



**ACCOUNTABLE MINING  
PROGRAMME (AMP)**

# **CORRUPTION RISK ASSESSMENT REPORT**

**ON MINERAL MINING LICENSING IN GHANA**



**Ghana Integrity Initiative (GII)**  
Local Chapter of Transparency International

Established in 1999, Ghana Integrity Initiative (GII) is a non-partisan, non-profit civil organisation focused on addressing corruption. GII is the local Chapter of Transparency International (TI), the global, non-governmental, non-profit civil society organisation leading the fight against corruption through more than 90 chapters and over 30 individual members worldwide with its International Secretariat in Berlin, Germany.

**The vision of GII is**

“a corruption-free society where all people and institutions act accountably, transparently and with integrity”.

**The mission of GII is**

“to fight corruption and promote good governance in the daily lives of people and institutions by forging strong, trusting and effective partnership with government, business and civil society and engagement with the people”.

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# PREFACE

Ghana Integrity Initiative (GII) is one of the 5 new chapters (Argentina, Ghana, Mexico, Kyrgyzstan and Madagascar) participating in Transparency International's Accountable Mining Programme. The Programme is coordinated by TI Australia. The Accountable Mining Programme complements existing efforts to improve transparency and accountability in extractive industries by focusing specifically on the start of the mining decision chain: the point at which governments grant and award mining permits and licences, negotiate contracts and make agreements.

Research Phase of the Programme (2018-2020) is about understanding the problem by identifying and assessing the corruption risks in the process and practice of awarding mining licences, permits and contracts. This national report presents the main findings from the corruption risk assessment in Ghana.

With an understanding of the nature and causes of corruption risk, national chapters will develop and implement solutions to tackle priority corruption risks in the Advocacy phase of the programme. They will work with key stakeholders from government, the mining industry, civil society and affected communities to improve transparency, accountability and integrity in the decisions about approving mining projects.

Linda Ofori-Kwafo  
Executive Director - GII

# EXECUTIVE SUMMARY

## INTRODUCTION

Transparency is an important governance principle and a means by which meaningful participation of citizens in a democratic process is achieved. Transparency is crucial in translating the wealth of extractives into lasting benefits for the citizens, while ensuring sound protection of the ecosystem for both the current and future generations. The importance of transparency in the democratic development of the state lies in the fact that, it enhances the demand side of social accountability, facilitates effective participation of citizens in decision making, and builds public trust.

## BACKGROUND

Mining is an important economic activity in Ghana contributing an estimated six percent to GDP, 26 percent to Government revenue, and 40 percent to total merchandise export earnings over the last 10 years. The sector also contributes towards employment creation with the large-scale sector providing about 28,000 jobs, while the small-scale sector contributes over one million direct and indirect jobs.

Despite the great potential of the sector, its contribution towards the national economy and sustainable development as a whole has fallen below expectation over the years. Poor mineral sector governance and corrupt practices along the value chain have been noted as key obstacle to the performance of the mining sector. The license application and processing procedures is one of the areas in which the risks and vulnerabilities to corruption in the mining value-chain occurs. Therefore, identifying and eliminating these risks and vulnerabilities is an important effort towards enhancing the contribution of mining to the national economy and sustainable development in general.

## OBJECTIVES OF THE RESEARCH

The Mining for Sustainable Development (M4SD) Programme is an initiative that focuses on promoting sustainable development through mining. The aim of the programme is to identify and address weaknesses in the mining sector governance framework by working with key stakeholders to bring about policy and practice change.

The main objective of the research is to contribute to improving the mining licensing system by identifying and addressing its weaknesses. The specific objectives are to:

- a. Map out the mining license award process and practice;
- b. Identify vulnerabilities to corruption within the mining license award process;
- c. Assess the corruption risks emanating from the vulnerabilities.
- d. Make recommendations for improving the mining license award process in Ghana.



# EXECUTIVE SUMMARY

## SCOPE OF THE RESEARCH

The scope of this study focuses essentially on the following: Ghana as a case country in the global context. The focus of Ghana is informed by the fact that mining laws in the country cover all minerals within the jurisdiction of the country. The laws are not specific to different geographical areas but unique to the entire geography and minerals of the country. The study also focuses on large-scale mining with emphasis on the gold mining sub-sector because gold alone contributes over 90 percent of total value of mineral exports in Ghana. Ghana is currently the largest producer of gold in Africa surpassing South Africa since 2018 and ranks ninth in the world (Njini, 2019). In terms of license type, the research focuses on the approval and granting of mineral right with emphasis on reconnaissance and prospecting

## METHODOLOGY

The research was conducted using the method in the Transparency International's (TI'S) MACRA tool. Qualitative data was collected through desktop research, interviews and focus group discussions. Data collected on corruption risk were analysed in line with the requirements of the MACRA tool.

## RESULTS OF THE RISKS ASSESSMENT

The study produced 3 process maps namely; Advertised Map, Official Process Map and Practice Map. The sources of data for the maps were the Minerals and Mining Laws, interviews and literature review.

Based on analysis of the maps and contextual factors, the study identified 17 vulnerabilities to corruption. Out of the 17 vulnerabilities 6 came from political factors, 3 from economic factors, 6 from social factors, and 2 from technological factors.

Based on the list of vulnerabilities, the study identified and assessed 19 risks to corruption. Again, out of the 19 risks 6 were from Contextual Factors (CF), 2 from Process Design (PD), 7 from Process Practice (PP), and 4 from Community Consultation (CC).

In the scale of 1-5; the likelihood score for 14 out of the 19 identified risks to corruption was 5 (certainty of occurrence) and the likelihood score for 5 risks was 4 (very high).

In the scale of 1-5; the impact score for 11 out of the 19 identified risks to corruption was 5 (disastrous and systemic); the impact score for 6 risks was 4 (very high); and the impact score for 2 risks was 2 (low).

The study found that the likelihood and impact scores for all the four (4) risks to corruption under CC category were very high and disastrous and systemic respectively.

## DISCUSSION OF RESULTS OF THE RISK ASSESSMENT

The process practice (PP) has the highest number of corruption risks (7), while the process design (PD) has the least number of corruption risks (2). The least number of corruption risks for the

# EXECUTIVE SUMMARY

process design suggests that the design by itself has been good. The highest number of corruption risk factors identified within the process practice is an indication that, the potential for corruption lies mostly in the practice.

The likelihood and impact for all the four (4) corruption risks under CC category recorded the maximum score of 5. This means that, corruption risks under Community Consultation are pervasive and systemic in the mining sector. Similarly, the likelihood scores for all the six risks factors in CF were high, while 4 out of the 6 impacts recorded high scores.

The 14 risk factors that scored likelihood of 5 means that there is certainty in their occurrence. In other words, there is certainty that all those risk factors with a likelihood score of 5 will occur in the mining license application process.

The occurrence of all the risk factors with likelihood score of 4 (in the scale of 1-5) is very high in the license application process. This means that the occurrence of the 5 risks to corruption with likelihood score of 4 is very high but not certain in the mining license application process.

The 11 risks factors that have impact score of 5 (in the scale of 1-5) means that their impact will be disastrous and systemic when they occur.

The highest scores for both likelihood and impact of all the four (4) risks under CC category means that CC is a priority risk area that deserve attention. Similarly, the 4 risks factors with high impact scores in CF are priority risks.

Based on the analysis, the study identified and prioritised six risk factors for priority action. The prioritization was guided by a criteria provided by the MACRA tool and comprises urgency of the risk, its impact and feasibility. The six prioritized risks to corruption are:

- Risk CC2: What is the risk that lack of community consultation creates opportunities for applicants and Cadastral Officials to abuse community rights and engage in non-compliance and corrupt practices?
- Risk PD1: What is the risk that face-to-face processing of applications is expensive and time consuming and will create opportunities for corruption?
- Risk PD2: What is the risk of Parliament's inability to ratify signed agreements between the government and the applicant?
- Risk PP4: What is the risk that details of areas that have been licensed for reconnaissance, prospecting and lease are not fully and publicly disclosed?
- Risk PP6: What is the risk that notices about the gold mining licensing applications are given in languages and channels that are not accessible by women and men directly affected by the mining project?
- Risk CF3: What is the risk that there are no laid down procedures for the prevention and management of conflict of interest, involving public officials and politicians in the mining license application process?

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## RECOMMENDATIONS

The research makes the following recommendations for policy and practice reform:

- i. The Minister of Mines and the Minerals Commission should put in place an effective, efficient, meaningful and sustained mechanism of stakeholder engagement and consultation to empower stakeholders and communities to engage in the mining license application process. Community and stakeholder engagement enhances accountability and deters corruption. The way forward to ensuring implementation of this recommendation is the determination of standard criteria with clear indicators for effective, efficient, meaningful and sustained community engagement and consultation in the mining license application process.
- ii. Both the mechanism of consultation and the standard criteria should take account of diversity of stakeholders in the community and include, in particular indicators for gender, and opportunities for women's participation.
- iii. The face-to-face (manual) processing of applications exposes both the applicants and public officials to potential corruption. It should therefore be substituted with an electronic system of application to minimise or eliminate the risk. The digitization is not only consistent with national policy but also eliminate the incentives for corrupt practices associated with the face-to-face manual processing of mining license application. The efficiency with the digitization of the application process provides opportunity for the Mineral Commission to deploy the expertise of staff at the Minerals Title Department for other equally important assignments. The study notes that the Minerals Commission is developing a Mining Cadastral Administration System, which would provide a basis for migrating the manual (face-to-face) processing of applications to an electronic system.
- iv. Parliamentary ratification of signed mining license agreements is a legal requirement, however, this is often not complied with in a timely manner. Providing for timely ratification of signed agreements would enhance the integrity of the license process. It will also protect applicants and the state from potential losses arising from litigation over the abrogation of licenses and termination of projects. The study therefore recommends an amendment to the relevant law(s) to provide timelines within which the Minister must submit signed agreements to Parliament for ratification. Alternatively or as an additional measure, the Minister responsible for Mines, with the support of the Minerals Commission should collaborate with Parliament to work out an agreed administrative schedule for the submission and ratification of signed agreements per period of time.
- v. The study recommends full public disclosure of licensed areas for reconnaissance, prospecting and lease to promote transparency and accountability, minimize illegal encroachment of concessions and deter corrupt practices such as collusion between the renounced licensed-holders and Cadastral officials. An improvement of the cadastral system is of paramount interest to all the stakeholders and actors in the mining sector. Addressing this interest can also be achieved through full public disclosure of the cadastral system.

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- vi. Notices in respect of the processing and granting of mining licenses should be published in local languages as well as placed on locations, which are easily accessible to people in communities that host, the concession. Notices given in the language that stakeholders understand will help them engage, voice their concerns, and promote accountability in the license application process. It also promotes transparent licensing process and enhances accountability, which serve as deterrent to corruption.
- vii. The Minerals Commission should prepare and publish procedures for the prevention and management of conflict of interest, involving public officials and politicians in the mining license application process. This document should require public officials and politicians to declare their business interest in relation to a mineral right application. The document will help in the identification and management of conflict of interest that could lead to corruption in the license application process.
- viii. The Minerals Commission should develop and enforce a model stepwise approach for preventing and or minimising speculative activities. This model should include an inventory of assets, publicity of timelines and cut-off dates within which activities cannot be considered for compensation. The cut-off date should be considered in the negotiation of community agreements and the consultation process.
- ix. Based on the three (3) maps produced by the research, it is recommended that the Minerals Commission re-design its advertised map on the website so as to provide more accurate and comprehensive information for the public. A comprehensive map could go alongside the very summarized map.
- x. The study noted that the Minerals and Mining Act, 2006, Act 703, provides for a limited number of stakeholders during consultations. The Act requires the Minerals Commission to have direct interaction with the Local Authority, the Chief, and the landowner. However, the Act is silent on queen mothers, women's associations, youth, People with Disabilities (PwD), property right owners and user right holders. The study therefore recommends an expansion of the list of persons to be consulted or notified in the application process to include these groups. The expansion of the list would help strengthen oversight and contribute greatly towards mitigating political influence and corruption in the processing of mining license application.
- xi. The study revealed that standard timelines stipulated in law for the processing of applications are often not met, partly as a result of applicants submitting inadequate documentation in support of their applications. As additional measure for addressing this challenge the study recommends the public disclosure of the list of the required documents to be submitted in support of the application, as well as standard timelines within which applicants must submit the required documentation to the Minerals Commission. This public disclosure would help minimise delays on the part of applicants.
- xii. Related to paragraph viii, it is also recommended that the Minerals Commission publicly disclose the recommendations of the Technical Committee on Mineral Titles. This public disclosure would further enhance transparency and confidence in the licensing application process.

# 1.0 INTRODUCTION

Mining is an important economic activity that generates substantial revenues for development financing, earns the country foreign exchange to shore up its foreign exchange reserves, creates employment, and contributes to community development through local content opportunities and Corporate Social Responsibility expenditures. Ghana's mineral sector contributes about six percent of Gross Domestic Product (GDP), 26 percent of Government revenue in 2015, an average of 40 percent of total merchandise export earnings over the last 10 years, and provides employment for about 28,000 people in the large scale subsector, and for over one million people in the small scale subsector (Minerals Commission, 2017). Several other communities in mining areas have benefited from school buildings, health facilities, educational scholarships, livelihood empowerment training and support, and community centres, constructed by mining companies, as part of their corporate social responsibility programmes.

However, the operations of various mines have also impacted negatively on the environment and the people, particularly, on communities proximate to the location of the mines. The impacts include pollution of water resources, physical and economic displacement through land acquisition, destruction and deprivation of livelihoods, human rights abuses, and widening economic inequalities between men and women. These impacts have further exacerbated the marginalised situation in which rural communities find themselves, and have on many occasions contributed to the onset or escalation of hostilities and social conflicts of different levels of intensity, between mining companies and local communities, large-scale mining companies and small scale miners, state agencies and rural communities.

Poor mining sector governance often sets the stage for corruption, and tends to deepen these negative impacts of mining. They deprive governments of the benefit of revenues which are

badly needed to finance development and the provisioning of essential social services, reinforcing in the process, the resource curse syndrome.

While aspects of the resource curse have been highly contested, there appears to be some consensus that much of the poor outcome of natural resource extraction can be explained by corruption. Bueno de Mesquita and Smith (2009), argues that it is easy for political elite to control and monopolise natural resource revenues, and by so doing, reduce the incentives for transparency and accountability. This view is echoed by Auty (2001: 839) that "resource-abundant countries engender a political state that is factional or predatory and distorts the economy in the pursuit of rents". In such a situation the state is deprived of the needed revenue to deliver services, and the strength to regulate and ensure enforcement of environmental compliance.

Corruption wipes away the social, economic and environmental benefits of mining. Therefore, eradicating corruption from the mining award process would ensure that only decent, financially sound, and technically competent entities are allowed to engage in the business. This will ensure regulatory compliance, environmental sustainability, and will empower women to claim their rightful places in the mining industry value-chain.

Transparency is an important governance principle, a means to achieving accountable governance, and therefore prudent use of public resources. It is crucial in translating the wealth of extractives into building the productive capacity of the national economy while ensuring sound protection of the ecosystem for future generations. The importance of transparency in development and democracy lies in the fact that it empowers citizens to effectively participate, and to demand accountability, thereby reducing the incentive for corruption, eliminating waste

and inefficiencies that undermine the development process and outcomes. As Danso (2017) indicates, transparency “involves giving people access to relevant information, encouraging fairness and promoting the active participation of local people in the process of licensing, exploration, contracting, generation of revenue as well as how the revenues are allocated.”

Over the years, successive governments have continued to improve upon mining sector governance, which include the revision and introduction of new policies, laws and institutions. Various pieces of legislative instruments have been introduced to ensure implementation of the parent Minerals and Mining Act, 2006 (Act 703). The Geological Survey Department has been transformed from a department to an authority. There are also various initiatives led by government, civil society, mining companies and local communities, aimed at improving the general governance of the mining sector. Having signed on to the Extractive Industry Transparency Initiative (EITI) in 2003, the government of Ghana has acted on the findings and recommendations of the initiative, to introduce sweeping changes to the mining sector fiscal regime, and it is on course to establishing an open licensing regime in both the mining and the oil sectors, in fulfillment of its reporting obligations.

There are also on-going civil society organisations' initiatives, aimed at improving mineral sector governance, and curbing the risk of bribery and corruption in the sector. These initiatives include the Publish What You Pay campaign; the Kasa Ghana natural resource and environmental governance initiative; the Civil Society Platform on Oil and Gas; the Civil Society Coalition Campaign against mining in Atewa Forest Reserve; and the campaign for improved policy regime and community rights by National Coalition on Mining (NCOM).

In the specific case of licensing, the Minerals Commission has introduced and expanded the small-scale mining district offices to handle

small-scale mining licenses and to assist applicants of large-scale mining licenses with verification of sites at the local level. The Commission has also established a multi-stakeholder Technical Committee on Mineral Titles to provide technical support in the assessment of license applications. Some progress has also been made in the area of revenue disclosure under the Ghana Extractive Industries Initiative (GHEITI). With the availability of information on mineral revenues, citizens are well placed to make informed demands for the prudent utilisation of mineral revenue, as well as reforms to the fiscal regime for maximising mineral revenue mobilisation.

Despite the efforts, transparency remains a major challenge in the mineral value chain. It is believed that, the poor development outcomes of mining is the result of poor governance, linked in part to opacity and participatory decision making along some critical links in the industry value chain. Several scholars have argued that non-transparent and non-participatory mineral governance breeds corruption (Crawford G. & Botchwey G.2016; Hilson et al. 2014; and Blundo and Olivier de Sardan 2006). Corruption has been noted to be a major obstacle hindering the translation of the vast mineral wealth of the country into building the productive capacity of the national economy. A Report by the Government of Ghana (2018) on the assessment of the vulnerability and risk of the country to money laundering and terrorism financing, states that the extractive sector (oil, gas and mining) “has been bedeviled with crimes such as bribery, corruption, fraud, smuggling, tax evasion, theft and robbery among others.” The report further expressed concerns regarding recent upsurge in activities that expose the sector to risks of money laundering and terrorism financing which is likely to affect Ghana's development, peace and security. It argues that these threats have evolved as a result of factors such as 'fragmented and bureaucratic licensing processes in the extractive sector, particularly mining, creating room for bribery of state officials

1. EITI is a global transparency initiative aimed at improving citizens' access to information on the management of their natural resources. It was launched by the former U.K. Prime Minister, Tony Blair, at the World Summit on Sustainable Development, in Johannesburg, in 2002.

to allow prospective applicants to circumvent the processes” and “Legally acquired licensee holders operating illegally”.

One of the areas in which inadequate transparency is clearly manifested in the mineral value-chain is the licensing process. Licenses and leases for mining are approved and granted on first-come-first served basis, which tends to ignore the selection of applicants on the basis of competence. The licenses and leases approved and granted on first-come-first served basis are not fully and publicly disclosed. Indeed, there is no legal requirement to disclose mining licenses and leases granted to applicants. Information on beneficial owners of licenses is also not disclosed, creating opportunities for fronting and transfer mispricing in transactions between related entities. As noted by UNDP (2015:p33), the non-public disclosure of mining licenses and leases “could potentially create a cover for rent-seeking behaviour on the part of public office holders in the mining industry.

The research under the Accountable Mining Programme seeks to assess the vulnerabilities and risks in the mining licensing approval and granting process. The risk assessment is justified as it seeks to promote transparency in the mineral value-chain, with specific focus on the process for the approval and granting of gold mining licenses. The licensing link in the value chain is of key interest because this is an area, which the various governance initiatives by government, civil society, and mining companies have not paid attention to. It is important also because, it sets the tone for the allocation of benefits between license holders and the state. A mining license obtained based on corruption is a major potential for corrupting the entire value-chain of the mine, and therefore constitute a recipe for losing out on the optimum benefits of the mine.

## 1.1 Statement of the Problem

Historically, mining has been an important commodity in international trade and investment relation between Ghana and the rest of the world. Despite its importance, the development

potential of minerals has not been fully realised by the country and its people. Corruption has been noted as key obstacle to the improved performance of the mining sector. Licensing is one of the areas in which the risks and vulnerabilities to corruption in the mining value-chain occur.

Several scholars (Adimazoya 2013; Standing & Hilson 2013; Standing 2014; and Dupuy 2016) have identified and analysed systemic weaknesses that facilitate corruption and the lack of accountability in Ghana's mining sector, particularly in the community minerals beneficiation scheme. The OECD (2016) associates corruption with the mineral sector, and defines it to include “the malpractice in public spending or social expenditure by private companies”. Part of the rationale for the initiation and implementation of the EITI is to curb corruption by promoting revenue transparency in the extractive sector value-chain. EITI Standard Requirement 6 on Social and Economic Spending (EITI Standard 2016), focuses specifically on improving transparency around social expenditures by extractive companies. The Natural Resource Governance Institute-NRGI (2016) suggests that corruption is endemic in the natural resources sector and proceeds to state that sufficient transparency and availability of information on the management of natural resources are crucial in holding government officials, private sector actors, and civil society to account.

Eliminating the risks and vulnerabilities is an important effort towards enhancing the contribution of mining to the national economy and sustainable development in general. Understanding the nature and sources of corruption risks and vulnerabilities in the licensing process is the necessary first step towards their elimination.

## 1.2 Objectives of the Risk Assessment

The Accountable Mining Programme (AMP) is one of the initiatives for promoting sustainable development through mining. The aim of the programme is to identify and address weakne-

sses in the mining sector by working with key stakeholders to create change within government, mining companies/operators, civil society and affected communities. Improving the licensing award process is key for ensuring that mining contributes towards sustainable development.

This study was conducted as part of Transparency International's Mining for Sustainable Development Programme with the aim of identifying and assessing the systemic, legal and institutional vulnerabilities which create corruption risks and thereby undermine the lawful, compliant and ethical awarding of mining sector licences, permits and contracts.

The specific objectives of the research are to:

- a. Map out the mining award process and practice;
- b. Identify vulnerabilities to corruption present within the mining award process;
- c. Assess the corruption risks emanating from the vulnerabilities;
- d. Make recommendations for improving the mining award process in Ghana.

### 1.3 Structure of Report

The research report is organised into nine (9) sections as follows: **Section 1: Introduction,**

presents an outline of the purpose and objectives of the risk assessment and the structure of the report. **Section 2: Background,** provides essential information on Ghana's mining sector, the legal and institutional framework governing the sector, highlights the types of licenses and permits and the way in which mining rights are allocated in the country. **Section 3: Explanation of the scope,** explains the choice of license for the research, the area of coverage and the complementary permits pertaining to the mining sector. **Section 4: Methods,** basically describes the key steps of the MACRA tool; the methods of data collection, the approach to the ranking and scoring of risks, the way in which the research report was validated, and limitations of the research. **Section 5: The license application process, practice and context,** covers a step-by-step description of the process in law and practice, highlights the vulnerabilities and their corresponding risks with supporting evidence. **Section 6: Results of the Risk profile and assessment scores,** comprises a summary of the scores and key strengths from the assessment. **Section 7: Discussion of Results,** presents the discussion of the results including interpretation and observations. **Section 8: Limitations of the results,** presents acknowledgement of limitations of the results arising from data accessibility among other factors. **Section 9: Conclusion and Recommendations.**



## 2.0 BACKGROUND

Ghana is endowed with a variety of ornamental and industrial minerals, notably, gold, diamond, bauxite, manganese, salt, sand, limestone, rocks, clay and gravel. Mining is an important economic activity in Ghana, contributing to government revenue, foreign exchange earnings, and employment creation among others. Mining in Ghana is categorised according to scale (large-scale and small-scale artisanal). In 2016 Ghana produced 110 tons of gold; 31 percent of this came from artisanal and small-scale miners (Minerals Commission, 2017).

The United Nations Economic Commission for Africa (2011) and Crawford G. & Botchwey G.

(2016) have argued that the contribution of mining to the national economy and sustainable development in general could be maximised with improved governance, in ways that minimises revenue leakages, including corruption. According to a report of the National Anti-Money Laundering and Countering the Financing of Terrorism (ML/CFT) Risk Assessment of Ghana, conducted in 2018, “public perception of the prevalence of corruption, especially in the public sector, suggests it is endemic and institutionalised.” A summary of the techniques through which corruption manifests itself is presented in table 1.

**Table 1: Corruption Manifestation Techniques in Ghana**

CORRUPTION TECHNIQUE	GHANA
Bribery of government official	56.7%
Bribery of foreign officials	6.7%
Embezzlement, misappropriation or other diversion of property by government officials	56.7%
Asset/ Misuse of office for personal gains	46.7%
Trading in influence to get things done or not done	50%
Illegal transfer or taking of money abroad	13.3%
Bribery or embezzlement in private sector	10%
Inflation of contract figures	56%

Source: *The Republic of Ghana (2018: p3)*

According to the Republic of Ghana National Report on ML/CFT (2018), in recent times the extractive sector “has been bedeviled with crimes such as bribery, corruption, fraud, smuggling, tax evasion, theft and robbery among others” and proceeds to note licensing as a specific area of risk. The report listed some of the areas that present risks in mining licensing as (i) “fragmented and bureaucratic processes, creating room for bribery of state officials to allow prospective applicants to circumvent the processes”; (ii) Legally acquired licensee holders operating illegally outside of their allocated concessions” and (iii) “Weak licensing

regime small scale mining.”

The weak governance architecture of Ghana’s mining industry, largely accounts for the unimpressive economic, environmental, and social performance. Economically, there is a disproportionate distribution of the dividends of mining between the mining companies and the state, with the mining companies allegedly taking the largest share, while the host government and local communities take the lesser share. The fiscal regime for mining in Ghana tends to legalize economic deprivation of local communities and the national economy

through the provision of generous incentives and expanded tax holidays (Darimani, 2007). Environmentally, the extraction of minerals has resulted in air pollution, excessive noise and vibrations from blasts, water and soil contamination, the degradation of agricultural resources, and the loss of agricultural land and vegetation. Socially, the development of mines and mineral production have caused physical displacement of whole communities, introduced mining related diseases, including sexually transmitted infections (STIs), led to the influx of migrant workers, caused unemployment and conflicts around issues such as pollution, land use, fairer distribution of benefits, fair compensation, and community right to self-determination. In many cases, these conflicts have resulted in the violations of the fundamental human rights of members of communities in mining areas. Moody (2001) has argued that “there has been either a de facto or de jure surrendering or a calculated erosion of government responsibility to protect the people” in areas where the conflicts erupt.

The various impacts of mining affect men and women differently. Women suffer disproportionate adverse impacts, ranging from deprivation of access to livelihood and sources of income, lack of access to land, increased vulnerability to sexual, economic and psychological abuse by their male counterparts, increased burden from workload of household management, among many others. In Ghana, these adverse impacts are largely facilitated by the low participation of women in the full cycle of mining, beginning from the license approval and granting process. Further, customary laws and beliefs tend to create conditions for the increased negative impacts of mining on women.

Customary laws and beliefs influence who participate and receives benefits from mining. For instance, cultural laws dictate that ownership of land be vested in the male. Therefore, compensation and land rent is often paid to males. The situation is however, improving. The Minerals Commission has employed a Gender Officer to help address gender concerns in the mining industry. Indirect economic benefits of mining accrue to 4.4 million people, including women who work in supporting services (World Bank, 2015). The Minerals Commission (2016) conducted a limited survey that showed that about 28 percent of illegal small-scale miners (galamsey workers) are women, though very few of them are owners or managers of mines. Therefore, beyond addressing corruption vulnerabilities and risks, the findings of this assessment could be useful in addressing gender related vulnerabilities, (gendered impacts).

## 2.1 Legal and Institutional Framework for Mining in Ghana

An individual or company both requires a right in order to conduct mining of any commercial value in Ghana. The Ministry responsible for Mines is the principal government agency, with oversight responsibility for the granting of a mineral right, based on the recommendations of the Minerals Commission, the industry regulator. The Parliament of Ghana exercises the power of ratification of mineral licenses (section 5 of Act 703). The laws and institutions with responsibility for the approval and granting the right for the extraction and processing of any mineral in commercial quantities in Ghana are presented in table 2.

**Table 2: Specific Laws and Institutions with mandate in mining license award process in Ghana**

Law	Hosting Agency	Core mandate
Minerals Commission Act, 1993 (Act 450)	Minerals Commission (MC)	Established the MC to promote and regulate mining in Ghana
Minerals and Mining Act, 2006 (Act 703)	Minerals Commission	Makes the acquisition of mining license a legal requirement in Ghana. Also provides for the steps and responsible individuals/institutions
Minerals and Mining (Amendment) Act, 2015 (Act 900)	Minerals Commission	Makes the acquisition of mining license a legal requirement in Ghana. Also provides for the steps and responsible individuals/institutions

Law	Hosting Agency	Core mandate
Minerals and Mining (General) Regulations, 2012 (L.I. 2173)	Minerals Commission	Provides procedures, rights, obligations and responsibilities for the mining operations in Ghana
Minerals and Mining (Licensing) Regulations, 2012 (L.I. 2176)	Minerals Commission	Provides specific procedures and requirements for the acquisition of a license
Environmental Protection Agency Act, 1994 (Act 490),	Environmental Protection Agency (EPA)	Established the EPA to protect and regulate the environment in Ghana
Environmental Assessment Regulations, 1999 (L.I. 1652);	Environmental Protection Agency	Provides specific procedures and requirements for the acquisition of an environmental permit
Local Governance Act, 2016, (Act 936)	Ministry of Local Government and Rural Development	Requires all new development undertaking (Mining license applicants) to obtain permit from the local council where the project is located
Land Commission Act, 2008 (Act 767); State Lands (Amendment) Act, 2000 (Act 586);	Lands Commission (LC)	Requires applicants to register signed agreement with the Commission
Water Resources Commission Act, 1996 (Act 522)	Water Resources Commission (WRC)	Established the Water Resources Commission with the mandate to protect and regulate Ghana's water resources
Water Use Regulations, (L.I.1692)	Water Resources Commission (WRC)	Provides procedure for allocating permits for various water uses and requires all mining license applicants to obtain water permit
Forestry Commission Act of 1999 (Act 571)	Forestry Commission (FC)	Established with the Forestry Commission with the mandate to protect and regulate Ghana's forests and tree plantation
The Forest Protection (Amendment) Act 2002 (Act 624)	Forestry Commission (FC)	Requires applicants with concession affecting a protected forests reserve to register and obtain permit from the Commission
Office of the Administrator of Stool Lands Act, 1994 (Act 481);	Office of the Administrator of Stool Lands	Requires applicants to register signed agreement with the Office

Source: *Researcher's Construct, 2019*

## 2.2 Ownership of Minerals

In Ghana, ownership of all minerals is vested in the state. Article 256 (6) of the 1992 Constitution of the Republic of Ghana states: "Every mineral in its natural state in, under or upon any land in Ghana, rivers, streams, water course 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." Section 1 of the Minerals and Mining Act, 2006, (Act 703) simply imports the provision in Article 256 (6) of the Constitution regarding the ownership of Minerals in Ghana. The state therefore grants mineral rights to individuals and companies to extract the minerals for the development of the country.

Private national and foreign companies and individuals can hold mining rights by incorporating a company in Ghana with the

purpose of carrying out mining and exploration activities among others. The Ghana Investment Promotion Centre Act, 2013 (Act 865) prescribes requirements for foreign companies investing in Ghana. The requirements include:

- (i) For a wholly owned foreign company, a minimum investment capital of US\$ 500,000.00 (Five Hundred Thousand United States Dollars) in cash or goods;
- (ii) For a partly owned foreign company, a minimum investment capital of US\$ 200,000.00 (Two Hundred Thousand United States Dollars) in cash or goods, and the national partner must hold not less than 10% of the equity.

However, under the minerals and mining laws of Ghana, there is no obligation for a foreign mining company to partner with Ghanaian nationals, and the laws reserve small-scale mining for nationals of Ghana.

The requirement for foreign mining companies in large-scale mining is that the foreign company must commit in its programme of operations, an amount of not less than Ten Million United States Dollars (\$10,000,000.00).

Section 43(1) of the Minerals and Mining Act, 2006 (Act 703) states that where a mineral right is for mining or exploitation, the Government shall acquire a 10 percent free carried interest in the rights and obligations of the mineral operations in respect of which financial contribution shall not be paid by Government. The 10 percent participation does not require government to pay financial contribution to the mineral leaseholder. In practice, the mineral leaseholder issues share certificates of the 10 percent shareholding to the Government of Ghana through the Ministry of Finance, after receipt of the mining lease (Ministry of Finance, 2018).

Section 43(2) of Act 703, empowers the government to vary the 10 percent non-contributing shareholding in producing mining entities. Ministry of Finance (2018) reports

variations of government's interests with selected mining companies as follows:

- Newmont Golden Ridge Ltd (Akyem Mine) and Newmont Ghana Gold Ltd (Ahafo Mine) – 10 percent net cash flow interest, rather than equity interest.
- AngloGold Ashanti Ghana Ltd and AngloGold Ashanti (Iduapriem) Ltd – 1.56 percent equity interest in the global AngloGold Ashanti Ltd, rather than its local entities ([https://thevault.exchange/?get\\_group\\_doc=143/1501169697-AGA-IR-6.pdf](https://thevault.exchange/?get_group_doc=143/1501169697-AGA-IR-6.pdf))
- Ghana Bauxite Company Ltd. – 20 percent equity interest
- Konongo Gold Mines Ltd – 30 percent equity interest

## 2.3 Minerals Licensing

Licensing is the principal tool for the transparent allocation of mineral rights and the management of the mineral resources. According to the Minerals Commission (2017), licensing is “a system of allocating rights to mining companies and persons to carry out minerals exploration and mining operations, in return for the performance of explicit and enforceable obligations.” The Commission further argues that the objective of a licensing system is to allocate mineral rights, in areas not proscribed, to those best able to generate improved knowledge about the mineral endowment in general, to delineate mineralisation of commercial value, and to carry out commercial production and supply of minerals in an efficient and responsible manner. Musselli, Ostensson and Zhang (2009) report that the main considerations for the design of licensing regimes are:

- (i) The need to establish a clearly defined title to mineral assets in order to make it possible for private individuals and enterprises to engage in mineral exploitation;
- (ii) The State's interest in stimulating exploration for the extraction of minerals, and
- (iii) The need to ensure that exploration and exploitation take place under conditions

that are economically, socially and environmentally acceptable.

While governments generally recognise that security of title, and guaranteed rights are important features of a mining licensing regime, they also have responsibility in ensuring that the extraction of the mineral translate to development outcomes which are beneficial to the national economy and citizens.

The development objectives of mining are best achieved through the establishment of a fair, transparent, and a standardised licensing system. The Minerals Commission (2017) recognises, and argues that standardisation “enables mineral operations to be conducted on a level playing field, and investment decisions to be based on factors that can be predicted and planned for. It also enhances the capacity of the mining authorities to administer the system efficiently and transparently. This, in turn, forms the basis for accountability to Parliament and the people.”

## 2.4 Methods of Allocation of Mineral Rights

Mineral rights are any type of authorisation for the conduct of activities on or over land, for the search, and or extraction of minerals. Mineral rights are open to any bona fide applicant who must be a body corporate. Mineral rights confer privileges, rights, responsibilities, and obligations on the holder. Some of the privileges, rights, obligations, and responsibilities of mineral right holders under the laws of Ghana are:

- Carrying out prospecting operations in accordance with an approved programme;

- Progressively relinquishing portions of the area held for prospecting as prospecting advances;
- Determination of the commercial viability of mining following the discovery of minerals;
- Supporting an application for a mining lease with a comprehensive mine development plan (including a production plan, financing plan, marketing plan, environmental impact statement and such other studies and proposals as are required under applicable legislation and obligations into which the applicant has entered under a mineral agreement) to demonstrate that the operations will ensure the efficient and beneficial socio-economic use of mineral resources;
- Conducting mining and related operations in accordance with the approved programme of mineral operations;
- Providing satisfactory undertakings to guarantee or secure performance of the mineral right holder’s obligations at the prospecting and mining stages;
- Paying the applicable taxes;
- Due care for the environment; and
- Guaranteed security of tenure.

In Ghana, mineral rights are allocated for the conduct of small-scale mining and large-scale mining. Table 3 presents a description of the various types of mineral rights (licenses) applicable in the mining sector of Ghana.

**Table 3 : Description of Types of Minerals Rights in Ghana**

License Type	Reconnaissance License (RL)	Prospecting License (PL)	Mining Lease (ML)	Restricted Mining Lease (RML)	Small Scale Mining License (Reserve for Ghanaians only)
Purpose	Regional exploration not including drilling & excavation	Search for minerals and evaluation	Extraction of minerals	Building and Industrial minerals	Extraction of mineral s

Area Size	Blocks of 21 hectares, not exceeding 5,000 contiguous blocks	Not exceeding 750 contiguous blocks	Not exceeding 300 contiguous blocks	Not exceeding 300 contiguous blocks	In accordance with the number of blocks prescribed in Regulations
Maximum Duration	12 months renewable	3 years, renewable with reduction of area to not more than half	30 years or less depending on mine life. Renewable	15 years or less depending on mine life. Renewable	5 years

Source: Minerals Commission 2019

The Minister of Mines on the recommendations of the Minerals Commission, grants mineral rights. Section 9 (1) of the Minerals and Mining Act 2006 (Act 703) stipulates "...a person shall not conduct activities on or over land in Ghana for the search, reconnaissance, prospecting, exploration or mining for a mineral unless the person has been granted a mineral right in accordance with this Act. Procedures exist for the assessment and approval of applications for mineral rights and include the following:

- The submission of applications to the Minerals Commission;
- The registration of applications in a Register of mineral rights, maintained by the Minerals Commission, and accessible to the public, upon the payment of a nominal fee; and
- The Minerals Commission upon receipt of applications, conduct evaluation of applications, notifications to other government agencies, and maintaining active liaison between mining companies, regulatory agencies and local communities within stipulated time limits.

Upon acquiring the mineral right, the holder of the mineral right is required to, before undertaking an activity or operations under a mineral right, obtain the necessary approval and permits required from the Environmental Protection Agency, and the Chief Inspector of Mines of the Minerals Commission, and as the case may be, from the Water Resources Commission and the Forestry Commission.

## 2.5 First Come First Served

The Minister for Mines, and the Minerals Commission use the First-Come-First-Served approach in the evaluation, approval and granting of application for mineral rights. The general global practice is to disseminate as widely and efficiently as possible, existing geoscientific information for the application of auction procedures, similar to those commonly used to grant license in the oil and gas sector. Ghana uses the first-come-first served licensing. The first-come-first served method means that consideration is given to the applicant who submits his/her application first. If two or more applicants submit their application on the same day/date, the time of submission would be used to determine the first applicant. The second or third application would be considered only if, and when the first applicant failed to meet the requirements of the Minerals Commission. The first-come-first served is manually processed and only the Minerals Commission has the privilege of recording, and knowing the number of applicants and the one who truly came first. Efforts are being made by the Minerals Commission to migrate from the manual processing of applications to electronic. The first-come-first served method does not encourage competition, as in the case of auction. There are different eligibility criteria for different rights. For instance, non-Ghanaians are prohibited from engaging in small-scale mining. Also, the requirements for engaging in industrial mineral operations are much higher and stiffer for non-Ghanaians than for Ghanaians. Despite the differences, all applicants go through a uniform procedure of first-come-first- served under variable conditions set for different minerals on different types of land.

## 3.0 EXPLANATION OF THE SCOPE

This section discusses the type of mineral rights and proceeds to explain the boundaries of the research, covering the type of license and the scope of coverage of the applicable license. The section also provides operational definition of key concepts to help place the research in its appropriate context.

### 3.1 Types of Mineral Rights

The rights required under the laws of Ghana to conduct activities for the search and exploitation of any kind or type of mineral are: (a) Reconnaissance License; (b) Prospecting License (c) Mining Lease (d) Restricted mining lease, to engage in mining of industrial mineral; and (e) Small-scale mining license.

**Reconnaissance License** confers on the holder the right to search for a specific mineral (or commodity) within the license area. Except as otherwise provided for in the license, a reconnaissance license does not permit drilling, excavation or other sub-surface activities. The license is normally granted for up to one year and may be renewed by the Minister for Mines on the recommendations of the Minerals Commission from time to time, for periods up to one year at a time, upon application by the holder. Act 703 requires the applicant to submit the application for renewal at least three months before the expiration of the license.

**Prospecting License** gives the mineral right holder the exclusive right to search for specific minerals (or commodities) within the license area. Unlike reconnaissance, drilling, excavation or other sub-surface activities are permitted under the prospecting license. The initial grant of the license is limited to three years, and may be renewed for a maximum of two terms, or for further periods of up to three (3) years each.

**Mining Lease** gives the mineral right holder the right to mine, win or extract specified minerals

(or commodities) within the lease area. The lease may be granted to the holder of a prospecting license or any person who establishes to the satisfaction of the Minister of Mines, that a mineral to which the lease relates, exists in commercial quantities within the proposed lease area and can be mined at a profit. The lease is issued for up to thirty years, subject to renewal for a further thirty-year term. A person other than the holder of a reconnaissance or prospecting license may apply for a mining lease in respect of a mineral, specified in the application, over land that is not the subject of a mineral right for the same mineral applied for.

**Restricted mining lease** is a mineral right granted to nationals of Ghana to engage in large-scale mining for an industrial mineral. Similar to a mining lease, a restricted mining lease permits its holder to engage in reconnaissance and prospecting.

**Small-scale mining license** is a mineral right granted to nationals of Ghana only for the conduct of small-scale mining in a designated area not exceeding 25 acres of land, and for a period of not more than five years.

### 3.2 Focus of the Research

The focus of the research is the process for the granting of a mineral right with particular emphasis on reconnaissance and prospecting. Under the first-come-first-served approach an application for the approval and grant of a mineral right would, all things being equal, go through reconnaissance and prospecting. Also, both reconnaissance and prospecting have shorter timeframes, compared with a mining lease. The shorter timeframe would help applicants to recall lessons and experiences going through the application process. This notwithstanding, references are made to the application process in respect of mining lease, as

the case may be.

The mining sector has been an important part of the economy of Ghana. The country is endowed with variety of mineral resources with gold, diamond, manganese and bauxite being historically the main commercial minerals. In recent times, quarry and salt are also emerging as commercial minerals. There are also occurrences of little explored and exploited deposits of industrial minerals such as iron ore, limestone, clays (including kaolin), mica, columbite-tantalite (coltan), feldspar, silica sand, quartz, ilmenite, magnetite and rutile. The right to search and exploit any of these commercial minerals is granted on large-scale or small-scale.

The focus of this research is the licensing of large-scale gold mining. Gold is the dominant mineral among the commercial minerals extracted in Ghana, accounting for over 90 percent of the total value of all mineral revenues. Ghana is currently the largest producer of gold in Africa surpassing South Africa since 2018 (Njini, 2019). Globally, Ghana is ranked as the sixth, with the United States of America, in gold production (IMF, 2019). Over the past decade, the price of gold has witnessed significant and sustained rise, from an average low of US\$279 in the year 2000 (Ministry of Finance, 2018). A greater percentage of large-scale multi-national foreign mining companies in Ghana operate in the domain of gold exploration and extraction. Gold therefore presents a strong case for corruption risk assessment.

The assessment is a case study of Ghana because the mining industry in Ghana is regulated by a set of national laws and agreements, which cover every single mineral within the entire territory of Ghana. For instance, the minerals and mining laws and other complementary laws such as the Environmental Protection Agency Act, 1994 (Act 490) and the Environmental Assessment Regulations 1999 (Regulation 1652) are applied to all the different types of minerals and mining occurring within the territory of Ghana. While there are different administrative regions and local authorities with

clearly defined territories there are not differences in the applicable mining laws. Differences in the application of the minerals and mining laws lie in the scale of mining, rather than geography.

Ghana has been practicing decentralization and local governance for many years. Regional Coordinating Councils and local level assemblies have been established as part of the decentralization system with clearly defined powers, functions and responsibilities (Local Governance Act, 2016 (Act 936). However, the powers and responsibilities do not extend to the approval and granting of licenses and leases for the reconnaissance, prospecting and exploitation of the various types of minerals in Ghana.

Activities relating to the search and exploitation of mineral resources are regulated by the Minerals and Mining Act, 2006 (Act 703), and the Minerals Commission Act, 1994 (Act 450) establishes the Minerals Commission as a corporate body with the mandate to regulate and manage the search, extraction and utilization of mineral resources as well as the coordination of policies related to the sustainable development and management of the mineral resources of the country. Act 703 mandates the Minister of Mines to seek the advice and recommendation of the Commission in exercising the authority to approve and grant a mining license or lease or both.

### 3.3 Key Concepts

The MACRA tool operationalises key concepts that underpin the corruption risk assessment research. These are reproduced as follows:

**Corruption:** The AMP uses TI's definition of corruption, which is: "abuse of entrusted power for private gain" (p. 9 MACRA Tool). This captures conduct of private sector and community actors, and not just government or public officials. So, even if a particular type of conduct is lawful in Ghana and yet falls within TI's definition of corruption, it is still considered to be corruption for the purposes of this study.



**Vulnerability:** This is a systemic, regulatory, institutional or other kind of weakness that creates the risk of corruption. Other reports sometimes refer to these causes or sources of corruption as 'risk factors'. Through this project, we are identifying the vulnerabilities to corruption in the legal and regulatory process for awarding mining rights and in the institutional practices to implement this process.

**Corruption risk:** This is the measure of the likelihood and seriousness of the corruption, potentially created by vulnerability. This could include "behaviours or decisions that facilitate

corruption, because they create opportunities for corruption or actually constitute corruption. In other words, corruption risk is the likelihood and impact of happenings that create opportunities or the preconditions for corrupt conduct to occur, or to occur with impunity.

**Risk Assessment:** This is the determination of the **likelihood** and **impact** of the corruption risk.

**Likelihood** is the probability that the corruption will occur; and **IMPACT** is the negative consequences the risk has, if it occurs, such as impacts on the economy, impartiality in decision-making, rights and fairness.

# 4.0 METHODOLOGY OF THE STUDY

This research follows the method contained in the Mining Awards Corruption Risk Assessment (MACRA) Tool (Nest, 2017). The MACRA Tool builds on Transparency International's experience with corruption risk assessment in other fields such as National Integrity Systems and draws on complementary mining and extractive sector assessment tools, guides and indices.

The MACRA Tool was developed for Transparency International in collaboration with experts from multinational institutions, major non-governmental organisations and industry bodies to provide a standardised and robust methodology for identifying and assessing corruption risks in all participating countries. Consistent with that method, this assessment followed a series of steps to:

- define the licensing and approval process(es) within the scope of the assessment,
- develop a map or flowchart of the selected licensing and approval process(es) and collect data on the implementation of these processes,
- analyse the context influencing the design and implementation of those processes,
- identify vulnerabilities to corruption in the process design, implementation and context and the resulting corruption risks with reference to the 80 common corruption risks listed in the MACRA Tool,
- systematically assess each risk by analysing evidence about the likelihood of occurrence and potential impact,
- validate the assessments with stakeholders from different sectors,
- prioritise the corruption risks for action.
- communicate the findings

## 4.1 Data Types and Collection Instruments

Relying on the tool, the concurrent procedures of inquiry that combined qualitative data was adopted in order to provide a comprehensive analysis of issues of the research. The study used guided interview questionnaire and focused group discussions to collect primary data from study respondents. In order to provide the research with a rigorous approach, some quantitative data were used to determine and analyse the levels of likelihood and impacts for each risk factor.

### 4.1.1 Sources of Data

A combination of primary and secondary data sources were resorted to, in obtaining a good understanding of the policy, law and practice regarding the award of mineral rights in Ghana, as well as the vulnerabilities and risks associated with the process.

### 4.1.2 Primary Data Sources

The primary data sources included Staff of Minerals Commission, Obuasi Municipal Assembly, Birim North District Assembly, mining companies, Ghana Chamber of Mines, and Ghana National Association of Small Scale Miners (GNASSM). Other primary sources were chiefs, and representatives of civil society organisations and networks; and representatives of local communities in mining areas. Specifically, 10 representatives from Obuasi, 10 from Chirano, 25 from Kenaysi and 29 from New Abirim were interviewed. In all 74 representatives of mining communities were interviewed, out of which 47 (representing 63.5 percent) were females.

Focused Group Discussions (FGD) were specifically organised for a day in New Abirim and Obuasi, essentially for females to enhance their voice and contribution to the research

(Figures 1a and 1b). In all, five different FGDs were held in the two communities.

In Obuasi two different FGDs of five each were held, while in New Abirim, three different FGD of ten each were held.

These communities were selected on the basis of their mineral resource wealth as well as the level of citizens' mobilisation and engagement in the area. The people of Chirano have a record of struggle over the payment of fair and adequate compensation with the mining company they host. The matter went to court but was subsequently withdrawn for amicable resolution. Obuasi has a long history of mining, and has recently been selected by the Government of Ghana for its community mining initiative, as a way of controlling illegal small-scale mining. Both Kenaysi and New Abirim have records of proactive engagement with their hosted mining companies. The research considered the participants from these communities competent enough to volunteer relevant information on the research.

An inception workshop was organised in May 2019 to draw attention and seek views on the focus, objective, approach and data collection tools for the research. The inception meeting was a key primary source as it provided valuable input into shaping the research.

### 4.1.3 Secondary data Sources

Secondary data were obtained from sources such as reports, minerals and mining sector laws and policies, newspaper publications, the Internet as well as published papers relevant to the subject under investigation. While the secondary data collection continued through the full cycle of the study (from start to end), the field data collection took place from May to November 2019 in the designated communities.

## 4.2 Analysis of Data

Data collected were analysed in line with the framework of the MACRA tool. The vulnerabilities, which were identified in both the process

and the practice maps were analysed. This level of analysis was meant to put the discussion in the context in which the mining awards process in Ghana takes place. The analysis led to the identification and clustering of specific corruption vulnerabilities into political, economic, social and technological factors.

The second level of analysis identified the corruption risks. At this level, the corruption risks were grouped into four (4) categories namely; Contextual Factors (CF), Process Design (PD), Process Practice (PP), and Community Consultation (CC).

Each of the four risk categories had a number of their corresponding corruption risks. Each of the corruption risks was assigned a code that corresponds to the risk categories. Evidence of the likelihood and impact of the risk is also provided. The likelihood and impact are scored using a scale of 1-5 (1 being the least and 5 being the maximum).

While it is not the only means, the purpose of the scoring is to "create information to be used for identifying priority risks" (MACRA Tool, p50). Multiplying the score for likelihood by the score for impact, gives the total score for a risk. The total risk score obtained is recorded in a two-dimensional risk matrix, designed under the MACRA tool. It is important to note that the matrix emphasises impact, as the key factor of concern in the total score for a risk. This means that two risks may have the same total scores. However, the risk with high score for impact is considered more important than the risk with high likelihood score. For example: Risk 1 has a total score of 8 (Likelihood-2 x Impact-4) and Risk 2 has the same total score of 8 (Likelihood-4x Impact-2). Comparatively, Risk-1 is more serious than Risk-2 because the impact score in Risk-1 is higher (4) than the impact score in Risk-2 (2).

In this study the scale for likelihood and impact for each risk was rated as follows.

### Likelihood

1-means the risk is unlikely to occur

2-means the risk can occur but sparingly

- 3-means the risk has occurred at least once or twice
- 4-means the risk has occurred many times
- 5-means a certainty of the risk occurring many times.

### Impact

- 1-means impact is very low
- 2-means it is low
- 3-means High
- 4-means very high
- 5- means impact is disastrous and systemic

The total scores (Likelihood x Impact) are plotted on a two-dimensional matrix to establish the scale or level of the risk.

## 4.3 Validation of Assessment Report

The findings of the study were subjected to stakeholder validation, at a meeting held on 17th December 2019 at Tomreik Hotel, Accra. The meeting brought together, four categories of stakeholders (private sector, government, CSOs and community members). Among the government agencies that participated was the legal department of the Cadastral Agency (the

Minerals Commission of Ghana). A presentation of the report was made, covering essentially the method, structure of the report and findings. This was followed by plenary discussions. Participants were then broken into three groups to discuss the findings in a bit more detail, and to provide their feedback in a plenary. The twenty-one risks factors were divided equally among the three groups with each group taking seven (7) risk factors for their validation. Each group had a rapporteur who presented the comments and observations of the group at a plenary. The National Researcher and the Project Coordinator facilitated the group work. There were suggestions for a reformulation of some of the risk factors, and the recommendations for their mitigation. Some new pieces of information were provided at the validation. In particular the Legal Department of the Minerals Commission drew attention to the fact that the process for the review of the current Minerals and Mining Act, 2006 (Act 703) was ongoing and that consultations with key stakeholders will take place in 2020. The Commission noted that the research was timely and relevant to the review of the Act.

## 5.0 THE AWARD PROCESS, PRACTICE AND CONTEXT

This section discusses the mining license approval and granting process. The main focus of the process is the reconnaissance and prospecting licenses. However, both the summary procedures and the maps include aspects of mining lease. Parliamentary ratification is specifically required for mineral rights in respect of a lease. Aspects of the lease are considered because the holder of a reconnaissance license or a prospecting license is given priority in the acquisition of a mining lease. The Minerals and Mining Act, 2006 (Act 703) states that “a holder of a reconnaissance licence or a prospecting licence may, prior to the expiration of the licence, apply in the prescribed form for one or more mining leases in respect of all or any of the minerals, the subject of the licence and in respect of all or any one or more of the blocks which constitutes the reconnaissance or prospecting area...”

As already noted the licensing regime in practice is on first- come- first- served basis, and it is implemented manually. In an interview with the Minerals Commission (5th September 2019), it was revealed that, there are plans to introduce an electronic system of mineral license application. According to the Ministry of Finance (2018), the Minerals Commission also “has plans to introduce tender submissions alongside the existing practice of first–come–first -served for areas with enhanced geo-scientific information.” These are progressive plans by the Minerals Commission to enhance the existing mineral license application process and practice in the immediate future.

### 5.1 Summary Procedures for License Application

There are laid down procedures within the framework of the first- come- first- served for the acquisition of a mineral right in Ghana. The applicant must first identify the area, the mineral

and the type of mineral right (reconnaissance, prospecting, mining lease or restricted mining lease) the applicant wishes to apply for. It is important to state that while the primary focus of the process map is reconnaissance and prospecting, the procedures are largely the same for all the award of rights (reconnaissance, prospecting and mining lease). The differences between license for reconnaissance, and prospecting on one hand, and mining lease on the other, lie in the details and list of documentation required and the timeframe for processing. The applicant conducts a search at the Minerals Commission to determine whether or not the area to be applied for is free or encumbered. The Minerals Commission issues an official search report to the applicant, which consists of a map with coordinates for the area requested and surrounding concessions, showing the names of other mineral right holders, as the case may be.

If the search report indicates that the area of interest is free, the Minerals Commission will request the applicant to purchase, complete and submit the application form. The completed application form must be submitted in 20 copies with the following documents/attachments:

- i. 20 Copies of sketch map of the area of interest with reference to topographic maps (preferably in a scale of 1:50,000);
- ii. The official search report from the Minerals Commission;
- iii. A work programme for the proposed mineral operations, indicating expenditure in both local and foreign exchange for the initial period of the license in relation to the various stages of the programme. The work programme must be prepared and certified by a competent geologist or mining engineer;
- iv. Particulars of financial and technical reso-

urces;

- v. Annual report of the applicant company or its parent company;
- vi. Certificate of incorporation of the company;
- vii. Certificate to Commence Business and copy of the particulars of the company under section 27(1) of the Companies code, which spells out the directors of the company;
- viii. For US applicants/companies, the Security and Exchanges Commission 10k report must be submitted;
- ix. Particulars including annual report of the company, which will carry out the mineral operations, if the applicant will not do the work. In the case of a consultant, the curriculum vitae must be provided;
- x. Power of Attorney, if the applicant/company is registered outside the country or for any other reasons the applicant employs an agent to act on his behalf.

The applicant conducts another search on the day of the submission of the completed application form. If the area of interest is still free, the applicant submits the completed application form, pays the processing fee (\$350 for Ghanaians and \$500 for non-Ghanaians) and another GHS1000 for gazette.

**Notice of Gazette of Application:** On receipt of the completed application form, the Minerals Commission commences processing of the application. The starting point in the processing of the application is the gazette of the application. The Commission gives a gazette notice of the application, by publishing in the Daily Graphic and the Ghanaian Times, a request to the public to submit written statement of concern or reservations, to the Commission through the respective Metropolitan/Municipal/District Assembly within Twenty-One (21) days from the date of publication of the notice in the gazette (Minerals Commission, 2019).

Copies of the gazette notice are sent to the Metropolitan/Municipal/District Assembly and the chief/landowner, hosting the area of interest under consideration. The District Assembly and the chief/landowner are expected to cause further dissemination of the gazette notice by placing the gazette at specific places, customarily acceptable for public notices, within the 21 days. Also, copies of the application are sent to the Regional Minister, Regional Lands Secretary and the Executive Secretary of the Lands Commission Secretariat for their information.

The study found a gazette notice for twenty-two (22) prospecting/exploration license applications as at Tuesday 13th August 2019.

**Technical Committee on Mineral Titles:** A Technical Committee on Mineral Titles reviews the completed application, using the information supplied by the applicant, together with statements from the Notice of Gazette, and submits its report with recommendations to the Board of the Minerals Commission through the Chief Executive Officer of the Commission, for consideration. The Minerals Commission established the Technical Committee on Mineral Titles with membership comprising representatives from the Minerals Commission, the Environmental Protection Agency (EPA), Water Resources Commission, Lands Commission, and the Geological Survey Authority. Forestry Commission is co-opted when the area under consideration is close or falls within a forest reserve.

**Consideration by Board of the Minerals Commission:** The Board of the Minerals Commission submits its recommendations to the Minister of Mines upon consideration of the report. If the Minister approves, then he signs an agreement between the government and the applicant/company. The signed agreement could be a license for prospecting and reconnaissance or a lease for exploitation.

The applicant/company stamps and registers the signed agreement with the Lands Valuation

Board and Lands Registry respectively. After the registration, the applicant/company sends a copy of the registered agreement and a cover letter from the Minerals Commission and an environmental permit from EPA to the Chief Inspector of Mines to enable him obtain an operating permit, before the commencement of any works on the concession.

**Grant of Mining License/Lease:** The Minister of Mines grants the mining license/lease for reconnaissance and prospecting/exploitation upon the recommendations of the Minerals Commission. In the case of a lease, the Commission must satisfy itself that adequate exploration had been carried out, and the mineral of interest had been identified in commercial quantities. In this regard, applicants of mining lease have the responsibility to submit detailed feasibility report for review by the Minerals Commission. The detailed feasibility report must show all aspect of the prior exploration programme and their results.

The applicant is also required under a mining lease to submit an Environmental Impact Statement (EIS) to EPA for approval. The EPA issues an environmental permit, once it has approved the EIS. Upon approval of the Feasibility Study Report and the EIS by the Minerals Commission and the EPA respectively, the Commission submit its recommendations to the Minister of Mines for the approval and grant of the Mining Lease.

Once the mining lease has been granted, the applicant is free to develop the mine and commence commercial production within two years from the date of the lease.

**Distribution of Approval Notice:** Copies of signed mining license/lease agreements are sent to the Ministry of Mines, Chief Inspector of Mines, Lands Commission Secretariat in Accra, Minerals Commission, District Assembly, Traditional Council, Regional Lands Commission and the Administrator of Stool Lands. The applicant retains the original copy of the signed agreement.

**Payment of Ground Rent:** All mineral right holders pay ground rent to the landowners for the use of their land. The Lands Valuation Board of the Lands Commission determines the rate of the ground rent.

**Ratification of Mining License/Leases:** The Minerals and Mining Act, 2006 (Act 703) requires that all mining licenses/leases approved and granted by the Minister of Mines are ratified by Parliament. The Minister of Mines submits all signed mining license agreements between the government and the applicant to Parliament for ratification.

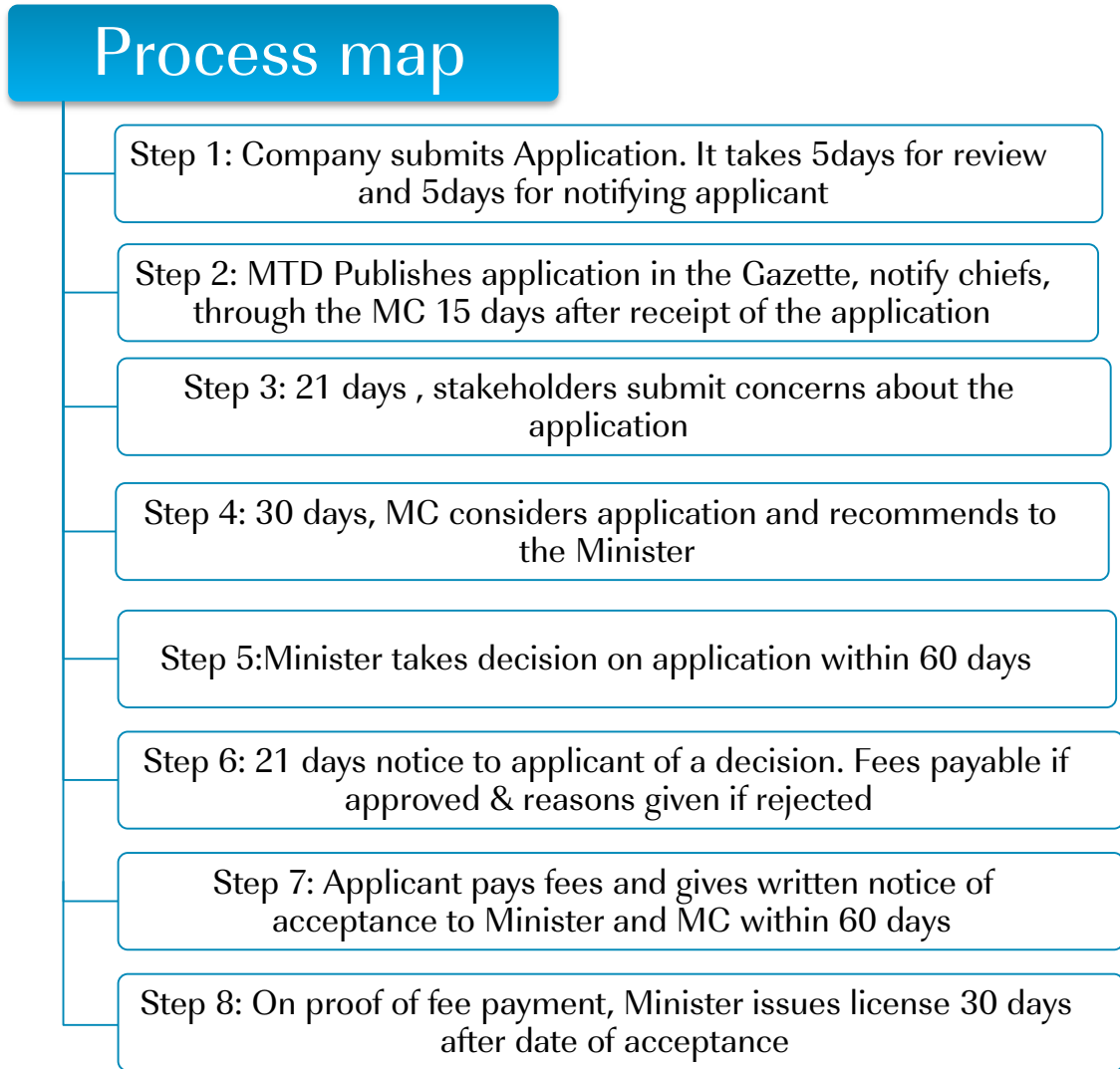
## 5.2 Mining License Procedures in Maps

The procedures for the granting of mineral licenses in Ghana are summarised into three different maps. The first Map shows the process as advertised on the website of the Minerals Commission (Advertised Map). The second Map indicates the official process (Process Map) while the third Map depicts the process in practice (Practice Map).

The maps are created to aid understanding by explaining the steps, actors and requirements of the license/lease acquisition process. The maps also help in the identification of the flow of information and any potential or real disconnect in the logical flow of the award process. Further, the maps help in the identification of the weaknesses/vulnerabilities of the process. Comparatively, the three maps provide a basis for identifying differences in the official process and how it rolls out in practice.

Figure 1 is the Map of Large-Scale Gold Mining reconnaissance and prospecting license award process in Ghana, as advertised on the website of the Minerals Commission of Ghana as at May, 2019. It provides a summarised step-by-step procedure for an applicant to acquire a reconnaissance and prospecting license for gold mining. The greatest advantage of the advertised map is that it provides definitive timelines for each stage of the licensing process. However, the advertised map lacks the details and critical pieces of information of interest to the applicant.

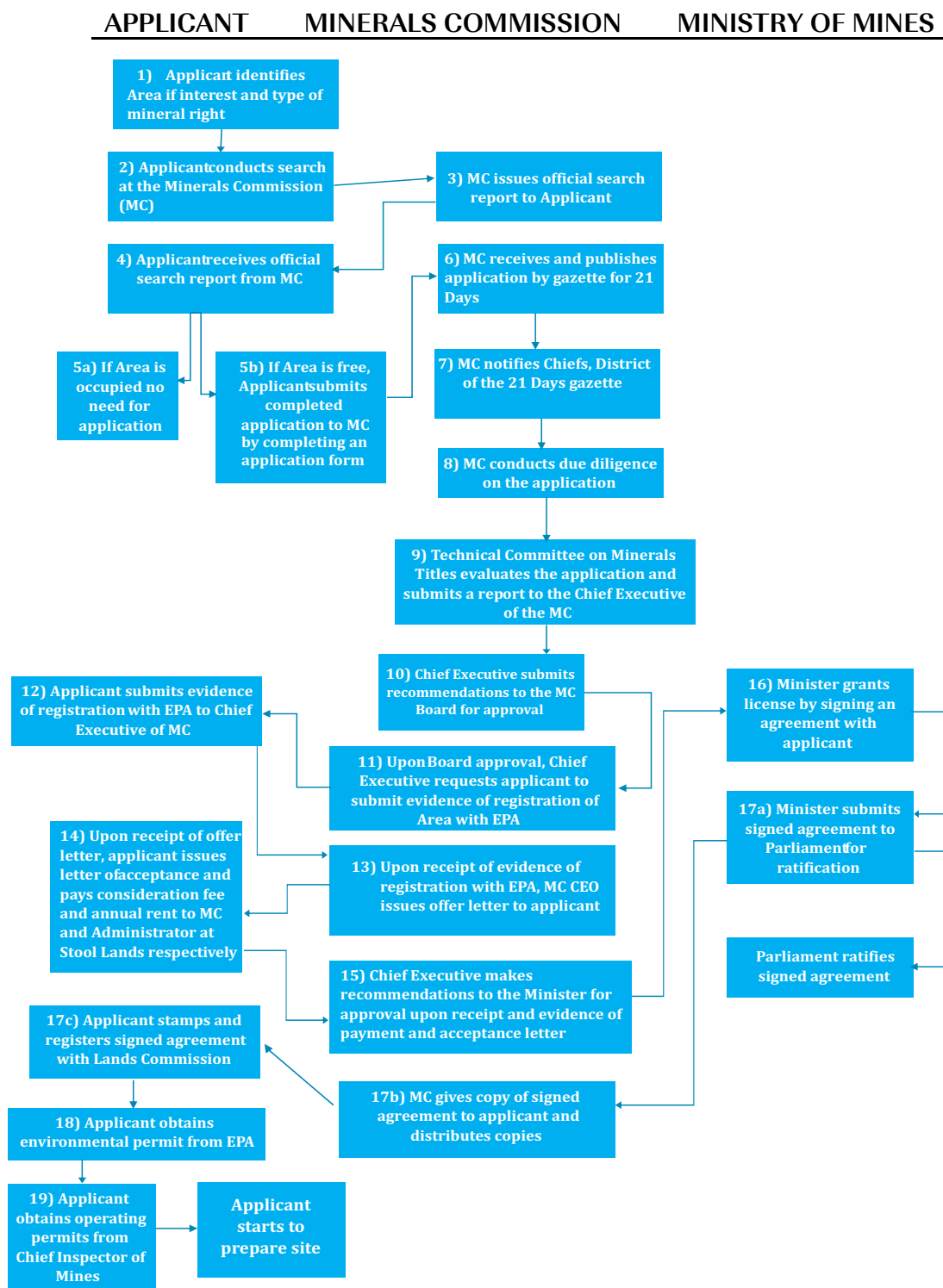
Figure 1: Advertised Map of Gold Mining License Award Process in Ghana



Source: Minerals Commission, (Online), 2019



**Figure 2: Official Map of Gold Mining License Approval Process in Ghana**



Source: Researcher's Construct, 2019



## 5.3 Contextual Factors

The contextual factors define the existing environment in which mining license award takes place, and provides the basis for understanding and identifying the vulnerabilities to corruption in the license approval and granting process. This section analyses the contextual factors for the license approval and granting process in Ghana. The objective of the analysis is to provide a basis for identifying specific vulnerabilities to corruption in the award of mining licenses. The analysis focuses on political, economic, social and technological factors.

### 5.3.1 Political Factors

Political factors influence the way in which gold mining license approval and granting process is administered and operated in Ghana. Indeed, the policy and regulatory framework, the institutional arrangements, the design and implementation of the standard operating procedures for the approval and granting of mining licenses are very much amenable to political influences. The specific political factors that shape the way in which gold mining licenses are processed, approved and granted, include:

- Political patronage and influence peddling in the mining license award process. There are three main agencies of state that determine whether or not a license should be awarded. These are the Ministry of Mines, the Minerals Commission and Parliament. The 1992 Constitution of Ghana empowers the President to appoint the Minister for Mines as well as the Board Chair and the Chief Executive Officer of the Minerals Commission (the cadastral agency). The President has wide scope of discretion in the exercise of his powers of appointment. Also, the Standing Orders of the Parliament of Ghana provide for the appointment of the Chair of the Select Committee on Mines and Energy, from the ruling political party. The Select Committee on Mines and Energy is the Parliamentary body with day-to-day oversight of the

licensing process. The dominance of the political class in decision-making in respect of mineral licensing makes it susceptible to political influence in the processing and granting of gold mining licenses.

- The political dominance also manifests in the widespread representation of the political class in the hierarchy of decision-making, regarding the allocation of mineral rights. Government holds 10 percent equity share in all mines. As a practice government appoints members of Parliament from mining areas to serve on the governing boards of mining companies. Some of these companies continue to expand their activities by acquiring new concessions for further exploration. Yet there are no laid down procedures for the prevention and management of the potential conflict of interests may arise in the mining license application process.
- The political class determines the direction of policy. The policy and legal framework for mining in Ghana have been structured to prioritise the attraction of private investment into the sector. This has the potential of creating room for officials to undermine the public interest in the name of investment attraction. Similarly, applicants may take advantage of the attraction, to do shoddy work and rely on corruption to get their way out.
- The minerals and mining laws of Ghana clearly articulate property rights. Within this context, there is recognition of the rights of landowners in the licensing process. However, in practice, the acquisition of large-scale concessions is angling out surface land rights holders. This has also been a key feature of the ever escalating illegal small-scale mining.
- There are well established and well respected anti-corruption agencies in Ghana, but they are constrained by inadequate budgetary resources to finance their operations. These include the Commission

for Human Rights and Administrative Justice (CHRA)); the Economic and Organised Crime Office (EOCO); the Special Prosecutor's Office (SPO); the Financial and Forensic Unit (FFU) of the Criminal Investigation Department (CID) of the Ghana Police Service (GPS); and the Office of the Auditor General. The lack of resources for the effective delivery on the mandate of these institutions are suspected to be deliberate, and intended to weaken the institutions' ability to investigate allegations of corruption in which political office holders are complicit.

- The Technical Committee on Mineral Titles established by the Minerals Commission to evaluate and make recommendations on license applications, is not backed by law. This makes it easy for the recommendations of the Committee to be ignored by political office holders.
- Politically Ghana has adopted the first-come-first served approach for the allocation of mineral rights. The First-Come-First-Served approach to the application of mineral rights does not allow the selection applicants based on merit. Merit is hard to judge, as knowledge of competencies of applicants competing for a license is mere function of data and time. Holders of exploration and prospecting licenses have incentives to engage in corrupt practices to obtain related licenses.
- There is an array of Regional Political and Economic Communities/Commissions (RECs) in Africa. These include the Africa Union Commission (AUC), the United Nations Economic Commission for Africa (UNECA), and the Economic Community of West African States (ECOWAS). Policy initiatives by these RECs have political influence on the mining licensing regimes in the participating countries. In 2009, the Head of States and Governments of the Africa Union adopted a mining vision with regional, sub-regional and national action plans. As part of the regional economic arrangements ECOWAS adopted a sub-

regional Mining Directives. Ghana has been key part in the drafting of the Directives, which has free prior informed consent (FPIC) as a key principle for mining including the licensing process. Ghana as a member of ECOWAS has adopted the FPIC for the full cycle of mining in Ghana.

There are different approaches for the allocation of mineral rights and include auction, open competitive tendering, direct negotiations between government and company, direct allocation by government to specific firm and first-come, first served. The choice to use the first-come-first served approach for allocating mineral rights in Ghana was first and foremost a political choice. Mineral resources have historically been major commodities that define the international trade and investment relations between Ghana and the rest of the world. In the early 1980s, the mining sector was key in the restructuring of the national economy, under the World Bank's Structural Adjustment Programme. Under the restructuring, the mineral resources of Ghana were in part, a key channel for integrating the Ghanaian economy into the globalisation process, through the policies of liberalisation, diversification and privatisation. As Campbell (2000) notes, the policies of liberalisation, diversification and privatisation help "explain the growing importance of the place occupied by multinational companies, their increasing legitimacy, their liberty of action, their influence over the formulation of public policies, growing power and consequently, the emergence of new relations between private companies and local states and local communities." It is this political context that defines the economics of mining and the choice of the first-come-first-served approach for mining licensing regime in Ghana.

### 5.3.2 Economic Factors

Economic consideration is key for both government and applicants in the processing,

approval and granting of gold mining licenses. Indeed, the economics of mining underpins the decisions of both government and investor to explore and exploit any particular type of mineral. The following economic factors provide the context in the gold license approval and granting process in Ghana.

- The government of Ghana considers mining, particularly gold, as an important economic activity, a source of job creation, revenue mobilisation and foreign exchange earnings. Over the years, the objective of the medium-term development plan of government has been “to use the efficient and sustainable exploitation of Ghana's natural resources as a catalyst for agricultural and industrial transformation of the economy” (The Republic of Ghana 2014). This consideration manifests in continuing reforms by successive governments over the years, to make investment in the sector friendlier to the private sector. The reforms focus on the provisioning of generous incentive schemes and protective measures for private investors. These incentives also provide opportunities for potential corrupt practices such as tax avoidance.
- Ghana is endowed with vast mineral resources, with many more areas under reconnaissance, prospecting and exploitation. There are many more areas to be exploited, and many more different types of mineral to be discovered in commercial quantities. For instance, besides gold, government is opening up exploration for bauxite, quarries, and other less known minerals of commercial value. Government plans to grant license for bauxite mining in a forest reserve, a decision that has generated some controversy in recent months. In furtherance of its decision, the Government of Ghana has established the Ghana Integrated Aluminium Development Corporation (GIADEC), and assigned it the right to grant licenses for the purpose of exploration, exploitation, and processing

of bauxite into aluminium, and to own 30 percent stake in all bauxite mining projects. While the economic, and value retention rationale for the establishment of GIADEC is not in contest, it appears that its powers to grant licenses for bauxite mining conflicts with the mandate of the Minerals Commission. Communities and civil society organisations are contesting coal mining. Also, beyond underground and surface gold mining, Government is contemplating deep-sea mining. The mineral Map of 2009 shows prospecting in sections of the Atlantic Ocean, along the coast of Ghana 2009 (Darimani, 2011).

- Security of economic investment provides a context for the award of mining licenses in Ghana. As noted by Musselli, Ostensson and Zhang (2007) “security of title is a basic requirement, if private enterprise is going to invest in mineral extraction, not only is it necessary for the license to be protected from arbitrary revocation, but license holders also prefer it to be transferable so that it can be sold or used as collateral for loans”. For example, the economic rationale for undertaking exploration would be undermined if the right of the holder of an exploration license is not guaranteed. The licensing regime provides for conditions such as fixed tenure and other safeguard measures that protect the interest of both government and the investor. The security of tenure for large-scale mining however, tends to limit space for small-scale mining and other surface right land users, thus creating conflicts of different levels of intensity, which in turn may create opportunity for potential collusion between applicants seeking to protect their interest, and state institutions. In recent times (February, 2020) there have been media reports on some 500 mining excavators seized by government from small-scale miners during the temporary ban on small scale mining, and which cannot be accounted for. Much as the situation smacks of corruption or blatant stealing, it can potentially erode

investor confidence, and may impact negatively on investor interest in Ghanaian mining licenses.

The licensing requirement and procedure in Ghana clearly distinguishes between exploration license and the exploitation lease as well as between large-scale and small-scale mining. Within the value-chain of the licensing process, the investor would be keen on understanding the differential requirements in acquiring a license for exploration and a license for exploitation. This is because it should be easy and less time consuming to acquire an exploration license compared with a license for exploitation. The complexity or simplicity of the process, together with the cost, would influence the decision of the investor to acquire the license. Exploration is also known to cause relatively limited impact on the social, environmental and economic interest of other actors.

- In the early days of restructuring of the mining sector, Government established the Minerals Commission as a one-stop-shop for doing business with investors (Akabzaa and Darimani, 2001). The one-stop-shop economic policy has resulted in a centralised system of processing applications for gold mining licenses. However, the centralised system of processing application makes the process expensive and time consuming for applicants creating opportunity for rent seekers, as well as influence peddlers desirous of cutting cost and time.

### 5.3.3 Social Factors

Mining takes place within a social context and brings together an array of complementary and competing interests. A good licensing regime should be able to mediate and pull together the differential interests in the mining environment. The following constitute key social factors influencing the award of mining license in Ghana:

The award of a mining license takes place in the context and in recognition of the presence of multiple social actors playing different roles in the various stages of the award of mining licenses. There are multiple decision makers, each with specific role and responsibility in the process UNDP (2017); Darimani (2011); Akabzaa, Seyire & Afriyie (2007); and Akabzaa and Darimani (2001). UNDP (2017) notes that the “problem of weak mechanisms for the routine exchange of information between agencies in the mining sector is another gap that must be consciously filled.” While the multiplicity of decision makers can serve as checks and balances in the award process weaknesses in the coordination of their respective responsibilities also serve as vulnerability in the application process. The multiple decision makers are recipe for causing delays, which creates incentive for the applicant to bribe his/her way through.

Social mobilisation around mining is intense in Ghana. There are vibrant civil society organisations working on various aspects of mining. There is also free, active and independent media scrutinising and reporting on and articulating divergent views on issues in the mining sector. Both the work of civil society and the media as well as community mobilisation are guaranteed by the 1992 Constitution of the Republic of Ghana. A major challenge for most social actors is however, lack of community consultation and involvement of women in the mining license application process as manifested in the lack of standard criteria and indicators for meaningful community consultation in the processing of gold mining applications. Legitimate concerns of communities may be ignored, creating opportunities for applicants to abuse the privileges granted them by the mineral right.

- Freedom of expression is constitutionally guaranteed in Ghana. However, this

freedom is not backed by ease of public access to government information about mining. There is limited access to critical information regarding the allocation of concessions, land tenure, land use, mineral production, general geological and natural resource reserves. This challenge is manifested in the mining licensing process by:

- Lack of legal provision on specific date on which the Minerals Commission should receive gazette from the publishing company.
- The manner in which the public notice is served (in terms of both language and the channels) tends to limit public/community access to the information.
- Non-availability/non-compliance with standard timelines for the processing of applications creates opportunity for delay in the processing of applications leading to extortion of applicants
- Non-disclosure of areas where applicants have renounced their interests.
- Mining raises gender issues and specific impacts on women. Ghana has made significant progress in the formulation of policies and laws as well as the establishment of Institutions towards achieving gender equality. Article 17 (1) and (2) of the 1992 Constitution prohibit gender discrimination. In 2015, government of Ghana passed the National Gender Policy, Justice for Children Policy, and the Child and Family Welfare Policy. There are also several pieces of legislation seeking to enforce gender equality, while preventing gender discrimination. Key among them is the Labour Act, 2003 (Act 651) which provides for equal pay for equal work; the Criminal Code Amendment Act 1998 (Act 554) that criminalises Female Genital Mutilation (FGM); the Domestic Violence Regulation, 2015 (L.I. 2237); and the

Human Trafficking Regulation, 2015 (L.I. 2219). Ghana has established a full Ministry for Gender, Children and Social Protection, with responsibility for policy and programme coordination, and oversight, with respect to gender. This notwithstanding, there is limited participation of women in the large-scale mining sub-sector. Comparatively, the participation of women in the ASM is higher than in large-scale mining. A study conducted by the Minerals Commission in 2016, showed that about 28 percent of the galamsey workers are women, though very few are mine owners or managers. There is equally inadequate involvement of women in the decision-making process regarding the allocation of mineral rights for large-scale mining. The legal regime for mining in Ghana tends to focus on property rights, and most women do not own houses and land, which may become issues for negotiation in the allocation of mineral rights.

#### 5.3.4 Technological Factors

- Technology is an important factor influencing the award of mining licenses in Ghana. Technology is crucial in generating data and information that forms the basis of attracting investment into the mining sector. Technology plays a critical role in determining the availability of the mineral of interest, managing the award process, and the application of new production techniques. By applying technology to create geological data bank, government is able to gain access to more accurate information about the mineral resource wealth and the associated costs of exploitation. In Ghana, the Geological Survey Authority and the Minerals Commission are the two public agencies with the responsibility for the collection and management of mining-related geological data. While the two agencies have good appreciation of the geological data and information about Ghana they lack the capacity to generate geological data and

information in the format that would attract investor interest and usage. The Minerals Commission therefore, relies on the first-come-first-served licensing system. This system is simple and guarantees the applicant a certain measure of certainty to continue from exploration to exploitation. In other words, the first-come first-served system guarantees the holder of an exploration license in Ghana the right to exploit a mineral deposit of interest that he finds, since otherwise the economic rationale for undertaking the exploration would be undermined if that right of continuity was not guaranteed.

The technological factors influencing gold mining license application are summarised as follows:

- Ghana is well known for underground mining, and to a limited extent, surface mining, undertaken predominantly by small-scale miners. However, the introduction of new technology for open cast or surface gold mining has resulted in the uptake of vast areas of land and has been accompanied by increased environmental pollution as well as social and economic displacement.
- Technology for the processing of mining licensing application lags behind the increasing investor interest in Ghana's mining sector. The country continues to rely on manual processing of applications. The manual processing, which involves face-to-face contact between applicants and officials, creates opportunity for exchange of gifts and pleasantries either to speed up the application process or to gain unqualified favours.
- There is limited national capacity for ensuring ease of public access to geological information and data. Geological data about license areas are not

publicly available, making applicants to compete for unknown areas, and which creates opportunity for the applicants to influence officials to make decisions in their favour.

#### 5.4 Vulnerabilities to Corruption in the Awards Process

The study identified 17 vulnerabilities to corruption from the Process and Practice maps as well as from the contextual analysis. Out of the list of 17 vulnerabilities, six came from political factors, three from economic factors, six from social factors and two from technological factors. Political and social factors generated the highest number of vulnerabilities, and technological factors the least vulnerabilities (Annex 1). This suggests that the more politics and human interaction there are in the license application process, the more vulnerable the license application process becomes to corruption.

#### 5.5 List of Corruption Risks in the Mining License Awards Process

Based on the list of vulnerabilities, the study identified and assessed 19 corruption risks (Table 4). Out of the 19 corruption risks six were from the Contextual Factors (CF), two from the Process Design (PD), seven from the Process Practice (PP), and four from Community Consultations (CC).

The Process Practice (PP) has the highest number of risks (seven), while the Process Design (PD) has the least number of risks (two). The least number of risks for the Process Design suggests that the design by itself has been good, while the highest number of risk factors for the Process Practice suggests that the potential for corruption lies in the practice more than any of the other areas.



**Table 4: List of Identified Corruption Risks**

<b>Risk Category</b>	<b>Code</b>	<b>Risk</b>
<b>Contextual Factors (CF)</b>	CF1	GCR1-CF1 What is the risk that there will be political influence in the processing and granting of gold mining license application?
	CF2	GCR2 What is the risk that speculative activities on land subject to mining will result in license holders and landowners resorting to circumvent the proper process of resolving grievances?
	CF3	GRC3 What is the risk that there are no laid down procedures for the prevention and management of conflict of interest involving public officials and politicians in the mining license application process?
	CF4	GCR4 What is the risk that the licensing application process has been structured to favour private sector mining interest above the public interest?
	CF5	GCR5 What is the risk that access to mineable areas by new applicants is not transparent?
	CF6	GCR6 What is the risk that the first-come-first-served system creates incentives for license holders and Cadastral Officials to engage in corrupt practices?
<b>Process Design (PD)</b>	PD1	GCR7 What is the risk that face-to-face processing of applications is expensive and time consuming and will create opportunities for corruption?
	PD2	GCR8 What is the risk of Parliament's inability to ratify signed agreements between the government and the applicant?
<b>Process Practice</b>	PP1	GCR9 What is the risk that lack of legal backing for the Technical Committee on Mineral Titles creates opportunity for the approving authority to easily ignore fair and impartial recommendations of the Committee in order to favour a non-qualified applicant?
	PP2	GCR10 What is the risk that multiple decision-makers are involved in the application process?
	PP3	GCR11 What is the risk that Cadastral Agency does not comply with standard timelines for the processing of applications?
	PP4	GCR12 What is the risk that details of areas that have been licensed for reconnaissance prospecting and lease are not fully and publicly disclosed?

<b>Risk Category</b>	<b>Code</b>	<b>Risk</b>
	PP5	GCR13 What is the risk that the lack of specific date for receipt of gazette by the Minerals Commission creates incentives for manipulating stakeholder engagement?
	PP6	GCR14 What is the risk that notices about the gold mining licensing applications are given in languages and channels that are not accessible by women and men directly affected by the gold project?
	PP7	GCR15 What is the risk that geological data about license areas are not publicly available creating opportunity for applicants to involve in influencing officials to make decisions in their favour?
<b>Community Consultation</b>	CC1	GCR16-CC1. What is the risk that the gatekeeper role of chiefs in the licensing process empowers them to engage in under-hand dealings with applicants?
	CC2	GCR17-CC2. What is the risk that lack of community consultation creates opportunities for applicants and Cadastral Officials to abuse community rights and engage in non-compliance and corrupt practices?
	CC3	GCR18-CC3. What is the risk that the Free Prior informed consent will be ignored?
	CC4	GCR19-CC4. What is the risk that compensation packages for property owners will not be fair and publicly disclosed?

Source: Field Work, 2019

## 6.0 THE RISK PROFILE AND RISK ASSESSMENT SCORES

This section of the report presents the scores from the assessment of the identified corruption risks. The assessment focuses on the likelihood and impact of the identified corruption risks. While the likelihood determines the possibility of occurrence of the risk, the impact determines the consequences of the occurrence of the risk. The scores were based on the level of likelihood and impact. The assessment was carried out under four main headings, namely; Contextual Factors (CF), the Process Design (PD), the Process Practice (PP) and Community Consultation (CC). The assessment leads to the determination of the level of risk, through the scoring for each identified risk. It has to be pointed out that, the score for the impact is the key factor in determining the level of the risk. In other words, risks that have the likelihood, but which do not have an equally high impact, are categorised as less important than risks with the same total score, where that score is based on low likelihood/high impact” (Transparency International and Transparency International Australia, 2017).

### CONTEXTUAL FACTORS (CF)

**GCR1-CF1 What is the risk that there will be political influence in the processing and granting of gold mining license application?**

*An impartial and transparent licensing system reduces the potential for corruption. Political influence creates opportunities for bias and undermines the impartiality of the official process, by motivating and creating opportunities for cronyism, nepotism and bribery.*

**Likelihood: 5/5.** In Ghana the political class dominates decision-making for mining licensing. For instance, the President appoints the CEO of the Minerals Commission, the Board Chair of the Minerals Commission, and the Minister of

Mines. The Chair of the Parliamentary Select-Committee on Mines is a member of the Party in Government. This tends to undermine the integrity of the licensing process and the potential revenue to gain from the applicants. For instance, Government has recently signed contracts with three foreign mining companies, with stability agreements that tend to protect the companies from the effects of new laws or orders, and also granted three mining leases to a company belonging to the younger brother of the then President of the Republic of Ghana, a matter that generated a great deal of controversy. Source: In practice, the President has always appointed Ministers of State for the Mines Ministry and members of the governing Board of the Minerals Commission. Section 78 (1) of the 1992 Constitution empowers the President of Ghana to appoint Ministers of State with the prior approval of Parliament. Also, section 195 (1) of the Constitution gives the President power to appoint “persons to hold or act in an office in the public services”; myjoyonline.com, citifmonline.com, copies of mining contracts.

**Impact: 5/5.** Unfair and non-transparent licensing can lead to the cancellation of licenses in future, deprivation of eligible applicants, which can also result in irrecoverable cost to the applicant and the state. Another consequence is lack of compliance with the full cycle of the license application process for private gain. In effect, the decision of the Minister of Mines to sign the contracts and grant the leases could have been motivated by political loyalty, rendering the decisions likely to be over-turned by a court of competent jurisdiction. The impact is severe because license decisions could be made under political influence, regardless of national laws, or the technical merit, and this could result in licenses ending up in the hands of unqualified applicants, who may proceed to take advantage of host communities and the public. Source:

<http://citifmonline.com/2017/02/lands-ministry-pushes-for-review-of-stability-agreements/> Demands by the Minister of Lands and Natural Resources, Chairman of Government's committee, established to review Ghana's stability agreements, and civil society, pushing for Ghana to cancel its stability agreements with Newmont Ghana Limited, AngloGold Ashanti, and Goldfields Ghana Limited. Additionally, Ghanaweb's general news of Thursday 1, August 2019 on Supreme Court ruling, that the grant of three mining leases to Exton Cubic Group Limited, the company belonging to Ibrahim Mahama, the younger brother of former President John Dramani Mahama, is null, void and of no effect, because the leases were not acquired through the proper means as required by law.

**GCR2-CF2 What is the risk that surface right landholders will engage in corrupt speculative activities on land that is subject to a mining right?**

*Sudden new developments on mining license areas create opportunities to corruptly manipulate the license holder i.e. license holder may indulge in corrupt practices to end the speculative activities and protect the license area. Speculative activities have been a major obstacle to delay in estimating compensation and completing resettlement and relocation.*

**Likelihood: 5/5.** There are well known controversies between surface land right holders and gold mining right holders in mining communities in Ghana. The controversies are often around inadequate compensation, loss of livelihood and sources of livelihood and youth unemployment. Images and reports about speculative activities in gold mining areas in Ghana, involving the construction of structures, fishponds, walls, and planting of food and cash crops in order to attract compensation, abound. Source: Daily Graphic: Issue 2,49873 of October 18 2006; Oxfam America Report on, Geographies of Conflicts Happening Overlaps Between Extractive Industries and Agricultural Land Use in Ghana and Peru, March 2014; [www.business-humanrights.org](http://www.business-humanrights.org); Speech By the

Chief Executive Officer of the Ghana Chamber Of Mines, at the 11th Quadrennial Delegates' Conference of the Ghana Mineworkers' Union at Gold Fields Ghana, Tarkwa On August 26, 2015; Agbesinyale, P., Tenkorang Y. E. and Dankwah, M. (2012); **Journal of Science and Technology** © KNUST August 2016.

**Impact: 5/5.** Ambiguities about how to interpret the laws have left the determination of compensation to negotiations between the parties involved, resulting sometimes in lengthy litigation. Community leaders are accused of securing contracts with mining companies for supply of goods and services, including weeding and transportation. Community leaders use their good relationship with companies and government agencies to silent dissenting voices. Source: The Minerals and Mining Act 2006, (Act 703) provides the legal basis for compulsory acquisition of land but the 1992 Constitution approves expropriation of land only when payment of compensation is fair and adequate; Ayee J., Søreide T. Shukla., G. P & Minh Le T. (2011), Political Economy of the Mining Sector in Ghana; and interviews with representatives of communities in mining areas (September 2019); Michael Nest (2017, p16), Anti-Corruption Research Centre, www. U4.no. Speculative activities increase the cost and delay of the project, leading to loss of Government revenue. Speculative activities such as the erection of structures and the cultivation of crops also cause hostilities between company and communities.

**GRC3-CF3 What is the risk that there are no laid down procedures for the prevention and management of conflict of interest, involving public officials and politicians in the mining license application process?**

*If public officials and politicians are required to declare their business interest in relation to a mineral right application, it will help to identify and manage any conflict of interest that could lead to corruption in the license application process. Conversely, the absence of procedures for the prevention and management of conflict of interest would create difficulty in identifying and*

*addressing conflict of interest issues, thereby creating opportunities for public officials and politicians to dabble in it for their private gain.*

**Likelihood: 5/5.** The Minerals and Mining Act 2006, (Act 703) provides for state equity participation, making government representation on the board of directors of large-scale mining companies, a necessity. It is also a normal practice in Ghana for Members of Parliament (MPs) from communities in mining areas to serve on the Boards of mining companies located in their constituencies. This observation is supported by the World Bank Policy Research Working Paper number 5730 (2011), which reports that the appointment of MPs to company boards has strengthened the Parliamentarians' support for the companies, and this support may have created a conflict of interest, perceived to be in favor of the mining industry. Interviews with a company official and a license applicant on 12th November 2019, revealed that, it is a practice in Ghana that some board members of the Minerals Commission also serve as directors of some companies.

**Impact: 4/5.** The absence of procedures for the prevention and management of conflict of interest, supports suspicions that some mining rights and licenses may have been granted without following due process, affecting the integrity of the award process. Source: World Bank Policy Research Working Paper number 5730 (2011). Paragraph 51 expresses such concerns. Perception survey results of Focus Group Discussion (FGD) held in Obuasi and New Abirim from 13th -16th November, 2019 also support the view that the absence of procedures for the prevention and management of conflict of interest, means that government officials can freely front for applicants thereby undermining the objective and fair assessment of the application. The overall impact is that the absence of conflict of interest procedures means that public officers and politicians are free to exercise their official powers to advance their personal and business interests against unsuspecting competitors.

**GCR4-CF4: What is the risk that, the**

**licensing application process has been structured to favour private sector mining interest above the public interest?**

*In granting approval to gold mining license application, the state tends to prioritise the interest of the applicants above that of the interest of the public and local communities. When the licensing system is made to prioritise private interests, decisions made may not be transparent leading to abuse of human rights, lost of livelihood resources of communities, and the destruction of the environment.*

**Likelihood: 5/5.** Licenses for gold mining have been granted in productive forest reserves in Ghana. These include, the Agenua, Kubi, forest reserve and Atiwa forest reserves. There are also records of the re-allocation of the surface land use rights of thousands of rural communities anytime a license, particularly a lease is granted in accordance with the Minerals and Mining Act, 2006, (Act 703), which provides for re-location or resettlement of people whose surface rights are affected by mineral rights. The mission and policy objective of the Minerals Commission of Ghana clearly articulate the desire of government to attract private sector participation, through various measures, including the provision of incentives (World Bank Policy Research Working Paper 5730, July 2011).

**Impact: 5/5.** The National Coalition on Mining (NCOM) in a memorandum, argued that the Development and Tax Concession Agreements entered into by the Government and the companies, in respect of mining in forest reserves, have the effect of reducing the size of Ghana's forest cover, with all the accompanying consequences of deforestation and climate change. Local communities are said to be losing their surface land rights as a result of displacement by mining concessions. The Environmental Guidelines for Mining in Productive Forest Reserves in Ghana (2001) seem to prioritise mining projects over agriculture, forests and water resources, without due regard to their cost-benefit considerations. When the licensing system is made to prioritise private interests, decisions made may not be

transparent, leading to abuse of human rights, loss of livelihood resources of communities, and the destruction of the environment. The cumulative effect of livelihood losses, human rights abuses and environmental pollution, may far outweigh the anticipated benefits of the mine.

**GCR5-CF5 What is the risk that access to mineable areas by new applicants is not transparent?**

*Lack of public disclosure of mineable areas means that the licensing process in practice may not be genuinely open to competition from applicants, creating incentives for public officers and applicants to indulge in corrupt practices in order to access mineable areas for gold extraction.*

**Likelihood: 4/5.** The Minerals and Mining Act, 2006 (Act 703) does not require the Minerals Commission to publicly disclose mineable areas for gold. Applicants who were interviewed, reported the difficulty of accessing mineable areas. According to some respondents, they sometimes have to make some offers to public officials to be shown good mineable areas. Source: Minerals and Mining Act, 2006 (Act 703); Informant interviews (May-September 2019).

**Impact: 5/5.** Transparent and publicly disclosed mineable areas will reduce exploration cost, minimise potential land use conflicts and improve confidence in the licensing process, particularly the results of the search. Source: Gbireh et al., 2007. Asamoah E. F. et al (2017), indicate “the intensity and scale of extraction of gold influence the ecological integrity of mined land”. Taking no notice of these ecosystem threats would have significant negative implications for the Sustainable Development Goals (SDGs).” They argue, “these instances require studies that provide evidence to help offset and steer the Ghanaian mineable landscapes and the world at large such as the assessment of the value of gold mining activities and ecological components”.

**GCR6-CF6. What is the risk that the first-come-first-served system creates incentives for license holders and cadastral officials to engage in corrupt practices?**

*The application of the first come is approved regardless of the merit of other applicants in so far as the first comer meets the required standards set by the Minerals Commission. Since there is no competitive assessment of applications, the potential exists for manipulating applications to ensure that their outcome favoured applicants who applied first. The first comer qualifies by reasons, which may not necessarily relate to comparative competence.*

**Likelihood: 3/5.** The National Mining Policy (2015), and the Minerals and Mining Act 2006 (Act 703) clearly state the first-come-first served arrangement as the approach for the award of mineral licenses in Ghana. The Minerals Commission processes applications in compliance with the policy and legal provisions for the industry. The Register of Applications of the Minerals Commission, showed that applications for licenses are accepted for processing strictly on first-come basis, and this is known to applicants and approving authorities.

**Impact: 2/5.** The first-come-first-served approach does not select applicants based on the assessment of the competencies of competing applicants. An applicant is selected merely because that applicant is the first to register for the concession. This approach can undermine the integrity of the application process, because applicants do not have any means of knowing who actually came first. They all rely on the records of the Minerals Commission. The state may also be losing skills and revenue because the best applicant may not be considered. The impact is however, low because the standard requirements set by the Minerals Commission reflect international best practices.

## PROCESS DESIGN (PD)

### **GCR7-PD1. What is the risk that face-to-face processing of applications is expensive and time consuming and will create opportunities for corruption?**

*Unless there is an electronic system that keeps record of the application process, the face-to-face manual application process creates incentives for both applicants and cadastral officials to engage in corrupt activities. Cadastral officials can easily manipulate the system for personal gain.*

**Likelihood: 5/5.** Applicants physically appear every day at the offices of the Minerals Commission to manually register their applications. Out of 11 steps provided by the Minerals Commission's License application procedure, the applicant must physically appear at the Commission, at least four times. Source: Procedure for Granting Mineral Licenses in Ghana, (MinCom, 2019), and the Register of Applications Book at the Minerals Commission.

**Impact: 5/5.** The physical appearance of applicants at the Minerals Commission to process their applications imposes a burden of cost and time loss on applicants. Applicants interviewed during the research, complained about time and cost. Some of them reported that they sometimes have to "see one or two officers" to facilitate the timely processing of their applications so as to reduce the amount of time and cost of travelling to Accra. One applicant reported they had to hire the services of a consultant to process their application. The manual application process presents increased workload on the staff of the Minerals Commission, as they also have to literally attend to every single applicant manually by recording their data in a book, an indication that the system may be inefficient, and which further creates the opportunity for applicants to induce officers in order to save time. Source: Researcher's observation of a queue in the Office of the Minerals Title Department of the Minerals Commission, during a visit on 5th September 2019. The Minerals Commission reported that

effort is being made to move away from manual processing to digital/electronic processing of applications by the end of 2019 (Interview with the Commission on 5th September 2019). Random interviews with prospective applicants at the Minerals Commission on 5th September 2019; interview with CSOs, Applicants, GNASSM, selected District Assemblies, and representatives of communities in mining areas from August to November 2019.

### **GCR8-PD2. What is the risk of Parliament's inability to ratify signed agreements between the government and the applicant?**

*Parliamentary ratification is a legal requirement that makes the Minister of Mines accountable to the representative of the people for the decisions he makes, in respect of granting mining licenses. This is intended to serve as a check, and to prevent the abuse of power.*

**Likelihood: 4/5.** Some signed agreements have not been ratified by Parliament, despite the fact that this is a legal requirement. Source: Interview with Ghana National Association of Small Scale Miners on May, 2019 revealed that 1,360 licenses which were issued before the ban on small scale mining, had not been ratified by Parliament. A World Bank Policy Research Working Paper 5730 (2011) reports that in 2008 Parliament retroactively ratified 21 mining leases, which were awarded between 1994–2007.

**Impact: 5/5.** Failure to ratify signed agreement is a violation of the highest law of Ghana (Article 268 of the 1992 Constitution). Lack of Parliamentary ratification exposes the applicants to legal action, which may result in the revocation of their licenses, and associated with it, a waste of investment capital. A whole gold mining project can be rendered null and void without Parliamentary ratification. Source: Media reports in December 2018 of two MPs who sued 35 mining companies, the Attorney-General, and the Minerals Commission at the Supreme Court for carrying out mining operations when Parliament had not ratified their mining leases in accordance with Article 268 of the Constitution ([www.ghanaweb.com/GhanaHomePage/NewsArchives](http://www.ghanaweb.com/GhanaHomePage/NewsArchives))

ves); also, Article 268 of the 1992 Constitution of the Republic of Ghana; and the Mineral and Mining Act, 2006, (Act 703).

## PROCESS PRACTICE (PP)

### **GCR9-PP1. What is the risk that lack of legal backing for the Technical Committee on Mineral Titles creates opportunity for the approving authority to easily ignore fair and impartial recommendations of the Committee in order to favour a non-qualified applicant?**

*Laws to make the recommendations of the Technical Committee on Mineral Titles binding is important in maintaining an anti-corruption licensing process, as neither the Board nor the Minister of Mines can easily set aside the recommendations of the Committee. The absence of such legislative backing for the Technical Committee on Mineral Titles, means that the Board and the Minister of Mines can easily set aside the recommendations of the Committee to favour a preferred applicant.*

**Likelihood: 5/5.** The Technical Committee on Mineral Titles carries out evaluation of mining license applications but the Board and the Minister for Mines are not legally obliged to accept nor publish reasons for their decision not to follow the recommendations of the Committee.

**Impact: 2/5.** Setting aside the recommendations of the Technical Committee on Minerals Titles could result in short-changing the country by reducing the real value of the mineral. However, this is difficult to occur because there are other checks and balances after the work of the Committee from the Board through the Minister to Parliament. The requirements for other authorisations, such as environmental permit as well as parliamentary oversight through periodic monitoring, serve as checks and balances. Opposition Members of Parliament serving on the Parliamentary Select Committee on Mines have been critical of the mining licenses application process.

### **GCR10-PP2. What is the risk that multiple decision-makers are involved in the application process?**

*The involvement of multiple government agencies, if not well coordinated, can cause delay and create opportunities for the applicant to engage in corrupt practices to save time.*

**Likelihood: 4/5.** Many government agencies (Parliament, Minister, Minerals Commission, EPA, Water Resources Commission, Chief Inspector of Mines, District Assembly, Traditional Authority, Lands Commission, Ghana Publishing Company, and the Print Media), are involved directly or indirectly in the processing of applications for gold mining rights in Ghana. The source of evidence includes the Minerals and Mining Act 2006, (Act 703), Environmental Protection Agency Act, 1994, (Act 490); Local Governance Act, 2016, (Act 936); Lands Commission Act, 2008 (Act 767). Some applicants interviewed expressed concern about the delay. See process/practice maps.

**Impact: 4/5.** The long list of actors in the license application chain could cause delay and generate incentive for extortion by some of the actors, with the ultimate effect of creating a disincentive for doing business in Ghana's mining sector. During the validation, participants noted that, the long list of authorities in the application process is a recipe for extortion from applicants. Some applicants interviewed during the research, reported that, they have had to make offers to some officials in order to fast track their application from one authority to the other.

### **GCR11-PP3. What is the risk, if the cadastral agency does not comply with standard timelines for the processing of applications?**

*The non-compliance of standard timelines for the processing of applications creates uncertainties, and encourages applicants to engage in corrupt practices to speed up the application process. The uncertainty about deadlines is also an incentive for cadastral agency officials to manipulate the licensing process.*



**Likelihood: 5/5.** In most cases, the standard timelines stated in the Minerals and Mining Act 2006, Act 703 are not strictly followed, which provides an automatic avenue for the exercise of discretion by the Minerals Commission. Source: Minerals and Mining Act 2006, Act 703; Environmental Protection Agency Act 1994, Act 490; interviews with applicants and other respondents (August-November 2019). Some applications were reported to have gone beyond the legally stipulated timelines, due to (i) Inadequate information from applicants; (ii) unexplained reasons from the Minerals Commission; and (iii) requirements of a complementary permit. Source: Interview responses from applicants and selected stakeholders (August to November 2019).

**Impact: 4/5.** Delays in the processing of license applications give rise to the exercise of discretion by the approving authority. Delays also give rise for desperate applicants to pay their way through. The payment may unduly influence decisions of the approving authorities bringing the integrity of the entire application process into disrepute.

**GCR12-PP4. What is the risk that detail of areas that have been licensed for reconnaissance, prospecting, and lease are not fully and publicly disclosed?**

*Full public disclosure of all areas that have been licensed would promote transparency and accountability, minimise encroachment of concessions, and deter corrupt practices, such as collusion between the renounced licensed-holders and cadastral officials, especially on information relating to lands availability for application.*

**Likelihood: 4/5.** Information on areas where applicants have renounced their interests is not publicly available, such information is known to the Minerals Commission and the renounced license-holder. Source: Interviews with applicants, and small-scale miners (August to November 2019).

**Impact: 4/5.** Concerns were expressed about collusion between renounced license-holders and cadastral officials, in extorting money from new applicants, in order to provide information on the status of renounced concessions. When you find a place and you want to do your search at the Minerals Commission, the officers will tell you the place belongs to another mining company. They will then tell you to give them some time to find out from the mining company to know if that company has renounced its interest in the area. "But as you know, you will have to support them to do the contacts on your behalf." Source: Interviews with applicants and small-scale miners (August to November 2019). The lack of full public disclosure of renounced licensed areas, suggests lack of transparency, which could allow public officials to engage in corrupt practices, such as colluding with the renounced license-holders and selling information on the status of the areas for private gain. Holding on to concessions that have expired is a violation of license conditions.

**GCR13-PP5. What is the risk that the lack of specific date for receipt of gazette by the Minerals Commission creates incentives for manipulating stakeholder engagement?**

*Sufficient notification of stakeholders about the licensing process enhances demand-side accountability, and deters corruption. The lack of specific dates to receive the gazette from the publishers does not enable the Minerals Commission to meet the required 21 days publication leading to a manipulation of the timeframe for notification and engagement with stakeholders in the licensing process.*

**Likelihood: 5/5.** There is a legal requirement for the Minerals Commission to publish a gazette notice of pending applications for mineral rights, for 21 days. Source: Minerals and Mining Act, 2006, Act 703, and Minerals and Mining (Licensing) Regulations, 2012, L.I. 2176. There is also delay in the printing of the Gazette Notice by Ghana Publishing Company. Source: Interview with staff of the Minerals Commission (September 2019).

**Impact: 4/5.** Gazette Notices of pending applications for mineral rights published for less than the legally required 21 days. Source: Gazette Notice No.123, dated Tuesday, 13th August 2019 was still not published as at 5th September 2019, due to delay at the printing house. The delay in printing Gazette Notices of pending applications creates opportunity for the Minerals Commission to manipulate the legally required 21 days, leading to potential dent in the integrity of the application process. Source: Interview with the Minerals Commission in September 2019.

Delay in the publication of Gazette Notices of pending applications creates opportunity for the Minerals Commission to potentially manipulate the gazette notification, by reducing the amount of time legally required for the public to provide feedback. Reducing the legally required 21 days, could lead to the exclusion of views of some stakeholders from the application process, which in turn, might dent the integrity of application process. However, the Minerals Commission explained, that the delay in the publication is a result of delay in the delivery of printed Gazette Notices by Ghana Publishing Company, the only institution responsible for the printing of the Gazette Notices.

**GCR14-PP6: What is the risk that notices about the gold mining licensing applications are given in languages and channels that are not accessible by women and men directly affected by the mining project?**

*Notices given in the language that stakeholders understand will help them engage, voice their concerns, and promote accountability in the license application process. Notice of Gazette is given in English and at places that are remote from persons located in and proximate to the area being considered for the license application. This practice impedes access to information resulting in non-transparent licensing process. A non-transparent process has the potential of generating corrupt practices such as collusion and abuse of office and privileges involving public officials, companies,*

*local authorities and chiefs.*

**Likelihood: 5/5.** Notices of gold mining applications are published in English as seen in the Gazette Notices published in the Daily Graphic and the Ghanaian Times as well as Gazette Notice number 123 of 13th August 2019. Concerns were expressed by local communities that written notices are placed at remote locations i.e. the premises of Local Authorities, which are not accessible to majority of persons living in or near the concession areas including women and girls. Source: Interviews with Local Assemblies, representatives of communities in mining areas and the Minerals Commission. Beyond the gazette publication by the Minerals Commission, there is no legal obligation on the Minerals Commission, the Local Authorities and Chiefs/Landowners for evidence of steps taken to receive feedback after publication of gazette notice. Source: The Minerals and Mining Act, 2006, (Act 703).

**Impact: 5/5.** The publication of notices in English alone tends to limit access to information by majority of persons directly affected by the gold mining project creating a situation of non-transparent licensing process a potential ground for corruption. Source: Gazette Notice, Daily Graphic and Ghanaian Times are all in English, which is difficult to access and comprehend, especially by rural men and women majority of whom are non-literates. During informant interviews and focused group discussions (August to November 2019), majority of representatives of communities affected by mining expressed concerns that the notices for mining licenses are published in places far remote from them and limit their ability to provide input into the licensing process creating a non-transparent license process. The absence of legal obligation on the Minerals Commission, the Local Authorities and Chiefs/Landowners for evidence of steps taken to receive feedback after publication of gazette notice, creates opportunity for officers to withhold information for corrupt purpose. Source: Minerals and Mining Act, 2006 (Act 703) requires gazette publication in 21 days but not evidence of steps taken to receive feedback is required.

**GCR15-PP7. What is the risk that geological data about license areas are not publicly available, creating opportunity for applicants to resort to influencing officials to make decisions in their favour?**

*Public knowledge about the availability of geological data reduces the ability of applicants to influence public officials to make decisions in their favour. It also reduces the ability of cadastral agency staff to extort bribes from applicants in order to provide geological information.*

**Likelihood: 4/5.** Geological and other natural resources data and information are not publicly known. Ghana does not have a publicly available, digitised register or cadastre system(s). There is no central coordinating point at which such information can be obtained and validated. Source: UNDP Ghana (2015), Final Report, Accra states “Ghana does not have a publicly available, digitized register or cadastre system(s)...” (p26-27); International Study Group Report (2009); Applicants conducts search of their identified areas of interest only at the Minerals Commission.

**Impact: 4/5.** Tax incentives provided by government to compensate for expensive exploration cost and attract investment are subject to corrupt manipulation in the form of tax evasion and avoidance. The lack of publicly available, digitised register or cadastral system provides incentives for corrupt manipulation of information by either the applicant or the approving authorities. Source: Report of Government revenues being eroded through tax avoidance strategies by mining companies (December 2016). Some applicants also alleged the manipulation of search results at the confirmation stage (Applicants' interview responses from August to November 2019).

## COMMUNITY CONSULTATION (CC)

**GCR16-CC1. What is the risk that the gatekeeper role of chiefs in the licensing process empowers them to engage in under-hand dealings with applicants?**

**wers them to engage in under-hand dealings with applicants?**

*Chiefs and landowners will not represent community interests. They will also not be accountable to the members of their community in their negotiations and dealings with public officials, and the applicants of gold mining licenses. They have incentives to pursue their personal individual interests.*

**Likelihood: 5/5.** Community members have no opportunity of holding the gatekeepers (chiefs and landlords) to account.

**Impact: 5/5.** Community leaders regularly use their gatekeeper role to pursue their own interests at the expense of the larger community interest and rights. There are examples of instances when chiefs/landowners have become contractors and sub-contractors to license-holders.

**GCR17-CC2. What is the risk that lack of community consultation creates opportunities for applicants and cadastral officials to abuse community rights, engage in non-compliance and corrupt practices?**

*Meaningful consultation empowers stakeholder and communities to engage in the license application process, which enhances accountability and deters corruption. The lack of meaningful consultation provides incentives for applicants and cadastral officials to abuse stakeholder rights and engage in corrupt practices.*

**Likelihood: 5/5.** The legal requirement for stakeholder and community consultations is very narrow, not even queen mothers are recognised by Act 703, without indicators that will ensure meaningful consultations.

**Impact: 5/5.** Stakeholder and community consultations hardly take place and have often resulted in agitations with different levels of intensity, with some being violent. The law does

not even recognise queen mothers. In addition, women are particularly not consulted. Because of the low status of women and customary beliefs on who participates in community decision making, women are more likely to be sidelined and excluded from any engagement in the licensing process, which undermines their ability to contribute to enhancing accountability within the process.

**GCR18-CC3. What is the risk that the Free Prior Informed Consent principle will be ignored?**

*Ghana is signatory to the ECOWAS Directive on Mining, the Africa Mining Vision, and the United Nations requirement for Free Prior Informed Consent (FPIC) for mining projects. The requirement to obtain FPIC of communities in mining areas has not been met in the gold mining licensing process.*

**Likelihood: 5/5.** Consent of communities has not been obtained due to the absence of guidelines for procuring community consent.

**Impact: 5/5.** Community interest is severely neglected as a result of failure to obtain their

consent. There is also lack of clarity of the scope and indicators for the implementation of the FPIC at the national level.

**GCR19-CC4. What is the risk that compensation packages for property owners will not be fair and publicly disclosed?**

*Total disclosure and fair compensation packages to property owners will drastically reduce the potential for corruption, such as under-estimation of property rates and unfair payment.*

**Likelihood: 5/5.** The details of compensation packages, including the valuation of property are often treated as confidential issues between applicants, property owners who are mostly men.

**Impact: 5/5** there is widespread mistrust and resistance regarding the packages of compensation due to property owners. There is also widespread complaint of exclusion of women and tenant farmers from payment of compensation.

# 7.0 DISCUSSION OF THE RESULTS

This section presents a discussion of the results of the assessment. The discussion entails an interpretation of the results and making some observations about what the results mean for the subject matter of the research. The scores for likelihood and impact are the key variables in the interpretation and observations.

score of 5 will be more important than the risk with impact score of 2. As stated in page 54 of the MACRA tool “Risks that have a high likelihood, but which do not have an equally high impact, are categorised as less important than risks with the same total score where that score is based on low likelihood/high impact.

## 7.1 Overall likelihood and Impact Scores

Table 5 presents a summary of the total scores (Likelihood multiplied by Impact) to establish the scale or level of the risk. The scale of 1-5 on the table shows five different levels of importance for the total score of the risk. The score for impact has greater influence in determining the importance of a risk. This means that the higher the score for impact the more important the risk. For example, if the total score for a risk is 10 (likelihood 5 and impact 2) and another risk has the same total score of 10 (likelihood 2 and impact 5), the risk with impact

In the case of likelihood, 14 out of the 19 identified risks scored the likelihood of 5 on a scale of 1-5, while five out of the 19 identified risks scored 4 in the 1-5 scale. This means that there is certainty in the likelihood of occurrence of the 14 risk factors and the five risk factors will occur all the time.

In the case of impact, 11 out of the 19 identified risks scored the impact of 5, on a scale of 1-5; six scored 4, on a scale of 1-5; and two risks scored 2 on a scale of 1-5. This means that 11 out of the 19 identified risks are disastrous and systemic that requires urgent attention.

## 7.2 Risk definition by colour

Colour	Blue	Green	Yellow	Orange	Red
Risk Level:	Very Low	Low	Moderate	High	Very High

Table 5: Two Dimensional Risk Matrix

LIKELIHOOD	5 Certainty of the risk occurring many times	5	10	15	(GRC 3; 11; 13) 20	(GRC 1; 2; 4; 7; 14; 16; 17; 18; 19) 25
	4 Occurs many times	4	8	12	(GRC 5; 10; 12; 15) 16	(GRC 8) 20
	3 Occurs at least once or twice	3	(GRC 6; 9) 6	9	12	15
	2 Occurs but sparingly	2	4	6	8	10
	1 Unlikely to occur	1	2	3	4	5
		1 Very low	2 Low	High	4 Very high	5 Disastrous & systemic
IMPACT						

Source: Researcher's Construct, 2019

## Likelihood and Impact of Risk at Community Consultations (CC) Level

The *likelihood* and *impact* scores for all the four risk factors for Community Consultations (CC) were very high. This suggests that there is certainty of the four corruption risk occurring many times. Also, the impact scores for all the four risks factors were very high, which means that the consequences of the risk occurrence are disastrous and systemic.

The certainty of the risks occurring and their disastrous and systemic consequence was due mainly to poor community level consultation. Few consultations that were organised by applicants, did not take account of the peculiarities of women's interests or concerns. The interviews and the FGDs held in Chirano, Kenyasi, New Abirim and Obuasi revealed high level of communities' recognition of the importance and contribution of women to the sustainable exploitation of mineral resources. In each of the communities, the role and contribution of women that were highlighted included:

- Participation in decision-making;
- Direct participation in the exploitation of mineral resources through the supply of labour and financial capital;
- Indirect participation through the sale of food and other essential items for miners;
- Playing the traditional women role of care giving;
- Advising on the location of community development infrastructure, such as water sources and waste management sites;
- Management of community natural resources, such as land, trees, forests, water bodies, and pollution control (environmental sanitation).

The discussions revealed two factors that serve as obstacles to the role and contribution of women towards transparent mining licensing

and sustainable mining in general. The first relates to the exclusion of women. The FGDs noted that the participation of women in the mining award process in particular, and in the full cycle relating to the exploitation of mineral resources, has been zero and marginal at best. At an interview with the chief of Hweakwae in November 2019, he reported as follows:

*"In fact the company did a lot of consultations in the community. Many meetings were held to discuss many things. But there was no single meeting that I can remember was held with women alone."*

Another woman reported:

*"They don't even remember that we were part of this community, when they were organising the meetings. The company is even better. As for the government (Minerals Commission) they don't even know this community, let alone meeting with women. Even the men, they didn't hold any meeting for them".*

The second major obstacle is the land tenure system, which customarily excludes women from ownership of land. The lack of ownership deprives them of other related rights such as the right to negotiation and to compensation. For a woman to negotiate and receive compensation for her crops, she needs the moral support of her male counterparts to legitimise the deal. In such situation, women are more likely than men to enter into unwanted relationships to secure their rights and livelihoods. During the FGDs in Hweakwae and Obuasi, it was reported that:

*"A lot of young women offer sex to the better endowed male mineworkers in exchange for financial support."*

A woman participant in Obuasi reported that:

*"The prostitutes in Obuasi are richer than the wives and they are plenty in the town doing nothing."*

## Likelihood and Impact of Risks at Contextual Factors (CF) Level

The **likelihood** score for four out of the six risk factors under Contextual Factors (CF) were 5 (disastrous), and two out of the six were 4 (very high), which suggests that, there is certainty that all the six risk factors under contextual factors will occur many times in the mining license approval and granting process. The certainty and regular occurrence of the corruption risks is due to the high dominance of politics in the mining license approval process.

The study observed that the occurrence of the risk of political influence in the processing and granting of gold mining license application has the greatest potential to trigger the rest of the 5 risks under the Contextual Factors. This is because political office holders supervise the technocrats.

However, for the impact scores four out of the six risk factors under Contextual Factors (CF) were disastrous and systemic (a maximum score of 5); one factor scored very high (4), and one other risk scored low (2). The high disastrous and systemic scores highlight the importance of political decisions in the mining license approval process, and therefore the consequences of such decisions if wrongly made in the mining license approval and granting process, can be disastrous for the entire mining sector.

These risks affect different things differently. For instance while risk CF4 affects forest conservation and the environment CF5 affects public disclosure of mineable areas. These notwithstanding all the risks under contextual factors affect the transparent and accountable governance of the license application process.

**Likelihood and Impact of Risk at Process Design (PD) Level**

The process design recorded the least number of risk factors (two). The least number of risk factors, suggests that the design for mining license approval is very good. The necessary check and balances have been provided to ensure a transparent and participatory process. There are checks and balances between the

start of the evaluation of an application to its approval. For instance, the Technical Committee on Mineral Titles provides an independent technical assessment of the application; the Board of the Minerals Commission assesses the assessment conducted by the Technical Committee and the Minerals Commission as a whole. The general public is given the opportunity to through the gazette notification to assess the work of the Minerals Commission in respect of gold mining license applications, and parliamentary provides oversight for the work of the Minister of Mines in respect of the granting of mineral rights.

The likelihood and impact of the two risk factors, at the Process Design phase, recorded maximum scores (5). This means that there is certainty in the occurrence of the identified risks, and the consequence for each of the two risks is disastrous, once it occurs.

The high scores for the two risk factors are attributable to the fact that they happen all the time in the mining license approval process. The physical appearance of all applicants (face-to-face) at the Minerals Commission provides opportunity for corruption. The Minerals Commission (the national cadastral agency) has recognised the challenge imposed by the face-to-face (manual processing of application) and is taking steps to migrate to an electronic system of processing application. At the time of this research the Minerals Commission was developing the cadastral management system as part of effort towards the migration from manual (face-to-face) to electronic system of mining license application. The second risk is legal requirement, and its occurrence can vitiate the entire mining investment and the license system as a whole.

**Likelihood and Impact of Risk at Process Practice (PP) Level**

The Process Practice recorded the highest number of risk factors (seven). This implies that the practice factor is more prone to corruption than any of the other factors CC, CF and PD. This is the level where policy and law are translated to

reality. There is the potential for deliberate or unintended misinterpretation of the overt and covert provisions of the law and policy to private interest. The unintended misinterpretation may arise out of practical challenges of implementation.

The likelihood recorded maximum scores of 5 for four risk factors, and scores of 4 for three risk factors. This means that, under the Process Practice, there is certainty that four out of the seven risk factors will occur and three out of the seven risk factors will occur many times. The likelihood of occurrence of all the seven risks factors is very high and requires attention.

The study noted that risks number PP1, PP4 and PP7 do not have any significant relationships. They neither relate to one another nor to the other risks. However, risks numbers PP2, PP3 and PP5 are related in particular ways. The occurrence of each or both risks PP5 and PP2 have the potential to trigger the occurrence of risk number PP3. Risk PP5, which is about lack of specific date for receipt of gazette by the Minerals Commission, can trigger the occurrence of risk PP3, which is about non-compliance with standard timelines for the processing of applications. This is because the Commission may be expected to secure input from gazette notification before proceeding to the next step. Similarly, risk PP2, which is about the involvement of multiple decision-makers in the application process can equally trigger risk PP3. For instance, the Commission may need to wait to receive evidence of registration of the site from the Environmental Protection Agency (EPA) before proceeding to issue offer letter to the applicant thus causing delay.

The **impact** recorded a maximum score of 5 for one risk factor, scores of 4 for five risk factors, and 2 for one risk factor. In other words five out of the seven risk factors recorded a score of 4 (very high impact), one risk factor scored a maximum 5 (disastrous and systemic), and one, low impact (2). The impact of risk PP1 was rated low because there are other checks and balances to detect weaknesses even if the recommendations of the Technical Committee on Minerals Titles

are set aside. The Minerals Commission as an institution has competent staff with the right mixed of experience and expertise to evaluate applications. The Board of the Minerals Commission and Parliament exist as statutory institutions with the power to oversee mining licenses. In fact, Opposition Members of Parliament serving on the Parliamentary Select Committee on Mines have always been critical on mining licensing application. Further, the requirement for other permits such, as environmental permit as well as the operating permit are there to counter-check the mining applications.

The practice process risks affect different things. For example risk PP1 is concerned about the lack of legal backing for the Technical Committee on Mineral Titles; and PP3 is concerned about the non-compliance with standard timelines by the Minerals Commission thereby providing avenue for discretion. Cumulatively however, the presence of the 7 risks factors affect the integrity of the practice of public officials that evaluate, process and grant gold mining license application.

## 7.1 Prioritization of the Risks to Corruption for Action

Identifying the risks to corruption is as important as taking action to prevent, avoid or manage the identified risks. This section identifies and prioritises the risks in order to provide basis for action to prevent or manage, where prevention is not feasible.

Based on the assessment, the study identified and prioritised six out of the 19 risks to corruption for action. All the six prioritised risks scored very high (4 to 5) for both their likelihood and impacts. The prioritisation was based on three key determinants provided by the MACRA tool. These are the urgency, impact, and feasibility of the risk. These concepts are explained as follows:

- Urgency- means that there is basis and momentum for taking action or building upon.
- Impact- means the risks that generally have



very high score or fall into the red or orange colour categories, and therefore addressing the risk will yield big and widespread results.

- Feasibility-means “the change that would be required to mitigate (prevent) the risk or manage its impact” has the interest and support of stakeholders; the availability of human, material and financial resources; and could be delivered with a reasonable

timeframe to remain relevant.

On the basis of this understanding an analysis of the prioritisation of the six risks for action was conducted as follows. The perspectives from informant interviews supported the analysis, the validation workshop, the regularity of reports on the risks from community consultations, and references of existing literature relevant to the subject under investigation.

### Priority Risk 1 Number GCR17-CC2

What tells me the risk is urgent	Score+ colour	<b>Risk CC2:</b> What is the risk that lack of community consultation creates opportunities for applicants and Cadastral Officials to abuse community rights and engage in non-compliance and corrupt practices?
		The likelihood score for the occurrence of this risk was 5 (certainty)
		The impact score for this risk was 5 (disastrous and systemic)
		The total score (5 x 5)=25, and the colour is <b>RED</b>
What tells me addressing the risk will have an impact?	Impact score + Context	<b>Impact score</b> is 5/5 (disastrous and systemic). Therefore addressing the risk will have big and wide impact.
		<b>Contextual factors:</b> Several stakeholders will benefit from community consultation (women, communities, anti-corruption agencies). Risk CC2 relates to all the 3 other risks under CC. Therefore, addressing the risk (CC2) will also address the 3 other risks under CC (CC1, CC3 and CC4) and provide sufficient space for local communities in decisions regarding the processing and granting of gold mining licenses in Ghana.
What tells me addressing the risk is feasible?	Stakeholder Interest + Resources	<b>Stakeholders:</b> All stakeholders in mining (Government, Mining Companies, CSOs & Communities) recognise and commit to stakeholders consultation; community participation and gender equality including women empowerment along the mining value chain
		<b>Cost:</b> The cost is considered to be expensive because the exercise will require extensive sensitization, mobilization, research and development of communication and training materials.
		<b>Time:</b> The exercise could take a couple of years and is likely to be continuous over years as new applications come up and new mines are developed
Is the risk a priority for action		Implementing this risk can be expensive and time consuming. However, it is a systemic issue and there is stakeholder consensus for addressing it. The opportunity for action exists.

## Priority Risk 2 Number GCR-7PD1

What tells me the risk is urgent	Score+ colour	<b>Risk PD1:</b> What is the risk that face-to-face processing of applications is expensive and time consuming and will create opportunities for corruption?
		The likelihood score for the occurrence of this risk is 5 (certainty)
		The impact score for this risk is 5 (disastrous and systemic)
		The total score (5 x 5)=25, and the colour is <b>RED</b>
What tells me addressing the risk will have an impact?	Impact score + Context	<b>Impact score</b> is 5/5 (disastrous and systemic). Therefore addressing the risk will have big and wide impact.
		<b>Contextual factors:</b> Addressing this risk will minimise personal contact, which has the potential of reducing corruption. Also, addressing this risk will reduce time and cost for the processing of applications.
What tells me addressing the risk is feasible?	Stakeholder Interest + Resources	<b>Stakeholders:</b> Government represented by the Ministry of Mines and the Minerals Commission, applicants, CSOs, Anti-Corruption Agencies, Development Partners in Ghana are in favour and support for the electronic system of processing mining license application. The Presidency is leading a national policy, which aims to digitise the national economy. The Minerals Commission with support from the Australian High Commission is devoting resource for migrating from face-to-face processing of mining license applications to an electronic system.
		<b>Cost:</b> The cost of migration is expected to be within manageable levels. Already, the Australian High Commission is providing financial support for the migration from face-to-face processing of mining license applications to an electronic system. However, expensive the initial cost will be, some long term benefits are expected to be achieved. These include the efficiency in the processing of applications. The efficiency will free staff time in the Minerals Title Department, which could be deployed in other areas in the Commission. Additionally, the electronic system of processing applications is a measure that could alleviate the Minerals Commission from certain type allegations of corruption.
		<b>Time:</b> The migration is on going and is expected to be completed in 2020.
Is the risk a priority for action		This risk is a priority because the impact score is very high and there is stakeholder interest. Also, government in collaboration with some development partners is already working to digitize the mining licensing application process. An opportunity therefore exists to take action.

## Priority Risk 3 Number GCR8-PD2

What tells me the risk is urgent	Score+ colour	<b>Risk PD2:</b> What is the risk of Parliament's inability to ratify signed agreements between the government and the applicant?
		The likelihood score for the occurrence of this risk is 4 (very high)
		The impact score for this risk is 5 (disastrous and systemic)
		The total score (4 x 5)=20, and the colour is <b>RED</b>
		Parliamentary ratification is a legal and administrative requirements which must be met at all times

What tells me addressing the risk will have an impact?	Impact score + Context	Impact score is 5/5 (disastrous and systemic ). Therefore addressing the risk will have big and wide spread impact.
		<b>Contextual factors:</b> Addressing this risk would save the approving authority and applicants/leaseholders from legal suit and potential losses of revenue to investors and the country. Parliament, the Minerals Commission and the Minister are keen to protect their actions. Addressing the risk will serve as checks by Parliament to decisions made by the Minister of Mines in respect of the granting of mining licenses.
What tells me addressing the risk is feasible?	Stakeholder Interest + Resources	<b>Stakeholder :</b> There is an established working relationship between Parliament and the Minister of Mines to support measures for the timely and regular Parliamentary ratification of mining licenses/leases. CSOs and the Public are interested in seeing Parliamentary ratification of signed mining agreements. Two (2) Members of Parliament are contesting the non-ratification of various signed mining licenses/leases signed by the Minister of Mines with applicants.
		<b>Cost:</b> The resource requirement for ensuring timely and regular Parliamentary ratification of signed mining license/leases is not high to deter action . The Minister of Mines, like all other Ministers, reports to Parliament from time to time. Members of Parliament can ask questions to the Minister of Mines for his/her response, which require a negligible budget, can also address the risk through questions. There is an opportunity to raise funds from the established excellent relations between the government of Ghana and development partners in Ghana, if there is the need for a law to ensure timely and regular Parliamentary ratification of mining licenses and leases.
		<b>Time:</b> Putting in place legal and administrative measures for ensuring compliance with the requirement for Parliamentary ratification will require a year.
Is the risk a priority for action		A good reason for prioritizing this risk for action is that the impact score is disastrous and systemic. Secondly, the Minerals and Mining Act, 2006 (Act 703) is under review and could take on board issues, which require amendment to ensure Parliamentary ratification .

#### Priority Risk4Number GCR12-PP4

What tells me the risk is urgent	Score+ colour	<b>Risk PP4:</b> What is the risk that details of areas that have been licensed for reconnaissance, prospecting and lease are not fully and publicly disclosed?
		The likelihood score for the occurrence of this risk is 4 (very high)
		The impact score for this risk is 4 (very high)
		The total score (4 x 4)=16 , and the colour is <b>RED</b>
		Minerals Commission is developing an electronic cadastral management system and this would be very supportive to public disclosure of licensed areas for reconnaissance, prospecting and lease.
What tells me addressing the risk will have an impact?	Impact score + Context	Impact score is 4/5 (very high). Therefore addressing the risk will have big and wide spread impact.
		<b>Contextual factors:</b> Full public disclosure would promote transparency and accountability. Expired concessions will be known and the state will benefit from re-allocating them to existing and new applicants. Where the area of expired concession is no longer mineable, the land could be put to other productive uses. Addressing this risk is consistent with anti-corruption laws including the Freedom of Information Act.
What tells me addressing	Stakeholder	<b>Stakeholders:</b> There is stakeholder consensus on full public disclosure of the cadastral system of Ghana. A recent workshop on the review of the Minerals and Mining Act, 2006 (Act 703) revealed very high interest and

the risk is feasible?	Interest + Resources	consensus by government, Minerals Commission, CSOs and development partners on public disclosure of the national cadastral system
		<b>Cost:</b> The cost of full public disclosure is within manageable limits. However, full disclosure will require a completion of the development of the cadastral system, which requires considerable initial investment by the government. Fortunately, the development of the cadastral system has attracted donor support, which shows the capacity of the State to absorb the cost.
		<b>Time:</b> The effectiveness of the full disclosure of licensed concessions is contingent on the completion of the development of the cadastral system. This could take a couple of years (about 2 years). Once completed and full disclosure is effected, it will be continuous over years enhancing the ability of citizens and applicants to participate in the mining licensing application process through access to information
Is the risk a priority for action		There are justifiable reasons for prioritizing this risk for action. The impact score is very high, there is stakeholder consensus built around full disclosure, and government is already addressing this risk by providing the basis upon which disclosure can be possible (the cadastral system).

### Priority Risk 5 Number CCR14 -PP6

What tells me the risk is urgent	Score+ colour	<b>Risk PP6:</b> What is the risk that notices about the gold mining licensing applications are given in languages and channels that are not accessible by women and men directly affected by the mining project?
		The likelihood score for the occurrence of this risk is 5 (very high)
		The impact score for this risk is 5 (disastrous and systemic)
		The total score (5 x 5)=25, and the colour is <b>RED</b>
		Award of mining licenses continues and extraction takes place on community lands affecting their surface rights including their right to clean environment and livelihood
What tells me addressing the risk will have an impact?	Impact score + Context	Impact score is 5/5 (disastrous and systemic). Therefore addressing the risk will have big and wide spread impact.
		<b>Contextual factors:</b> Notice including gazette notice are published in language host communities do not understand and also placed in locations which not easily accessible to them. Yet members and people in host communities receive the direct impact of mining. In relation to applicants and the state local communities are the weakest. Notices in local languages and channels will enhance greater understanding of the issues and improve demand side accountability.
What tells me addressing the risk is feasible?	Stakeholder Interest + Resources	<b>Stakeholders:</b> All stakeholders (government, media, CSOs, Applicants, Investors and Public Agencies especially the Cadastral agency) are willing to collaborate with local communities. It also serves the interest government, applicants and investors, to get the buy-in of members of host communities. Therefore the willingness to get local communities to understand and buy into the project concept is demonstrated through corporate social responsibilities projects implemented by mining companies.
		<b>Cost:</b> The cost of translating materials, interpretation and placing notices proximate to local people in host communities can be expensive. However, local community involvement is good for transparency and accountability. Therefore, measures are needed to translate the willingness into reality. For instance, standard critical materials and information for local communities access should be identified and agreed upon. Then responsibility and cost for their translation and interpretation can be distributed among the various actors in the mining licensing value chain.

		For example , the district assembly hosting a concession could ring-fence a portion of it s royalties for interpret ing particular standard critical material s on the local radio/community FM.
		<b>Time:</b> Addr essing this risk is not strictly time bound. Some measures such as the translation of material and their placement at vantage points can be time bound. However, the interpretation of the entire mining value-chain is a process . The most critical issue is the resources to enable a decision on the implementation of the risk, which can be within six months.
<b>Is the risk a priority for action</b>		The risk is a priority risk because t he impact score is disastrous and systemic, community buy -in for projects is key sustainability indicator, and guarantees long -term benefits of transparency and citizens demand for accountability.

### Priority Risk 6 Number GCR3-CF3

<b>What tells me the risk is urgent</b>	<b>Score+ colour</b>	<b>Risk CF3:</b> What is the risk that there are no laid down procedures for the prevention and management of conflict of interest, involving public officials and politicians in the mining license application process?
		The likelihood score for the occurrence of this risk is 5 (very high)
		The impact score for this risk is 4 (very high )
		The total score (5 x 4)=20 , and the colour is <b>RED</b>
		Recent media reports of corruption in mining involving government officials require procedures for addressing conflict of interest to restore and boost public confidence
<b>What tells me addressing the risk will have an impact?</b>	<b>Impact score + Context</b>	<b>Impact score</b> is 4/5 (very high). Therefore addressing the risk will have big and wide spread impact.
		<b>Contextual factors:</b> Procedures for the prevention and management of conflict of interest will deter abuse of office and protect the integrity of the application process.
<b>What tells me addressing the risk is feasible?</b>	<b>Stakeholder Interest + Resources</b>	<b>Stakeholder :</b> Based on consultations and responses from the validation workshop, Members of Parliam ent, the Minerals Commission, Anti-Corruption Agencies and Campaigners , CSOs are receptive to this initiative. Parliam ent, the Ministry of Mines, Minerals Commission and all applicants have an interest in putting up objective procedures for the detection and control of corruption.
		<b>Cost:</b> The Ministry of Mines and the Minerals Commission have the human and financial resources to initiate and complete procedures to prevent and manage conflict of interest. There are lessons that can be borrowed from other sectors at least cost to prepare such procedures . The power and interest of citizens for the prevention and management of conflict of interest is a resource that can be supportive to the initiative.
		<b>Time:</b> One year is enough time to initiate and complete procedures for the prevention and management of conflict of interest, involving public officials and politicians in the mining license application process .
<b>Is the risk a priority for action</b>		The risk is priority because the impact score is very high, high stakeholder interest and demonstrates additional measures for eradicating corruption in the mining value chain.

## 8.0 LIMITATIONS OF THE STUDY

The major limitations of this research include:

- Inadequate documentary evidence regarding corruption risks and vulnerabilities. Official documents to support perception expressed by participants in the research was hard to come by. This limitation was addressed by widening the scope for sources of evidence.
- Respondents lack adequate appreciation of the licensing award process, and therefore, they could not provide information on the types and stages of the awards. This limitation was managed by providing sketch maps to aid discussions on the license application and approval process.
- Language was also a limitation at community level discussions, as it was difficult to find the exact local meaning for some of the concepts. This limitation was managed by the use of local interpreters, as well as description of the concepts that did not have direct local words.
- Some of the large-scale gold mining companies (particularly the top Nine (9) gold mining producers did not respond to the questionnaires. This challenge was addressed by interviewing a number of other companies/applicants that were published in the Notice of Gazette during the time of the research.
- Most of the licenses were acquired long ago and so respondents had a challenge of recollection of some of the incidents that took place during the licensing process. This challenge was addressed by blending most recent applicants with persons who have long experience of working on mining and the license application process.
- The focus of the research was on large-scale mining. This focus was a major limitation, because it was difficult obtaining data on the license application due to time lag. Large-scale mines have long life span of about 30 years per concession, while small-scale mines have short life span of five years maximum, per concession, with high frequency for license application. This limitation was addressed by placing emphasis on the reconnaissance and prospecting licenses of large-sale mines, as well as interviewing fresh applicants and selected small-scale miners.

## 9.0 CONCLUSIONS AND RECOMMENDATIONS

The research assessed corruption risks in the licensing approval and granting process in the mining sector of Ghana. The assessment focused on mineral right acquisition in the large-scale mining sub-sector with particular emphasis on reconnaissance and prospecting.

There is a lot of effort on the part of government and the cadastral agency (the Minerals Commission of Ghana) to improve transparency in the mining sector, and to also ensure easy and timely processing of applications. Government is leading the multi-stakeholder Extractive Industry Transparency Initiative (EITI), and continues to leverage its findings and recommendations to introduce reforms in the mining sector, including the licensing regime. Some of the reforms include the establishment of 18 satellite district offices of the Commission in the country, to ease access to services of the Commission; the creation of multi-sector Technical Committee on Mineral Titles, to draw expertise in the evaluation of applications; the publication of Notice of Gazette of applications, to draw attention and receive feedback from the public and interested persons; and, the recent effort to migrate from manual processing of applications to an electronic system.

Despite the on-going effort, the study found vulnerabilities and risks to corruption in the license application process. The entire process

was mapped, and a number of vulnerabilities were identified from the official process as designed, and the practice of processing license applications. The vulnerabilities include lack or inadequate community consultation, the manual (face-to-face) processing of applications, the language and form of notice of gazette publication, non-compliance of standard timelines, and lack of parliamentary ratification of some signed gold mining licenses. Some of these vulnerabilities, especially those that stem from the manual processing of applications are being addressed by the Minerals Commission, while the vulnerability relating to parliamentary ratification is a subject of Supreme Court hearing.

A range of corruption risks were derived from the vulnerabilities and grouped under Contextual Factors (CF), the Process Design (PD), the Process Practice (PP) and Community Consultations (CC). All the risks under Community Consultations were ranked very high in their likelihood of occurrence and degree of impact. This means that while other risk factors are equally important, promoting and ensuring the contribution of mining to sustainable development requires strategies for improved meaningful and sustained community consultation and participation.

The research, therefore, makes the following recommendations:

## 10.0 RECOMMENDATIONS

The research makes the following recommendations for policy and practice reform:

- i. The research found lack of community consultation as a major systemic challenge in the mining licensing process. In order to ensure a gender inclusive, and adequate community consultations in the licensing process, the Minister of Mines and the Minerals Commission should put in place an effective, efficient, meaningful and sustained mechanism of stakeholder engagement and consultation to empower stakeholders and communities to engage in the mining license application process. Community and stakeholder engagement enhances accountability and deters corruption. The way forward to ensuring implementation of this recommendation is the determination of standard criteria with clear indicators for effective, efficient, meaningful and sustained community engagement and consultation in the mining license application process.
- ii. Both the mechanism of consultation and the standard criteria should take account of diversity of stakeholders and in the community and include, in particular indicators for gender, and opportunities for women's participation. Specifically, the standard criteria should include clear indicators for gender inclusivity and women's empowerment in the consultations. The responsibility of the newly recruited Gender Officer of the Minerals Commission should include ensuring women's participation and empowerment in the entire mining value-chain, including, but not limited to the licensing process, the organisation of gender disaggregated data in the mining sector.
- iii. To further ensure that, women's interests and concerns are addressed during the licensing process, separate consultative meetings should be organised for women, as part of the community consultations. The standalone meetings for women will ensure proper timing, venue and the articulation of women specific issues into the licensing process.
- iv. The face-to-face (manual) processing of applications exposes both the applicants and public officials to potential corruption. It should therefore be substituted with an electronic system of application to minimise or eliminate the risk. The digitization is not only consistent with national policy but also eliminate the incentives for corrupt practices associated with the face-to-face manual processing of mining license application. The efficiency with the digitization of the application process provides opportunity for the Mineral Commission to deploy the expertise of staff at the Minerals Title Department for other equally important assignments. The study notes that the Minerals Commission is developing a Mining Cadastral Administration System, which would provide a basis for migrating the manual (face-to-face) processing of applications to an electronic system.
- v. Parliamentary ratification of signed agreements is a legal requirement. Timeliness for ratification of signed agreements would further enhance the integrity of the license process and protect both applicants and the state from potential losses arising from legal actions, abrogation of licenses, and termination of projects. The study therefore recommends legal reform to provide timelines within which the Minister must submit signed agreements to Parliament for ratification. The Minerals and Mining Act, 2006, Act 703 or the Minerals and Mining (Licensing) Regulations, 2012 (L.I. 2176), as the case may require, should be



- amended to provide for such timelines. Alternatively, or as an additional measure, the Minister of Mines, with the support of the Minerals Commission, should collaborate with Parliament to work out an agreed administrative schedule for the submission and ratification of signed agreements per period of time.
- vi. The study recommends full public disclosure of licensed areas for reconnaissance, prospecting and lease to promote transparency and accountability, minimize illegal encroachment of concessions and deters corrupt practices such as collusion between the renounced licensed-holders and Cadastral officials. An improvement of the cadastral system is of paramount interest to all the stakeholders and actors in the mining sector. Addressing this interest can also be achieved through full public disclosure of the cadastral system.
  - vii. Notices in respect of the processing and granting of mining licenses should be published in local languages as well as placed on locations, which are easily accessible to people in communities that host, the concession. Notices given in the language that stakeholders understand will help them engage, voice their concerns, and promote accountability in the license application process. It also promotes transparent licensing process and enhances accountability, which serve as deterrent to corruption.
  - viii. The Minerals Commission should prepare and publish procedures for the prevention and management of conflict of interest, involving public officials and politicians in the mining license application process. This document should require public officials and politicians to declare their business interest in relation to a mineral right application. The document will help in the identification and management of conflict of interest that could lead to corruption in the license application process.
  - ix. The Minerals Commission should develop and enforce a model stepwise approach for preventing and or minimising speculative activities. This model should include an inventory of assets, publicity of timelines and cut-off dates within which activities cannot be considered for compensation. The cut-off date should be considered in the negotiation of community agreements and the consultation process.
  - x. Based on the three (3) maps produced by the research, it is recommended that the Minerals Commission re-design its advertised map on the website so as to provide more accurate and comprehensive information for the public. A comprehensive map could go alongside the very summarized map.
- The study noted that the Minerals and Mining Act, 2006, Act 703, provides for a limited number of stakeholders during consultations. The Act requires the Minerals Commission to have direct interaction with the Local Authority, the Chief, and the landowner. However, the Act is silent on queen mothers, women's associations, youth, People with Disabilities (PwD), property right owners and user right holders. The study therefore recommends an expansion of the list of persons to be consulted or notified in the application process to include these groups. The expansion of the list would help strengthen oversight and contribute greatly towards mitigating political influence and corruption in the processing of mining license application.
- xi. The study revealed that standard timelines stipulated in law for the processing of applications are often not met, partly as a result of applicants submitting inadequate documentation in support of their applications. As additional measure for addressing this challenge the study recommends the public disclosure of the list of the required

documents to be submitted in support of the application, as well as standard timelines within which applicants must submit the required documentation to the Minerals Commission. This public disclosure would help minimise delays on the part of applicants.

xii. To ensure greater integrity and build public trust in the licensing process, it is recommended that the Minerals Commission publicly disclose the recommendations of the Technical Committee on Mineral Titles.

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## ANNEXES

### Annex 1: List of Persons/Organisations Interviewed/ consulted - 89

No	Organisation	Sex	Total
<b>Civil Society - 27</b>			
1	Civil Society Platform on Oil and Gas	Female – 1 Male - 1	2
2	Daily Graphic	Male - 2	2
3	Ghana News Agency	Female – 1 Male - 1	2
4	Kasa Initiative Ghana	Female – 1 Male - 1	2
5	Penplusbytes	Male - 1	1
6	Daily Graphic	Male - 2	2
7	Multimedia	Male - 5	5
8	Integrated Social Development Centre (ISODEC)	Male - 1	1
9	Ghana Oil and Gas for Inclusive Governance	Male - 1	1
10	Citi TV/FM/Online	Female – 1	1
11	A Rocha Ghana	Male - 1	1
12	NETRIGHT & NCOM	Female – 1	1
13	Ghana News Agency	Male - 2	1
14	Starr TV	Male - 1	1
15	Pink FM	Male - 1	1
16	Women Environment Protection Association (WEPA)	Female - 1	1
17	7DSGH TV	Female – 1	1
<b>Public Sector - 8</b>			
18	Ministry of Lands and Natural Resources	Male - 1	1
19	Ministry of Finance Ghana EITI	Male - 2	2
20	Birem North District Assembly	Male - 1	1
21	Minerals Commission	Female – 1 Male - 2	3
22	Ministry of Interior	Male – 1	1
<b>Private Sector - 5</b>			
23	Ghana National Association of Small-Scale Miners (GNASSM)	Male - 3	3
24	Ghana Chamber of Mines	Male - 2	2
<b>Community - 47</b>			
25	Hweakwae	Female - 12 Male - 8	20
26	New Abirem	Female - 2 Male - 1	3
27	Adausena	Female - 8	8
28	Kenyaasi	Female - 2	6

		Male - 4	
29	Obuasi	Female - 4 Male - 6	10
<b>Academia - 2</b>			
30	University of Ghana	Male - 1	1
31	Wisconsin University	Male - 1	1

## Annex 2 : List of Vulnerabilities to Identified from Contextual Analysis

Contextual Factor	S/N	Vulnerability to Corruption
Political Factors	1	<b>Political dominance in the mining sector:</b> Political dominance can lead to political influence in the processing and granting of gold mining license application
	2	<b>Absence of clear conflict of Interests procedures:</b> The absence of clear conflict of interest provisions in the Mining laws of Ghana creates opportunity for cadastral agency officials and politically exposed persons to engage in concession trading
	3	<b>Policy prioritises private sector interest over public interest:</b> The licensing application process has been structured to favour private sector mining interest above the public interest.
	4	<b>First come first served :</b> First come first served approach creates incentives for existing license holders and Cadastral Officials to engage in corrupt practices to obtain the related licenses
	5	<b>Lack of Parliamentary ratification of signed agreements:</b> Failure on the part of the Minister to submit signed agreements for Parliament to ratify means that the decision of the Minister to grant the license is not subject to scrutiny
	6	<b>Lack of legal backing for the Technical Committee on Mineral Titles :</b> The law does not back the role of this Committee in the granting of gold, which means that the recommendations of the Committee can easily be swept under the carpet.
Economic Factors	1	<b>Generous incentives:</b> Huge generous incentives provide opportunities for potential corrupt practices such as tax avoidance and negligence of environmental responsibility
	2	<b>Speculative Activities :</b> Disturbances of property and surface land rights creates opportunity for surface right landholders to engage in corrupt speculative activities on land subject to the allocation of mining right
	3	<b>Centralized system of processing application:</b> The centralized system of processing application makes the process expensive and time consuming for applicants creating opportunity for bribing officers to cut cost and time.
Social Factors	1	<b>Multiple decision -makers in the application process:</b> The decision -makers in the application process are many (Minerals Commission, EPA, Chief Inspector of Mines, District Assembly, Traditional Authority, Minister, and Parliament) and cause a delay, which creates incentives for the applicant to bribe his/her way through
	2	<b>Lack of community consultation:</b> There is no standard criteria and indicators for meaningful community consultation in the processing of gold mining application. Legitimate concerns of communities may be ignored creating opportunities for applicants to bribe their way to resolve grievances.

	3	<b>No specific date for the Minerals Commission to receive the gazette:</b> The law does not provide specific date on which the Minerals Commission should receive the gazette from the publishers. This makes the period of notice to stakeholders short creating lack of awareness. The lack of awareness of chiefs, districts and landowners prevent applicants from access to their site thus creating incentives for the applicants to pay their way in order to access their site
	4	<b>Form of notice:</b> The form of public notice ( <b>both the language and the channels</b> ) tends to limit public/community access to information. Notices are made in English, which may not be understood by local communities. Also, notices are placed on noticeboards, which are far away from persons living in the proposed concession. This creates a situation of non -transparency leading to suppression of public scrutiny and expression of dissent.
	5	<b>Non-availability/non - compliance of standard timelines:</b> Non-availability/non - compliance with standard timelines for the processing of applications creates uncertainties and encourages bribery in order to speed up the application process.
	6	<b>Non-disclosure of areas where applicants have renounced their interests:</b> Minerals Commission does not publicly disclose areas in which applicants have renounced their interests. Such areas continue to be in the database of Minerals Commission as valid concessions long after interests have been renounced creating opportunity for Cadastral Officials to engage in under -hand dealings with new and potential applicants.
<b>Technological Factors</b>	1	<b>Manual processing of applications :</b> The manual processing of applications (face -to-face contact between applicants and officials) creates opportunity for exchange of gifts and pleasantries either to speed up application process or to gain unqualified favours.
	2	<b>Lack of publicity of geological data :</b> Geological data about license areas are not publicly available making applicants to compete for unknown areas, which creates opportunity the applicants to influence officials to make decisions in their favour

Source: Researcher's Construct , 2019

### Annex 3 Corruption Risks Assessment in Tabular

#### GRC1-CF1

<b>GCR1</b> What is the risk that there will be political influence in the processing and granting of gold mining license application?	Code CF1
<i>An impartial and transparent licensing system reduces the potential for corruption. Political influence creates opportunities for bias and undermines the impartiality of the official process by motivating and creating opportunities for cronyism, nepotism and bribery.</i>	
<b>Likelihood Score 5 /5</b>	<b>Evidence to support assessed likelihood</b>
1. In Ghana the President appoints CEO of the Minerals Commission, the Board Chair of the Minerals Commission and the Minister of Mines, and the Chair of the Parliamentary Select -Committee on Mines is member of the Party in Government	



**Source:** In practice , the President has always appointed Ministers of State for the Mines Ministry and members of the governing Board of the Minerals Commission. Section 78 (1) of the 1992 Constitution empowers the President of Ghana to appoint Ministers of State with the prior approval of Parliament. Also, section 195 (1) of the Constitution gives the President power to appoint “persons to hold or act in an office in the public services” .

2. Government signed contracts with 3 foreign mining companies, with stability that tended to protect them from effects of new laws or orders, and also granted 3 mining leases to a company belonging to the younger brother of the President of the Republic of Ghana.

**Source:** myjoyonline.com, citifmonline.com, copies of mining contracts

<b>Impact Score 5/5</b>	<b>Evidence to support assessed impact</b>
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1. Cancellation of licenses or deprivation of eligible applicants leading to irrecoverable cost to company and the state

**Source:** Ghanaweb General News of Thursday 1, August 2019, Supreme Court ruling that the grant of three mining leases to Exton Cubic Group Limited, the company belonging to Ibrahim Mahama, younger brother of former President John Dramani Mahama, is null, void and of no effect because the leases were not acquired through the proper means as required by law.

2. Lack of compliance with the full cycle of license application process

**Source:** citi97.3 fm <http://citifmonline.com/2017/02/lands -ministry -pushes-for-review -of-stability -agreements/> Demands by the Minister of Lands and Natural Resources, Chairman of government committee to review Ghana’s stability agreements and civil society are pushing for Ghana to cancel its stability agreements with Newmont Ghana Limited, AngloGold Ashanti and Goldfields Ghana

**Corruption Impact**

The decisions of the Minister of Mines to sign the contracts and grant the leases could have been motivated by political loyalty, causing the decisions to be overturned by the Supreme Court and reviewed. The impact is severe because license decisions could be made under political influence regardless of national laws or the technical merit which could result in national licenses ending up in the hands of unqualified applicants taking advantage of host communities and the public

**Assessment**

Likelihood 5 x Impact 5 =25

Total Score: 25

Colour					25
Risk Level					Very High

GRC2-CF2

<p><b>GCR2 What is the risk that speculative activities on land subject to mining will result in license holders and landowners resorting to circumvent the proper process of resolving grievances?</b></p> <p><i>Sudden new developments on mining license areas create opportunities to corruptly manipulate due process i.e. license holder may indulge in corrupt practices to end the speculative activities and protect the license area. Speculative activities has been a cause of delay for applicants in estimating compensation and completing resettlement and relocation</i></p>	<p>Code CF2</p>
<p><b>Likelihood Score 5 /5   Evidence to support assessed likelihood</b></p>	
<p>1. There are well known controversies between surface land right users and gold mining right holders in communities in mining areas in Ghana. The controversies are around inadequate compensation, lost of livelihood and sources of livelihoods and youth unemployment.</p> <p><b>Source:</b> Speech By Mr Sulemanu Koney, Ceo Of The Ghana Chamber Of Mines, At The 11th Quadrennial Delegates’ Conference Of The Ghana Mineworkers’ Union At Gfg, Tarkwa On August 26 2015 ; Agbesinyale, P., Tenkorang Y. E. and Dank-wah, M. (2012); <i>Journal of Science and Technology © KNUST August 2016</i></p>	
<p>2. Images and reports about speculative activities in gold mining areas in Ghana involving the construction of structures, fish ponds, walls, and planting of food and cash crops in order to attract compensation.</p> <p><b>Source:</b> Daily Graphic: Issue 2,49873 October 18 2006; Oxfam America Report of Geographies of Conflicts Happening Overlaps between extractive industries and agricultural land use in Ghana and Peru, March 2014; <a href="http://www.business-humanrights.org">www.business-humanrights.org</a> ;</p>	
<p><b>Impact Score 5/5   Evidence to support assessed impact</b></p>	
<p>1. Uncertainties about how to interpret the laws have left the determination of compensation to negotiations between the parties involved, resulting sometimes in lengthy litigation</p> <p><b>Source:</b> The Minerals and Mining Act 2006, (Act 703) provides the legal basis for compulsory acquisition of land but the 1992 Constitution approves expropriation of land only when payment of compensation is fair and adequate, Ayee J., Sørreide T. Shukla., G. P &amp; Minh Le T. (2011), Political Economy of the Mining Sector in Ghana</p>	
<p>2. Community leaders accused of securing contracts with mining companies for supply of goods and services including weeding and transportation. Community leaders use their good relationship with companies and government agencies to silence dissenting voice leading to lack of participation and transparency resulting</p>	

in under -hand dealings between applicants, community leaders and state agencies as well as siphoning of community resources at pittance.

**Source:** Interviews with representatives of communities in mining areas (September 2019); Michael Nest (2017) p16 Anti -Corruption Research Centre www. U4.no

**Corruption Impact**

Speculative activities increase the cost and delay the project leading to lost of Government revenue. Speculative activities such as the erection of structures and the cultivation of crops also cause hostilities between company and communities.

**Assessment**

Likelihood 5 x Impact 5=25

Total Score: 25

Colour					25
Risk Level					Very High

**GRC3-CF3**

<b>GRC3</b> What is the risk that there are no laid down procedures for the prevention and management of conflict of interest involving public officials and politicians in the mining license application process?	Code CF3
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*When public officials and politicians are required to declare their business interest in relation to a mineral right application, it will help to identify and manage conflict of interest that could lead to corruption in the gold mining application process. But the absence of procedures for the prevention and management of conflict of interest would not help in identifying the involvement of public officials and politicians if and when a report of allegation is made against them .*

<b>Likelihood</b> 5/5	<b>Score</b>	<b>Evidence to support assessed likelihood</b>
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1. State equity participation makes government representation a requirement on the Board of Directors of large -scale mining companies.

**Source:** Minerals and Mining Act 2006, (Act 703)

2. It is a normal practice in Ghana for Members of Parliament (MPs) from communities in mining areas to serve on the Board of Mining companies located in their constituencies.

**Source:** World Bank Policy Research Working Paper number 57 30 (2011), reports that the appointment of MPs to company boards has strengthened the Parliamentarians’ support for the companies, and this support may have created a conflict of interests, perceived to be in favor of the mining industry.

3. It is a practice in Ghana that some Board members of the Minerals Commission also serve as Directors of some companies.

**Source:** Interviews with company official/license applicant on 12<sup>th</sup> November 2019.

<b>Impact Score 4/5</b>	<b>Evidence to support assessed impact</b>
<p>1. The absence of procedures for the prevention and management of conflict of interest supports suspicions that mining rights and licenses may have been granted without following due process affecting the integrity of the award process.</p> <p><b>Source:</b> World Bank Policy Research Working Paper number 5730 (2011) , paragraph 51 expresses such concerns</p>	
<p>2. The absence of procedures for the prevention and management of conflict of interest means that government officials can freely front for applicants thereby undermining objective and fair assessment of the application.</p> <p><b>Source:</b> Perception results of Focus Group Discussion (FGD) held in Obuasi and New Abirim from 13 -16, November 2019</p>	

**Corruption Impact**

An administrative procedure for the prevention and management of Conflict of interest will deter abuse of office and protect the integrity of the application process by ensuring that persons with vested interest declare such interest to prevent capricious exercise the power of their office. The absence of conflict of interest procedures means that public officers and politicians are free to exercise their official powers along side their personal and business interest against innocent competitors, *which has the potential to result in mining licenses/leases in the wrong hands, siphoning of community resources into the pockets of few public officials and lost of trust in the award process.*

**Assessment**

Likelihood 5 x Impact 4 =20  
 Total Score: 20

Colour					<b>20</b>
Risk Level					<b>Very High</b>

**GCR4-CF4**

<b>GCR4: What is the risk that the licensing application process has been structured to favour private sector mining interest above the public interest?</b>	Code CF4
<i>In the licensing application process, the state behaves partially in the protection of public and local communities interest against the interest of private large -scale mining license applicants.</i>	
<b>Likelihood Score 5/5</b>	<b>Evidence to support assessed likelihood</b>

<p>1. Granting of licenses in forest reserves</p> <p><b>Source:</b> License for surface gold mining in Aghenua forest reserve, Kubi forest reserve and Atiwa Forest reserve</p>					
<p>2. Frequent re-allocation of land use rights</p> <p><b>Source:</b> Act 703 on surface rights and payment of compensation</p>					
<p>3. The mission and policy objective of the Minerals Commission of Ghana clearly state the desire of government to attract private sector participation.</p> <p><b>Source:</b> World Bank Policy Research Working Paper 5730, July 2011</p>					
Impact Score 5/5		Evidence to support assessed impact			
<p>1. Reduction in the size of Ghana's forest cover</p> <p><b>Source:</b> National Coalition on Mining (NCOM) on the Development and Tax Concession Agreements between the Government, Gold Mining in Ghana's Forest Reserves: a Report on the current Debate, December 2005.</p>					
<p>2. Local communities losing their surface land rights as a result of displacement by mining concessions</p> <p><b>Source:</b> Resettlement Action Plans of various Mining Companies, Akabzaa T. M. (2001).</p>					
<p>3. Mining projects are prioritized over agriculture, forestry and water resources, which undermines the cost benefits of the other sectors.</p> <p><b>Source:</b> The Minerals and Mining Act, 2006 (Act 703); Environmental Guidelines for Mining in Production Forest reserves in Ghana, May 2001</p>					
<p><b>Corruption Impact</b></p> <p>When the licensing system is made to prioritise private interests, decisions made may not be transparent leading to abuse of human rights, lost of livelihood and resources of communities, and the destruction of the environment. The cumulative effect of livelihood losses, human rights abuses and environmental pollution would far outweigh the anticipated benefits of the mine.</p>					
<p><b>Assessment</b></p> <p>Likelihood 5 x Impact 5 =25</p> <p>Total Score: 25</p>					
Colour					25
Risk Level					Very High

**GCR5-CF5**

<b>GCR5-CF5</b>	<b>What is the risk that access to mineable areas by new applicants is not transparent?</b>	Code CF5
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Lack of public disclosure of mineable areas means that the licensing process in practice may not be genuinely open to competition from applicants, creating incentives for public officers and applicants to indulge in corrupt practices in order to access mineable areas for gold extraction.

<b>Likelihood</b>	<b>Score</b>	<b>Evidence to support assessed likelihood</b>
4/5		

1. The Minerals and Mining Laws do not require the Cadastral Agency to publicly disclose mineable areas.

**Source:** Minerals and Mining Act, 2006 (Act 703)

2. There are complaints by applicants of the difficulty of access to gold mineable areas, which requires them to sometimes make offers to public officials to be shown good mineable areas.

**Source:** Informant interviews, May -September 2019 )

<b>Impact Score</b>	<b>5/5</b>	<b>Evidence to support t assessed impact</b>
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1. High cost and more time spend in search of mineable areas, which could result in slowing down employment

**Source:** Informants in terview in August 2019

2. Reports of difficulty of access to gold mineable areas

**Source:** Gbireh et al., 2007 and Asamoah E. F. et al 2017

**Corruption Impact**

Transparent and publicly disclosed mineable areas will reduce exploration cost, minimize potential land use conflicts and improve confidence in the licensing process.

**Assessment**

Likelihood 4 x Impact 5 =20

Total Score: 20

Colour					20
Risk Level					Very High

**GRC6-CF6**

<b>GCR6.</b>	<b>What is the risk that the First come first served system creates incentives for license holders and Cadastral Officials to engage in corrupt practices?</b>	Code CF6
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Application of the first comer is approved regardless of the merit of other applicants in so far as the first-comer meet the required standards set by the Minerals

<p>Commission. Since there is no competitive assessment of applications, the potential exists for manipulating applications to ensure that favoured applicants appear first. The first comer qualifies by reasons which may not necessarily relate to comparative competence</p>					
<b>Likelihood Score 3 /5</b>		<b>Evidence to support assessed likelihood</b>			
<p>1. Ghana has adopted the First-Come-First Served approach as the policy for the award of mineral licenses in Ghana</p> <p><b>Source:</b> National Mining Policy 2015 and Minerals and Mining Act 2006 (Act 703)</p>					
<p>2. Applications for licenses are accepted by the Minerals Commission for processing strictly on first come basis and this is known by applicants and approving authorities.</p> <p><b>Source:</b> Minerals Commission Register of Applications, Interview with staff of the Minerals Commission on 5<sup>th</sup> September 2019</p>					
<b>Impact Score 2/5</b>		<b>Evidence to support assessed impact</b>			
<p>1. The integrity of the application process could be undermined because applicants do not have confidence that Cadastral Officials follow the time and dates for the submission of applications.</p> <p><b>Source:</b> Applicants interviewed expressed concerns that there is no way of tracking to know who actually comes first, except the Register of Applications</p>					
<p>2. The approach does not assess the competencies of competing applicants rather, it assessment of applicants is done only in relation to the requirement set by the Minerals Commission. This means that nation may be losing because the best applicant may not considered</p> <p><b>Source:</b> Minerals Commission Register of Applications, Interview with staff of the Minerals Commission on 5<sup>th</sup> September 2019</p>					
<p><b>Corruption Impact</b></p> <p>The selection of applicants based on first come has the potential for manipulation and bias, which can lead to the granting of applications to less competent applicants resulting in financial losses to the state and poor environmental and social management. The impact is however, low because the standards requirements set by the Minerals Commission are international best practices required of mining.</p>					
<p><b>Assessment</b> Likelihood 3 x Impact 2= 6 Total Score: 6</p>					
Colour	6				
Risk Level	Very low				

GRC7-PD1

<b>GCR7. What is the risk that face-to-face processing of applications is expensive and time consuming and will create opportunities for corruption?</b>		Code PD1
<i>Unless there is an electronic system that keeps records of the application process, the face-to-face manual application process creates incentives for both applicants and Cadastral officials to engage in corrupt activities. Cadastral officials can easily manipulate the system for personal gain or interest .</i>		
<b>Likelihood</b> 5/5	<b>Score</b>	<b>Evidence to support assessed likelihood</b>
<p>1. Applicants physically appear everyday at the offices of the Minerals Commission to manually register their applications.</p> <p><b>Source:</b> Register of Applications Book at the Minerals Commission (Seen 5<sup>th</sup> September 2019).</p>		
<p>2. Out of 11 steps provided by the MinCom License application procedure, the applicant must physically appear at the Commission, at least 4 times.</p> <p><b>Source:</b> Procedure for Granting Mineral Licenses in Ghana, MinCom, 2019</p>		
<b>Impact Score</b> 5/5		<b>Evidence to support assessed impact</b>
<p>1. The physical appearance of applicants at the Minerals Commission to process their applications imposes burden of cost and time lost on applicants. Applicants are therefore likely to save time and cost by engaging in corrupt practices. Some few respondents reported that sometimes they have to see one or two officers, and one other applicant reported they have to hire the services of a consultant to process their application.</p> <p><b>Source:</b> Random interviews with prospectus applicants at the Minerals Commission on 5<sup>th</sup> September 2019; Interview with CSOs, Applicants, GNASSM, selected District Assemblies and representatives of communities in Mining Areas from August to November 2019.</p>		
<p>2. The manual application process presents increased workload on the staff of the Minerals Commission, as they also have to literally attend to every applicant manually by recording their data on a Book, an indication that the system may be inefficient. Smart persons may exploit the inefficiency to engage in corrupt practices.</p> <p><b>Source:</b> Personal witness of a queue in the Office of the Minerals Title Department of the Minerals Commission during a visit on 5<sup>th</sup> September 2019; The Minerals Commission reported that effort is being made to move away from manual processing to digital/ electronic processing of applications by the end of 2019 (Interview with the Commission on 5<sup>th</sup> September 2019).</p>		
<b>Corruption Impact</b>		



The manual processing of applications compromises the overall integrity of the gold mining application process. It is very expensive and time-consuming for applicants living anywhere in Ghana and the rest of the world to literally converge in Accra in order to acquire a license. It is equally not efficient for the Commission to continue to process applications manually.

**Assessment**

Likelihood 5 x Impact 5 = 25

Total Score: 25

Colour					25
Risk Level					Very High

**GRC8-PD2**

<b>GCR8. What is the risk of Parliament's inability to ratify signed agreements between the government and the applicant?</b>	Code PD2
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*Parliamentary ratification is a legal requirement that makes the Minister of Mines accountable to the representative of the peoples for the decisions he makes about the granting of a gold mining license. This is a deterrent to corrupt decision-making.*

**Likelihood Score 4 /5 | Evidence to support assessed likelihood**

1. Some signed agreements including several small-scale gold mining licenses have not been ratified by Parliament despite the fact that this is a legal requirement

**Source:** Interview with Ghana National Association of Small Scale Miners on May 2019 revealed that 1360 licenses which were issued before the ban on small scale mining had not been ratified by Parliament; A World Bank Policy Research Working Paper 5730 (2011) reports that in 2008 Parliament retroactively ratified 21 mining leases, which were awarded during 1994 –2007.

**Impact Score 5/5 | Evidence to support assessed impact**

1. Failure to ratify signed agreement is a violation of the highest law of Ghana (Article 268 of the 1992 Constitution) .

**Source:** Article 268 of the 1992 Constitution of the Republic of Ghana; Mineral and Mining Act, 2006, (Act 703)

2. Lack of Parliamentary ratification exposes the applicants to legal action, which may result in the revocation of license waste of investment capital. A whole gold mining project can be rendered null and void without Parliamentary ratification which can have impacts on: (i) Host communities from huge unemployment and loss of revenues; (ii) a ban on the operations of the license holder leading to lost of investment capital and lost of confidence by shareholders and bankers; and (ii) lost of trust and confidence in the mining sector by potential investors

**Source:** Media reports in December 2018 of 2 MPs that sued 35 mining companies the Attorney -General and the Minerals Commission at the Supreme Court for

carrying out mining operations when Parliament had not ratified their mining leases in accordance with Article 268 of the Constitution ([www.ghanaweb.com/Ghana HomePage/NewsArchives](http://www.ghanaweb.com/GhanaHomePage/NewsArchives));

**Corruption Impact**

Failure of Parliamentary ratification of signed mining licenses/leases can result in the abrogation of the license/lease. The abrogation will undermine the entire application process and the integrity of government. Also, the abrogation will result in the cancellation of the whole mining project leading to huge investment cost to the applicant and several job losses.

**Assessment**  
Likelihood 4 x Impact 5 = 20  
Total Score: 20

Colour					20
Risk Level					Very High

**GRC9-PD1**

<b>GCR9. What is the risk that lack of legal backing for the Technical Committee on Mineral Titles creates opportunity for the approving authority to easily ignore fair and impartial recommendations of the Committee in order to favour a non-qualified applicant?</b>	Code PD1
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*Laws to protect the recommendations of the Technical Committee on Mineral Titles is important in maintaining an anti -corruption licensing process as neither the Board nor the Minister of Mines can easily set aside the recommendations of the Committee. The absence of laws to protect the recommendations of the Technical Committee on Mineral Titles means that the Board and Minister of Mines can easily set aside these recommendations to favour a preferred applicant.*

<b>Likelihood</b>	<b>Score</b>	<b>Evidence to support assessed likelihood</b>
5/5		

1. The Technical Committee on Mineral Titles carries out evaluation of gold mining applications  
**Source:** Procedure for Granting Mineral Licenses in Ghana, Minerals Commission, obtained in August 2019

2. There are no known channels for public disclosure of the recommendations of the Technical Committee on Mineral Titles  
**Source:** Minerals And Mining (Health, Safety and Technical) Regulations, 2012 (L.I. 2182)

3. The Board and the Minister are not legally obliged to publish reasons for their decision not to follow the recommendations of the Technical Committee, which implies that the likelihood of them setting aside recommendations of the Committee is high.

Source: Minerals and Mining Act, 2006, (Act 703)

<b>Impact Score</b> 2/5	<b>Evidence to support assessed impact</b>
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1. The recommendations of the Committee may be set aside by the Chief Executive of the Minerals Commission, but the Board may request for such recommendations since this is an established practice

**Source:** Interview with Mining Specialist on 12<sup>th</sup> September 2019

2. The gold mining license application process provides for checks and balances by the Gazette Notice, the Technical Committee on Minerals Titles and Parliament to ensure that the Board and the Minister of Mines do not simply jettison .

Source: see process maps and the Minerals and Mining Act, 2006 (Act 703)

**Corruption Impact**

Setting aside the recommendations of the Technical Committee on Minerals Titles could result in short -changing the country by reducing the real value of the mineral. However, this is difficult to occur because there are other checks and balances after the work of the committee from the Board through the Minister to Parliament.

**Assessment**

Likelihood 3 x Impact 2 = 6

Total Score: 6

Colour		6		
Risk Level		Low		

**GRC10-PP2**

<b>GCR10. What is the risk that multiple decision- makers are involved in the application process?</b>	Code PP2
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*The involvement of multiple government agencies, if not well coordinated, can cause delay and create opportunities for the applicant to engage in corrupt practices to save time.*

<b>Likelihood</b> 4/5	<b>Score</b>	<b>Evidence to support assessed likelihood</b>
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1. Many government agencies (Parliament, Minister, MinCom, EPA, Water Resources Commission, Chief Inspector of Mines, District Assembly, Traditional Authorities, Lands Commission, Ghana Publishing Company and the Print Media), are involved directly in the processing of applications for gold mining rights in Ghana.

**Source:** Minerals and Mining Act 2006, (Act 703), Environmental Protection

Agency Act, 1994, (Act 490); Local Governance Act, 2016 (Act 936); Lands Commission Act, 2008 (Act 767); Some applicants interviewed have expressed concerns about the delay. See process/practice maps					
<b>Impact Score 4/5</b>		<b>Evidence to support assessed impact</b>			
<p>1. The multiple involvement of different regulators in the application process tends to delay the application process, especially where one license is contingent on the other as is the case between an operating permit and environmental permit creating opportunities for corrupt practices.</p> <p><b>Source:</b> About 70% of all applicants interviewed expressed concerns about the involvement of multiple actors in the application process, which tends to delay the acquisition of license, particularly in acquiring complementary permits .</p>					
<p><b>Corruption Impact</b> The long list of actors in the license application chain could cause delay and generate incentive for extortion by some of the actors with the ultimate effect of creating disincentive for doing business in the mining sector of Ghana</p>					
<p><b>Assessment</b> Likelihood 4 x Impact 4 = 16 Total Score: 16</p>					
Colour					16
Risk Level					Very High

### GRC11-PP3

<b>GCR11. What is the risk that Cadastral Agency does not comply with standard timelines for the processing of applications ?</b>		Code PD3
<p><i>The non-compliance of standard timelines for the processing of applications creates uncertainties and encourages applicants to engage in corrupt practices to speed up the application process. The uncertainty about deadlines is also an incentive for Cadastral Agency Officials to manipulate the licensing process .</i></p>		
<b>Likelihood Score 5/5</b>		<b>Evidence to support assessed likelihood</b>
<p>1. In most cases, the standard timelines stated in the Minerals and mining Act 2006 (Act 703) are not strictly followed which provides an automatic avenue for exercise of discretion by the Minerals Commission.</p> <p><b>Source:</b> Minerals and Mining Act 2006, (Act 703), Environmental Protection Agency Act, 1994, (Act 490); Interviews with applicants and other respondents (August -November 2019)</p>		
<p>2. Some applications were reported to have stayed beyond the legally stipulated timelines due to (i) lack of information from applicants; (ii) unexplained reasons from MinCom; and (iii) requirements of a complementary permit.</p>		

<b>Source:</b> Interview responses from applicants and selected stakeholders, (August to November 2019)					
<b>Impact Score 4/5</b>		<b>Evidence to support assessed impact</b>			
<p>1. Delays in the processing of license applications give rise to desperate applicants to engage in corrupt practices to pave their way through and such corrupt practices influence decisions of the approving authorities.</p> <p><b>Source:</b> Interviews with most respondents together with the FGD outcome suggested applicants take “additional steps” to fast track applications (Interviews from August -November 2019)</p>					
<p><b>Corruption Impact</b></p> <p>Delays in the processing of license applications give rise to the exercise of discretion by the approving authorities. Delays also give rise for desperate applicants to engage in corrupt practices to pay their way through and the payment may unduly influence decisions of the approving authorities bringing the integrity of the entire application process into disrepute.</p>					
<p><b>Assessment</b></p> <p>Likelihood 5 x Impact 4= 20</p> <p>Total Score: 20</p>					
Colour					20
Risk Level					Very High

#### GRC12-PP4

<b>GCR12.</b>	<b>What is the risk that details of areas that have been licensed for reconnaissance prospecting and lease are not fully and publicly disclosed?</b>	Code PP4
<p><i>Full public disclosure of all areas that have been licensed would promote transparency and accountability, minimize illegal encroachment of concessions and deters corrupt practices such as collusion between the renounced licensed-holders and Cadastral officials especially on information relating to lands availability for application.</i></p>		
<b>Likelihood Score 4 /5</b>		<b>Evidence to support assessed likelihood</b>
<p>1. Information on <i>areas where applicants have renounced their interests is not publicly available, such information is known to the Minerals Commission and the renounced license-holder</i></p> <p><b>Source:</b> Interviews with applicants and small -scale miners (August to November 2019).</p>		
<b>Impact Score 4/5</b>		<b>Evidence to support assessed impact</b>

1. Concerns were being expressed about collusion between renounced license - holders and cadastral officials in extorting money from new applicants in order to provide information on the status of renounced concessions. When you find a place and you want to do your search at the Minerals Commission the Officers will tell you that the place belongs to another mining company. They will then tell you to give them sometime to find out from the mining company to know if that company has renounced its interest in the area . *“But as you know you will have to support them to do the contacts on your behalf.”*

**Source:** Interviews with applicants and small scale miners (August to November 2019)

### Corruption Impact

Lack of full public disclosure of renounced licensed areas suggests lack of transparency, which could allow public officials to engage in corrupt practices such as colluding with the renounced license -holders and selling information on the status of the areas for private gains. Holding on to concessions that have expired is a violation of license conditions

### Assessment

Likelihood 4 x Impact 4= 16

Total Score: 16

Colour					16
Risk Level					Very High

## GCR13-PP5

<b>GCR13.</b>	<b>What is the risk that the lack of specific date for receipt of gazette by the Minerals Commission creates incentives for manipulating stakeholder engagement?</b>	Code PP5
<p><i>Sufficient notification of stakeholders about the licensing process enhances demand-side accountability and deters corruption. The lack of specific dates to receive the gazette from the Publishers does not enable the Minerals Commission to meet the required 21 days publication leading to a manipulation of the timeframe for notification and engagement with stakeholders in the licensing process.</i></p>		
<b>Likelihood Score 5/5</b>	<b>Evidence to support assessed likelihood</b>	
<p>1. There is a legal requirement for the Minerals Commission to publish a gazette notice of pending applications for mineral rights for 21 days</p> <p><b>Source:</b> Minerals and Mining Act, 2006, (Act 703) and Minerals and Mining (Licensing) Regulations, 2012 (L.I. 2176)</p>		
<p>2. Delay in the printing of the Gazette Notice by Ghana Publishing Company</p> <p><b>Source:</b> Interview of staff of the Minerals Commission (September 2019)</p>		

Impact Score 4/5	Evidence to support assessed impact				
<p><b>1.</b> Gazette Notices of pending applications for mineral rights published in less than the legally required 21 days</p> <p><b>Source:</b> Gazette Notice No.123 dated Tuesday, 13<sup>th</sup> August 2019 was still not published as at 5<sup>th</sup> September 2019 due to delay at print.</p>					
<p><b>2.</b> Delay in the print of Gazette Notices of pending applications creates opportunity for the Minerals Commission to manipulate the legally required 21 days leading to potential dent in the integrity of application process.</p> <p>While this is a potential legal breach, the Minerals Commission explained that the delay in the publication is a result of delay in the delivery of printed Gazette Notices by Ghana Publishing Company the only institution responsible for the printing of the Gazette Notices.</p> <p><b>Source:</b> Interview with the Minerals Commission in September 2019.</p>					
<p><b>Corruption Impact</b></p> <p>Delay in the publication of Gazette Notices of pending applications creates opportunity for the Minerals Commission to potentially manipulate (reduce the amount of time legally required for the public to provide feedback) the legally required 21 days, which could lead to the exclusion of views of other stakeholders from the application process. An exclusion of others from the process could potentially dent the integrity of application process.</p>					
<p><b>Assessment</b></p> <p>Likelihood 5 x Impact 4= 20</p> <p>Total Score: 20</p>					
Colour					20
Risk Level					Very High

**CCR14-PP6**

<p><b>GCR14: What is the risk that notices about the gold mining licensing applications are given in languages and channels that are not accessible by persons directly affected by the gold project?</b></p>	<p>Code PP6</p>
<p><i>Notices given in the language that stakeholders understand will help them engage, voice their concerns and promote accountability in the license application process. Notice of Gazette is given in English. The places at which the Gazette Notices are pasted for public view are far away from persons in communities where the concessions are considered for the license application. This practice impedes access to information resulting in non-transparent license process. Non-transparent process</i></p>	

has the potential for generating corrupt practices such as collusion and abuse of office.

<b>Likelihood Score 5/5</b>	<b>Evidence to support assessed likelihood</b>
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1. Notices of gold mining applications are published in English.

**Source:** Gazette Notices are published in English in two national daily papers (the Daily Graphic and the Ghanaian Times)

2. Concerns expressed by local communities that written notices are placed at remote locations i.e. the premises of Local Authorities which are not accessible to majority of persons living in or near the concession areas.

**Source:** Interviews with Local Assemblies, representative of communities in mining areas and the Minerals Commission.

3. Beyond the gazette publication by the Minerals Commission, there is no legal requirement on the Minerals Commission, the Local Authorities and Chiefs/Landowners for evidence of steps taken to receive feedback after publication of gazette notice.

**Source:** The Minerals and Mining Act, 2006 (Act 703)

<b>Impact Score 5/5</b>	<b>Evidence to support assessed impact</b>
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1. The publication of notices in English alone tends to limit access to information by majority of persons directly affected by the gold mining project creating a situation of non-transparent licensing process a potential ground for corruption.

**Source:** Gazette Notice, Daily Graphic and Ghanaian Times are all in English

2. Majority of representatives of communities affected by mining expressed concerns that the notices for mining licenses are published in places far remote from them and limit their ability to provide input into the licensing process creating a non-transparent license process.

**Source:** Informant interviews and focused group discussions (August to November 2019)

3. The absence of legal requirement on the Minerals Commission, the Local Authorities and Chiefs/Landowners for evidence of steps taken to receive feedback after publication of gazette notice creates opportunity for officers to withhold information for corrupt purpose.

**Source:** Minerals and Mining Act, 2006 (Act 703) requires gazette publication in 21 days but not evidence of steps taken to receive feedback

**Corruption Impact**

A transparent licensing process allows effective and meaningful participation of stakeholders. However, a non-transparent process (language barrier and limited



disclosure and access to information) creates opportunities for both applicants and approving officials to withhold information and suppress dissent for potential corrupt purposes.					
<b>Assessment</b>					
Likelihood 5 x Impact 5=25					
Total Score: 25					
Colour					25
Risk Level					Very High

### GCR15-PP7

<b>GCR15.</b>	<b>What is the risk that geological data about license areas are not publicly available creating opportunity for applicants to involve in influencing officials to make decisions in their favour ?</b>	Code PP7
<i>The public knowledge about the availability of geological data reduces the ability of applicants to influence public officials to make decisions in their favour. It also reduces the ability of Cadastral staff to extort bribes from applicants in order to provide geological information .</i>		
<b>Likelihood</b>	<b>Score</b>	<b>Evidence to support assessed likelihood</b>
4/5		
<p>1. Geological and other natural resources data and information are not publicly known Ghana does not have a publicly available, digitized register or cadastre system(s) .</p> <p><b>Source:</b> UNDP Ghana (2015), Final Report, Accra states “Ghana does not have a publicly available, digitized register or cadastre system(s)...” (p2 7); International Study Group Report (2009); Applicants conducts search of their identified areas of interest only at the Minerals Commission.</p>		
<p>2. There is no central coordinating point at which such information can be obtained and validated .</p> <p><b>Source:</b> UNDP Ghana (2015, p26), Final Report, Accra states that an analysis of the status of the country’s management of geological and mineral information systems reveals a certain lack of coordination between the Geological Survey Department and Minerals Commission on the collection and management of Ghana’s geological data and mining information.</p>		
<b>Impact Score</b>	<b>4/5</b>	<b>Evidence to support t assessed impact</b>
<p>1. Tax holidays and incentives provided by government to compensate for expensive exploration cost and attract investment are subject to corrupt manipulation in the form of tax evasion and avoidance.</p> <p><b>Source:</b> Report of Government revenues being eroded by tax avoidance strategies of mining companies (December 2016) .</p>		

2. The lack of publicly available, digitized register or cadastral system(s) provides incentives for corrupt manipulation of information by either the applicant or the approving authorities.

**Source:** Some applicants alleged the manipulation of search results at the confirmation stage (Interviews responses from August to November 2019).

**Corruption Impact**

The poor status of geological and natural resources information and management has the potential to undermine the competitiveness of the country as an investment destination for gold mining, and can negatively affect the country’s negotiating power with investors. The uncertainty about and inaccessibility to information is an incentive for corruption, which could be initiated by either the public official or the applicant.

**Assessment**

Likelihood 4 x Impact 4= 16

Total Score: 16

Colour					16
Risk Level					Very High

**GRC 16-CC1**

<b>GCR16.</b>	<b>What is the risk that the gatekeeper role of chiefs in the licensing process empowers them to engage in under-hand dealings with applicants ?</b>	Code CC1
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*Chiefs and landowners will not represent community interests. They will also not be accountable to the members of their community in their negotiations and dealings with public officials and the applicants of gold mining license. They have incentives to pursue their personal individual interest.*

Likelihood	Score	Evidence to support assessed likelihood
5/5		

1. Chiefs and landowners receive gazette notification but do not organise community meetings.

**Source:** Minerals and Mining Act 2006 (Act 703), Gazette notification; Interviews with some chiefs and communities who report gazette notice often comes too late (August -November 2019)

2. Lack of awareness by communities on the legal requirement for community consultation during the processing of license application

**Source:** Interviews and focus group discussions with communities (August to November 2019)

<p><b>3. Lack of community knowledge on the responsibility of the Minerals Commission to communities during the processing of license application.</b></p> <p><b>Source:</b> Interviews and focus group discussions with communities (August to November 2019)</p>					
Impact Score 5/5		Evidence to support assessed impact			
<p><b>1. Collusion of some traditional authorities and state institutions with companies against communities</b></p> <p><b>Source:</b> CHRAJ Report of widespread collusion of some traditional authorities and state institutions with companies against communities</p>					
<p><b>2. Private interest of individual chiefs tend to diminish the larger community development</b></p> <p><b>Source:</b> Interviews responses revealed that some chiefs are serving as individuals contractors to Mining companies and therefore are unable to defend the larger community interests (Interviews and Focus Group Discussions in Kenyasi, New Abirim, Chirano, and Obuasi)</p>					
<p><b>Corruption Impact</b></p> <p>The gatekeeper role of chiefs and landowners tend to empower the chiefs who utilize their additional power to project their private interest against the larger development interest of the community. In effect, there is no accountability and the community as a whole fail to maximize the benefits of mining projects in their communities.</p>					
<p><b>Assessment</b> Likelihood 5 x Impact 5= 25 Total Score: 25</p>					
Colour					25
Risk Level					Very High

### GRC17-CC2

<b>GCR17.</b>	<b>What is the risk that lack of community consultation creates opportunities for applicants and Cadastral Officials to abuse community rights and engage in non-compliance and corrupt practices ?</b>	Code CC2
<p><i>Meaningful consultation empowers stakeholders and communities to engage in the license application process, which enhances accountability and deters corruption. The lack of meaningful consultation provides incentives for applicants and Cadastral officials to abuse stakeholder rights and engage in corrupt practices .</i></p>		
<b>Likelihood</b>	<b>Score</b>	Evidence to support assessed likelihood
5/5		

<p>1. The legal requirement for stakeholders and community consultation is very narrow, without indicators for meaningful consultation.</p> <p><b>Source:</b> Minerals and Mining Act 2006 (Act 703)</p>	
<p>2. Lack of awareness by communities on the legal requirement for community consultation during the processing of license application</p> <p><b>Source:</b> Interviews and focus group discussions with communities (August to November 2019)</p>	
<p>3. Lack of community knowledge on the responsibility of the Minerals Commission to communities during the processing of license application.</p> <p><b>Source:</b> Interviews and focus group discussions with communities (August to November 2019)</p>	
<b>Impact Score 5/5</b>	<b>Evidence to support assessed impact</b>
<p>1. Community concerns not included in the granting of gold mining license resulting in various agitations during mine development and production</p> <p><b>Source:</b> Media reports (<a href="http://www.ghanaweb.com">www.ghanaweb.com</a>; <a href="http://www.myjoyonline.com">www.myjoyonline.com</a> <a href="http://www.citifmonline.com">www.citifmonline.com</a> <a href="http://www.researchgate.net">www.researchgate.net</a>) June 10<sup>th</sup> 2019; March 29<sup>th</sup> 2017</p>	
<p>2. Mining related social conflicts in community in mining areas</p> <p><b>Source:</b> Akabzaa T. (2000), Boom and Dislocation; Akabzaa T., and Darimani A., (2001), SAPRI Report.</p>	
<p>3. Legal action by local communities against mining companies for undervaluing and payment of their compensation entitlements</p> <p><b>Source:</b> CHARJ (2008) Report on Mining and the economic and social rights of communities, Court Case of Chirano Communities against Chirano Gold Mines;</p>	
<p>4. Specific concerns of women and girls are not included in the granting of gold mining license resulting in widening the level of poverty among them and their exploitation</p> <p><b>Source:</b> The William and Hewlett Foundation (March, 2017) Report of women facing risk of harassment and abuse <a href="https://www.bsr.org">https://www.bsr.org</a>; Akabzaa (2000), Boom and Dislocation; iisd Report indicating women face exclusion when key issues are discussed in associations, local governments, and other platforms and as a result are they are exploited <a href="https://www.iisd.org">https://www.iisd.org</a>; International Women in Mining (IWIM) <a href="https://internationalwim.org">https://internationalwim.org</a> reports that women's participation in the large-scale mining sector is low, and discriminatory practices act as barrier to hinder women from being able to easily gain a license, sell or rent their land for mining, as well as preventing them from working in certain roles, ILO (2007) report on Girls in Mining in Ghana.</p>	
<b>Corruption Impact</b>	

Lack of and inadequate consultation results in social conflicts of different level of intensities, underpayment of properties, further marginalization of women and delay in the execution of mining projects					
<b>Assessment</b> Likelihood 5 x Impact 5= 25 Total Score: 25					
Colour					25
Risk Level					Very High

### GRC18-CC3

<b>GCR18. What is the risk that the Free Prior informed consent will be ignored?</b>		Code CC3
<i>Ghana is signatory to the ECOWAS Directive on Mining the Africa Mining Vision and the United Nations requirement for free prior informed consent (FPIC) for mining projects. The requirement to obtain FPIC of communities in mining areas has not been met in the gold mining licensing process.</i>		
<b>Likelihood</b>	<b>Score</b>	<b>Evidence to support assessed likelihood</b>
5/5		<p>1. Prior informed consent of communities has not yet been domesticated in the laws of Ghana.</p> <p><b>Source:</b> Public Agenda Report (15<sup>th</sup> May 2015) asking the Government of Ghana to take immediate steps to begin the process of incorporating Free Prior Informed Consent (FPIC) clauses into Ghana's mining laws ; Minerals and Mining Act, 2006 (Act 703)</p> <p>2. Prior informed consent of communities has not been obtained prior to licensing. There are legal norms requiring stakeholder consultations but consultation takes place in the form of public notification.</p> <p><b>Source:</b> Interviews and focus group discussions with communities (August to November 2019); 21 days Gazette Notification</p>
<b>Impact Score</b>	<b>5/5</b>	<b>Evidence to support assessed impact</b>
<p>1. Community concerns not included in the granting of gold mining license resulting in various agitations during mine development and production</p> <p><b>Source:</b> Media reports (<a href="http://www.ghanaweb.com">www.ghanaweb.com</a>; <a href="http://www.myjoyonline.com">www.myjoyonline.com</a> <a href="http://www.citifmonline.com">www.citifmonline.com</a> <a href="http://www.researchgate.net">www.researchgate.net</a>) June 10<sup>th</sup> 2019; March 29<sup>th</sup> 2017</p> <p>2. Mining related social conflicts in community in mining areas</p> <p><b>Source:</b> Akabzaa T. (2000), Boom and Dislocation; Akabzaa T., and Darimani A., (2001), SAPRI Report.</p>		

**3. Legal action by local communities against mining companies for undervaluing and payment of their compensation entitlements**

**Source:** CHARJ (2008) Report on Mining and the economic and social rights of communities, Court Case of Chirano Communities against Chirano Gold Mines

**Corruption Impact**

There is a wide gap between FPIC as a legal norm to foster meaningful engagement with communities including women and State practice. State and applicants exploit this gap to their advantage leaving members of local communities and women in their marginalized state unable to claim their fundamental human rights and interest. It is hard to incorporate the concerns of women due to their lack of involvement which results in such impacts as increased time for access to water, fuelwood, and vegetables

**Assessment**

Likelihood 5 x Impact 5=  
Total Score: 25

Colour					25
Risk Level					Very High

**GRC19-CC4**

<b>GCR19.</b>	<b>What is the risk that compensation packages for property owners will not be fair and publicly disclosed?</b>	Code CC4
<i>Total disclosure and fair compensation packages to property owners will drastically reduce the potential for corruption such as under-estimation of property rates and unfair payment</i>		
<b>Likelihood</b>	<b>Score</b>	Evidence to support assessed likelihood
5/5		
1. Land and properties taken in lieu of compensation		
<b>Source:</b> The 1992 Constitution of the Republic of Ghana; Minerals and Mining Act 2006, (Act 703)		
2. Widespread inadequate payment of compensation resulting in community protests attracting police and security brutalities		
<b>Source:</b> CHARAJ (2008) Report of incidents of police and military brutalities in mining communities as well as inadequate compensation for destroyed properties; World Bank Policy Research Working Paper, Issue Paper 5730 Para 63 reports that the expropriation of land to be used for mining causes significant controversy, and		

<p>government management of the issue has been weak partly because the solutions are seen as unfair to the communities that have to lose the land and partly because the rules for expropriation are nontransparent.</p>					
<p><b>3. Reports of under -valuation and under -payment of properties affected by mining</b></p> <p><b>Source:</b> Interviews and focus group discussions with communities (August to November 2019);</p>					
<p><b>4. Women excluded from payment of compensation for their land and houses they occupied</b></p> <p><b>Source:</b> Interviews and focus group discussions with women in Hweakwae, Chirano, Kenyasi and Obuasi (August to November 2019)</p>					
<b>Impact Score 5/5</b>		<b>Evidence to support t assessed impact</b>			
<p><b>1. Community concerns not included in the granting of gold mining license resulting in various agitations during mine development and production</b></p> <p><b>Source:</b> Media reports ( <a href="http://www.ghanaweb.com">www.ghanaweb.com</a>; <a href="http://www.myjoyonline.com">www.myjoyonline.com</a> <a href="http://www.citifmonline.com">www.citifmonline.com</a> <a href="http://www.researchgate.net">www.researchgate.net</a>) June 10<sup>th</sup> 2019; March 29<sup>th</sup> 2017</p>					
<p><b>2. Mining related social conflicts in community in mining areas</b></p> <p><b>Source:</b> Akabzaa T. (2000), Boom and Dislocation; Akabzaa T., and Darimani A., (2001), SAPRI Report.</p>					
<p><b>3. Legal action by local communities against mining companies for undervaluing and payment of their compensation entitlements</b></p> <p><b>Source:</b> CHARJ (2008) Report on Mining and the economic and social rights of communities, Court Case of Chirano Communities against Chirano Gold Mines; Bontefufuom Communities against Keagan Resources</p>					
<p><b>Corruption Impact</b></p> <p>There is widespread mistrust, exclusion and resistance regarding the packages of compensation due to property owners. This mistrust tends to serve as barrier for the benefits of mining to trickle down to communities and women while proving the incentives for corruption through underpayment of compensation.</p>					
<p><b>Assessment</b></p> <p>Likelihood 5 x Impact 5= 25</p> <p>Total Score: 25</p>					
Colour					25
Risk Level					Very High

# TRANSPARENCY INTERNATIONAL'S MINING FOR SUSTAINABLE DEVELOPMENT PROGRAMME

Ghana Integrity Initiative is one of 20 national chapters participating in Transparency International's global Accountable Mining Programme (AMP), coordinated by TI Australia. The AMP complements existing efforts to improve transparency and accountability in extractive industries by specifically targeting the start of the mining decision chain: the point at which governments award mining permits and licences, negotiate contracts and make agreements.

With a focus on strengthening and improving systems to prevent corruption, the AMP leads evidence-based multi-stakeholder engagement at the national, regional and global levels to improve transparency, accountability and integrity.

Through country-level corruption risk assessments, the AMP helps shed light on the problem of corruption in mining by identifying and assessing the sources of corruption risk in licensing and permitting processes.

With this evidence, national chapters work with key stakeholders from government, the mining industry, civil society and affected communities to jointly tackle the priority corruption risks identified in their country.

<https://transparency.org.au/global-mining/>