant, 45% said it was excellent and 77% said it was very helpful.
  - 1.7 70% stated that the session on Comparative overview of the Sierra Leone and Ghanaian mining codes was very relevant, 54% said it was effective and very helpful.
  - 1.8 86% stated that the session on Environmental regulations in the Mining Sector was very relevant, 64% said it was effective and very helpful.
  - 1.9 74% stated that the session on Litigating Mining environmental problems affecting communities was very relevant, 58% said it was effective and very helpful.
2. 82% stated that the Quality of facilitation was very excellent and 18% said it was good
3. 72% and 28% said the degree of participation was very high and high respectively.
4. 76% stated an overall readiness of the workshop.
5. 67% showed an excellent opportunity for preparing and implementing an advocacy programme.
6. 58 % stated that the food was good, 30% that it was excellent and 12 % stated it was fair.

6.1 63% stated that resource materials were excellent and 32% said the resource materials were good.

7.0 70% said workshop preparation was good

8.0 56% stated that the workshop duration was adequate

### **9.0 Any other comments**

- ☞ Most respondent stated that there is essence for CSOs to embark on engaging Government on issues already highlighted.
- ☞ Involvement of other stakeholder in environmental management workshops.
- ☞ That NACE such trainings to the provinces
- ☞ Over 75% requested for workshops which they think is essential for capacity building and advocacy trainings of CSOs to be able to take on challenges for the community in mining areas.
- ☞ Lots of thank you and God's Blessings

### **CLOSING COURTESIES**

The lead facilitator in his closing remarks expressed his appreciation and thanked all participants for being par of this workshop.

Kadi, on behalf of Christian Aid also expressed her appreciation to participants especially those from the Provinces for honouring the invitation at short notice. She also gratefully appreciated the facilitators from Ghana and hoped that all would make meaningful efforts to push the work forward.

Mr. Rahall, on behalf of NACE, appreciated those who funded the workshop and thanked the facilitators so very much for having imparted so much knowledge in the participants.

## LIST OF PARTICIPANTS

No.	NAMES	ORGANISATION	CONTACT ADDRESS	E-MAIL ADDRESS	TELEPHONE
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3.	Emmanuel Gbongon	Land Owners Federation	Banta Gbangbatoke		033491714
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