

DOING *JUST* BUSINESS: AN EMPIRICAL ANALYSIS OF
MINING MULTINATIONALS, HUMAN RIGHTS AND
SUSTAINABLE COMMUNITY DEVELOPMENT IN WESTERN
GHANA

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Abstract

This interdisciplinary research examines the ability of gold mining multinationals to fulfil their human rights obligations and investigates how local communities in Ghana attempt to hold these corporations accountable with respect to human rights. The Canadian mid-tier gold mining company Golden Star Resources (GSR) and its host community in Dumasi were used to carry out an intensive case study which explored the relationship between business and human rights and its implications for sustainable community development in a Global South context. Adopting a mixed-method approach, I collected data during a three-month fieldwork in Ghana. Findings from the study suggest that GSR is not meeting its human rights obligations in Dumasi largely due to the complex interaction between *internal* organisational factors and the nature of the *external* socio-political environment in which GSR operates. In response to prevailing corporate human rights abuses, Dumasi community members have adopted accountability strategies that are moderately effective.

Dedication

This thesis is dedicated to the people of Dumasi who continue to demonstrate resilience, determination and courage in their long-standing struggle for their *amansa fahowdie* (**English translation:** human rights)

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Every good and perfect gift is from above, coming down from the Father of the heavenly lights, who does not change like shifting shadows. (James 1:17)

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LIST OF ACRONYMS

BHR	Business and Human Rights
CHRAJ	Commission on Human Rights and Administrative Justice (Ghana)
CSR	Corporate Social Responsibility
ESC	Extractive Sector Companies
GPs	Guiding Principles for Business and Human Rights
GSR	Golden Star Resources
IFC PS5	IFC Performance Standard 5 Land Acquisition and Involuntary
NGO	Non-Governmental Organisation
PRR	Protect, Respect & Remedy (Framework)
RBD	Right-Based approach to Development
TNC	Transnational Corporation
SAP	Structural Adjustment Programme
SLO	Social Licence to Operate
VPs	Voluntary Principles on Security and Human Rights
WACAM	Wassa Association of Communities Affected by Mining (NGO)
WUSC	World University Services of Canada (NGO)

CHAPTER 1: INTRODUCTION AND OVERVIEW

1.1 Problem Statement

“We all [business, government and civil society] have to do more to protect and promote the human rights of mining communities” – An employee from Ghana’s Mining & Minerals Commission

“Mining is a power game. It goes beyond economic activities. People wield power in mining.” – An employee from WACAM Ghana (NGO)

Corporate-community conflicts regarding the use of land and control over natural resources have persisted since the inception of commercial gold mine production in Ghana (Hilson & Nyame, 2006). Unfortunately, existing laws (i.e. Minerals and Mining Act of 2006) and policies (e.g. Minerals and Mining Policy of Ghana etc.) have done little to ameliorate the antagonistic relationship between mining multinationals and their host communities. In part, this is due to the fact that local communities continue to bear the burden of resource extraction in the form of human rights abuses and environmental degradation while gaining very little socio-economic benefits (Garvin, McGee, Smoyer-Tomic & Aubynn, 2009).

Considering the near absence of the government in these communities and limited legal instruments to protect community rights, foreign multinationals, including Canadian mining companies (see Table 1) are expected to fulfil a quasi-governmental role (Crane, 2011) by contributing to sustainable development in the host community where they do business (Garvin et al., 2009). Generally, host communities commonly anticipate that these companies are profitable, protect the environment (Idemudia, 2014)

and respect human rights (Ruggie, 2008). In practice, transnational corporations (TNCs) operating in areas of limited statehood are faced with numerous institutional challenges and do not always manage to meet their socio-environmental responsibilities and human rights obligations.

Table 1: List of some Canadian mining companies operating in Ghana

Company	Metal	Headquarter	Area of operation(s)	Stock Exchange
African Gold Group, Inc.	Gold	Toronto, Ontario	Asankrangwa & Nyankumasi	Toronto Stock Exchange
African Queen Mines Ltd.	Gold	Vancouver, British Columbia	No information	TSX Venture Exchange
AMI Resources Inc.	Gold	Vancouver, British Columbia	Beposo	TSX Venture Exchange
Asanko Gold Inc.*	Gold	Vancouver, British Columbia	Asankragwa & Asumura	Toronto Stock Exchange New York Stock Exchange
Asante Gold Corporation*	Gold	Vancouver, British Columbia	Betanase & Fahiakoba	Athens Stock Exchange Frankfurt Stock Exchange
Ashanti Gold Corp.	Gold	Vancouver, British Columbia	Anunso & Kossanto	Toronto Stock Exchange
Birim Goldfields Inc.	Gold	Montreal, Quebec	Bui District	No information provided
Buccaneer Gold Inc.		Toronto, Ontario	No information	Toronto Stock Exchange
Castle Peak Mining Ltd.	Gold	Port Coquitlam, British Columbia	Apankrah	Toronto Stock Exchange
Golden Star Resources Ltd.	Gold	Toronto, Ontario	Wassa & Bogoso/Prestea	NYSE MKT Stock Exchange Toronto Stock Exchange Ghana Stock Exchange
Kinross Gold Corporation	Gold	Toronto, Ontario	Chirano	Toronto Stock Exchange
Mindland Minerals Ghana Ltd. (a subsidiary of Rosita Mining Corporation)	Gold	Toronto, Ontario	Kaniogo & Kwahu Praso	TSX Venture Exchange

Moydow Mines International	Gold	Toronto, Ontario	Hwidiem & Agyakusu	No information provided
Pelangio Exploration Inc.	Gold	Toronto, Ontario	Obuasi, Manfo, Akroma	TSX Venture Exchange
Xtra Gold Resources Corp.	Gold	Toronto, Ontario	Kyebi/ Kibi	Toronto Stock Exchange

Source: Author's compilation from different sources

* These are two distinct mining companies despite the similarities in the name.

For example, Hilson & Nyame (2006) inform us that thousands of Ghanaian subsistence farmers and small-scale miners have been forcefully displaced in the quest to expand the operation of large-scale gold mining without having received adequate compensation. In and around the town of Tarkwa, for example, a foreign mining company unlawfully destroyed houses, schools, and religious institutions so as to commence mine production (Mensah-Pah, 2008). Additionally, the NGOs FIAN International and Wassa Association of Communities Affected by Mining (WACAM) documented several cases of human rights violations between 2004 and 2008. Among other things, private security personnel of mining companies with the help of armed police and soldiers used extreme violence in stopping illegal miners which sometimes resulted in severe injuries and in other instances in the deaths of community members (Ellimah, 2015). In fact, these human rights violations have culminated in a number of official complaints by various human rights organisations against the Ghanaian government to respond to the rule governing the operations of mining companies (Amevor, 2008).

1.2 Research Objectives

Notwithstanding these incidences of corporate human rights abuse, scholars writing about the Ghanaian extractive industry in particular, often phrase them as environmental and socioeconomic problems (e.g. Akabzaa, 2009; Garvin et al., 2009, Mensah et al., 2015, Tschakert & Singha, 2007; Hilson & Nyame, 2006 etc.), that companies can potentially address via their corporate social responsibility (CSR) programs. Because these scholarly works tend to neglect the legal dimension of corporate-community conflicts, not enough attention has so far been given to mining companies' direct legal obligations to respect and when possible, also protect the human rights of their host communities under international law.

Yet an emphasis on human rights is important for three reasons: First, human rights matters do not only encompass socioeconomic and environmental problems but also involve questions surrounding the expropriation of farm land for extractive activities, adequate compensation for resettlements, citizen's rights to participate in decision making process and governance of natural resources (e.g. Free Prior Informed Consent), as well as their right to freedom of peaceful assembly (see Table 3 for a list of human rights that business can impact). As such, by not discussing these human rights concerns, important issues are being left out the debate regarding the impact of gold mining in Ghana.

Second, corporate human rights obligations transcend voluntary initiatives (e.g. CSR) as the violations of human rights can have concrete legal implications for a

company (e.g. The Gap lawsuit regarding sweatshop condition in factories, Nestle lawsuit regarding their alleged complicity in the murder of a trade unionist, Coca Cola lawsuit regarding racial discrimination etc.), as well as result in far-reaching reputational damage and the loss of social license to operate. Besides, Avery (2006) maintains that unlike the business case for CSR, companies are obliged to respect human rights at all times regardless of whether there is a business case or not. Thus, in contrast to CSR, corporate human rights obligations are located in the realm of justice and cannot be defended on strategic grounds exclusively (i.e. *upholding human rights is allegedly good for business*) largely due to the moral nature of human rights (Wettstein, 2012).

Finally, Giuliani et al. (2016) highlighted that within the broader literature, business and human rights (BHR) in *developing countries* is still an underexplored terrain. In part, this is because business responsibilities continue to be discussed within the western and non-western binary and as such the complex contextual conditions in Global South countries containing areas of limited statehood are often not sufficiently captured in the CSR and BHR literature. It follows that more research that interrogates the interwoven dynamics of the state, private entities and local power struggles regarding resource extraction-related human rights abuses are needed. In fact, Giuliani et al. (2016) have called for studies that can provide more insight into the human rights conduct of multinationals operating in Global South countries. Of particular interest is the question of whether multinationals adopt corporate social responsibility (CSR) and

other international initiatives for symbolic purposes or whether these initiatives are used to conduct ethical business in line with human rights principles (Giuliani, 2016; Marquis & Qian, 2014; Meyer & Rowan, 1977). In an attempt to fill some of these gaps in the literature, this research uses the Canadian mining company Golden Star Resources (GSR) and its host community in Dumasi as a case study to address the following related objectives:

1. To critically examine the extent to which Golden Star Resources meets its human rights obligations in its host communities in Dumasi
2. To investigate community-based strategies for securing corporate accountability in the host communities of Golden Star Resources;
3. To discuss the theoretical and practical implications of the findings for business, human rights, and sustainable community development in areas of limited statehood.

1.3 Significance of the Study

Although businesses have been directly and indirectly implicated in human rights-related issues via their actions or inactions for decades, the BHR literature is still relatively rudimentary. Changing global geopolitics which has, on one hand, created a state accountability void and, on the other hand, increased the sphere of influence of large corporations have impelled a debate over the direct human rights obligations of multinationals (Cragg et al., 2012). Indeed, using Fuchs (2007) typology, Reggie's (2017)

discusses the political power of contemporary multinational enterprises by revealing the ways in which large businesses wield instrumental, structural and discursive power. Thus, the demand to extend human rights responsibilities to non-state actors including commercial enterprises was born out the realisation that the capacity and power of the state in a globalised world was diminishing (Chapham, 2006). Against this background, different scholars started raising questions about the effectiveness of having the state as the sole protector of its citizens' fundamental rights (Clapham, 2006; Alston, 2005; Andreopoulos, Arat & Juviler, 2006; Oliver & Fedtke, 2007).

At the same time, the regulation and oversight of corporations' environmental and social conduct or lack thereof in the global economy were becoming another important concerns. For instance, Obara (2017) pointed out that most allegations of human rights violations are made against companies in the extractive sector and as such the industry has faced tremendous public scrutiny and critique.

While the endorsement of the UN Guiding Principles on Business and Human Rights (GPs) has significantly moved the debate on corporate human rights responsibility forward, the extent to which the "Protect, Respect & Remedy" (PRR) framework has translated into better human rights outcome on a community-level remains unclear (Kwakyewah & Idemudia, 2017). Accordingly, this research is relevant as it will make a valuable theoretical contribution to this debate by investigating some of the community-based strategies and governmental policy initiatives (i.e. national and global) that have been adopted to regulate businesses with respect to human rights.

Moreover, this research will provide empirical insight into the strengths and limitations of the GPs in a Global South context. Analytically, the research will offer an integrative explanation to corporate-community conflicts in the extractive industry. Finally, findings from the study can have practical implication as it could potentially inform public policy and regulation for Canadian extractive companies operating abroad.

CHAPTER 2: LITERATURE REVIEW AND THEORETICAL FRAMEWORK

2.1. What are Human Rights?

The Office of the UN High Commissioner for Human Rights (OHCHR) defines human rights as those fundamental rights inherent to all human beings regardless of nationality, place of residence, national or ethnic origin, sex, religion, language or other status (OHCHR, 1996-2018). Generally, these rights are said to derive from commonly shared values intended to guarantee human dignity and fulfilment of basic human needs. Under international law, human rights are regarded as universal, inalienable, interrelated, interdependent and indivisible. A landmark document adopted in 1984 by the UN General Assembly, the Universal Declaration of Human Rights articulates these universal rights and freedoms that all humans are equally entitled to, through a preamble and 30 articles. Although the OHCHR offers a widely used definition of human rights for practical affairs, attempts to define the concept of human rights can nonetheless prove to be a challenging undertaking. Until today, there are still disagreements about the existence, justification, affordability, universality and benefits of human rights (Orend, 2002). Thus, as a contested, changing and historically specific and contingent concept (Donnelly, 2013), the idea of human rights and what constitute rights, for that matter, lack a consensual definition.

For instance, in considering their broader moral foundation or ethical justification, Wettstein (2012) sees human rights as moral concepts and hence moral rights. Because moral rights are said to be pre-positive and pre-political rights, their

legitimacy and relevance do not depend on their codification into positive law (Wettstein, 2012). Indeed, Feinberg (1973) explained that moral rights “exist prior to, or independently of, any legal or institution rules (p. 84).

Similarly, for Donnelly (2013), the term “right”, has a moral and a political meaning, namely, rectitude (righteousness) and entitlement. When we speak of rectitude, we are typically concerned with questions about “doing the right thing”. Conversely, “entitlement”, in a simplistic sense, means “having the right to something”. This right to something belongs to someone and when it is being threatened or denied rights-holders have the authority to make claims that usually surpass utility, social policy and other moral or political grounds for action (Dworkin, 1978). Despite its natural attractiveness and moral appeal, the idea that human beings everywhere have rights on the mere basis of their humanity and regardless of citizenship or territorial legislation, has been heavily critiqued by some as “foundationally dubious and lacking in cogency” (Sen, 2004, p. 315). These critics frequently ask where these rights originated from and take issue with natural rights claims that are not rooted in specific qualifications like citizenship or legal entitlements. For instance, in his work *Anarchical Fallacies* published in 1792, Jeremy Bentham completely dismisses the notion of human rights and even calls natural rights “simple nonsense” (p. 501). Then, there are those who generally embrace the idea of human rights but reject specific classes of rights, especially the so-called second-generation rights (i.e. Economic, Social and Cultural Rights) (Sen, 2004). Some of these critics include scholars like Cranston (1983) and

O'Neill (1996) who stress the feasibility challenge of human rights and their reliance on certain social institutions that may or may not exist.

Furthermore, Nussbaum (1997) pointed out that some scholars have also questioned whether rights are correlated with duties and whether all duties are correlated with rights. These questions about the foundation of rights, as well as duty-bearers and rights-holders, are particularly relevant when considering rights in the international arena.

In discussing the notion of human rights, Nussbaum (1997) outlined the various ways in which a right and human rights have been conceptualised and defined over time. For instance, Woodwiss (2005) makes mention of the debate between advocates of natural law theory and legal positivists about the nature of rights. Natural rights theorists see rights as entitlements belonging to a human by virtue of being a human that deserves protection. Within this school of thought, there are those who interpret rights on the basis of "possession of rationality and language" and in so doing imply that non-human animals and individuals with mental health disabilities do not have such rights (Nussbaum, 1997, p. 273). In contrast, some philosophers within the natural rights theory ground rights in sentience and thus consider animals, rights-bearers. Besides the natural law theory, there is another tradition with thinkers who view all rights as a product of state action. For instance, Woodwiss stated that rights are "neither self-generating nor self-enforcing" (p.3). Notably, Immanuel Kant is an influential exemplar of such understanding of the nature of rights (see Kant, 1798). This view

appears to denote that rights can only exist when the state recognises them. In line with this thinking Galtung (1994) argued that before any society can speak of human rights claims, that society must have first constructed a conception of persons as individuals and/or member of groups, a state, and legal instruments and mechanisms for enforcing any applicable limitations or requirements. Not surprisingly, proponents of the natural law theory strongly oppose this idea and rather maintain that human beings are entitled to certain rights irrespective of whether the state recognises these rights or not (Nussbaum, 1997).

Another point of divergence relates to the question of rights-bearer. For Woodwiss (2005), rights denote a set of legally enforceable expectations about how others ought to behave towards rights-bearers. Legally, right-bearers must be autonomous moral agents or entities possessing “personality” that are capable of taking decisions and able to accept responsibilities (e.g. the state, corporations, trade unions or an adult). While more controversial, there are also those who classify members of groups as rights bearers with legal entitlements to make claims to protection and/ or support on the basis of the principles of reciprocity. Typically members of these groups have been deprived of their autonomy due to their age (i.e. children), race, gender, sexuality, socio-economic status, mental and physical disability or indigenouness (Woodwiss, 2005).

A different complex theoretical question has been what rights are to be seen as rights *to*. For example, when we discuss rights are we referring to rights to be treated a

particular way, rights to a certain level of well-being, right to resources or rights to opportunities and capacities (Nussbaum, 1997)?

In addition to these intricate unresolved theoretical questions about rights, Sarat and Kearns (2002) also draw our attention to the disagreement about the meaning of human rights and what they entail. As Renteln (1988, 1990) explains, disagreements over the specific rights claim and how different cultures interpret the content of rights have not ceased. Recognising the challenges related to providing a conceptual investigation of human rights, Michael (2002) suggested that the analysis of human rights should be coupled with a compassionate understanding of human experiences. Indeed, the foreign minister of Singapore echoed similar sentiments at the Vienne Conference on Human Rights when he stated “[T]he extent and exercise of rights ... varies greatly from one culture and political community to another ... because [rights] are the products of historical experience of particular peoples.”¹

Understandably, human rights practitioners, primarily concerned with addressing severe oppression and human sufferings across the globe, tend to be less interested in offering a conceptual justification. That said, we cannot deny the importance of pursuing conceptual clarity of human rights. Yet as Sen (2004) noted, legal and political theorists can learn a great deal from the reasoning of human rights activists and the variety of practical actions they take to promote and safeguard the human rights of marginalised people around the world.

¹ Statement by Wong Kan Seng, minister of foreign affairs of the Republic of Singapore, Vienne, June 16, 1993, entitled “The Real World of Human Rights, “ in Tang, *Human Rights*, 234

2.2 Human Rights and Culture: Western versus Akan Conception of Human Rights

International human rights instruments are grounded on the idea that there are fundamental universal human rights that are relevant to every human being across the globe irrespective of differences in values and cultural practices (Potter et al., 2012). In this regard, human rights are said to be entitlements of all persons rooted in human nature, thus making them inalienable. Notwithstanding this widely held view among mainstream human rights institutions, a number of researchers have heavily critiqued this “universalist” approach to human rights which have over time accumulated into a set of scholarly work, captured under the umbrella of cultural relativism in human rights.

Using the Universal Declaration of Human Rights as a starting point, critics of human rights universalism argue that rights and freedoms are culturally, ideologically and politically nonuniversal and often underscore the “Western” or “Judeo-Christian” predisposition within present global human rights standards (Preis, 1996). For instance, Ake (1987) believes, the Western idea of human rights or legal rights ascribes abstract rights to abstract beings and carry values that are foreign to traditional African societies. As far as he is concerned, these rights, particularly civil and political rights, are sociologically specific and “appeal to people with a full stomach who can now afford to pursue the more esoteric aspects of self-fulfilment” (p. 5).

Others like Pollis and Schwab (1979) also draw our attention to the cultural and ideological ethnocentrism in the domain of human rights and human dignity. In their

view, the Universal Declaration is underpinned by democratic and libertarian values “based on the notion of an atomized individual who possesses certain inalienable rights in nature” (p. 1 &8). Yet in many cultures, the notion of group is significantly more prevalent than the Western idea of individualism. For instance, Ugochukwu, Badaru & Okafor (2012) discussed the concept of group rights and analysed how groups rights provision within the African Charter of Human People’s Rights has been interpreted and applied. Perhaps not surprisingly, Pollis and Schwab (1979) consider the Anglo-European construct of human rights “inapplicable” and “of limited validity” at best and “meaningless” in Global South contexts at worst. Similarly, Legesse (1980) observed how different cultures conceptualise human rights in varying cultural idioms.

By way of example, Wiredu (1990) delved into the philosophical tradition of the Akan ethnic group (of post-colonial Ghana) to provide a justificatory basis for human rights claims. Specifically, he accentuated the descriptive and normative aspects of Akan conception of a person to demonstrate the existence and the nature of human rights in Akan culture. To begin with, there are three foundations within the Akan conception of a person: (1) the life principle (*okra*, **English translation:** soul) which originates directly from God, (2) the blood principle (*mogya*, **English translation:** blood) which is said to come from the mother and forms the basis of lineage or ethnic identity and (3) the personality principle (*sunsum*, **English translation:** spirit) which is associated with the father. As we learn from Wiredu (1990), the *okra* is believed to be a speck from God (*nyame or nyankopon*) given by him as a gift of life along with a unique

destiny. Through the possession of an *okra*, every person has an intrinsic value born out of this divine element from God as opposed to some earthly circumstances. In fact, the concept of human dignity is derived from the life principle. A common saying within the Akan culture is “everyone is the offspring of God, no one the offspring of the earth.” Implied in the principle of life or the dogma of *okra* is the right of each person to pursue that specific destiny given by God. By virtue of being an *onipa* (**English translation:** person) who possesses an *okra*, *mogya* and *sunsum* one is simultaneously placed in a web of kinship relations which entail rights and obligations.

As a matrilineal society, the grandmother, the mother, the mother’s siblings, her own children and the children of her sisters traditionally formed the most important kinship group. This group is assigned the duty to nurse the Akan newborn who possesses a right to receive help. Overtime, this right is transformed dialectically into a duty for a person to nurse one’s mother in her old age. According to an Akan proverb, “if your mother nurses you to grow your teeth, you nurse her to loose hers”. Overall, Wiredu (1990) brilliantly shows how the Akan conception of a person is directly link to the idea of human rights and what those rights are (i.e. *the right to political participation, the right to trial, the right to land, and religious freedom*).

Importantly, these rights and obligations are intertwined and emanate from their particular understanding of personhood as well as, the social, economic and political structure of the traditional Akan society. For example, within the pre-colonial Akan agricultural society, the possession of land was essential for earning a livelihood.

Considering the centrality of this basic resource, it is not surprising that the right to land represented one of an Akan person's most valued positive right (Wiredu, 1990). In more specific terms, the Akan person by virtue of his blood principle (*mogya*) was entitled to lineage land which he could cultivate and build on during his life time.

Based on Wiredu's account of Akan philosophical thought then, the notion of human rights is certainly not alien to the Akan ethnic group of post-colonial Ghana. Indeed, in contemporary Ghanaian society, the term *onipa biara kyefa* (**English translation:** your share of/your possession bestowed upon you by nature or that which is due to each human being) or *onipa biara fawohodie* (**English translation:** the freedom, independence, liberty of human beings) are expressions used to encapsulate what we generally understand as human rights.

Contrary to writers who believe in taking a cross-cultural approach to human rights (e.g. Wiredu, 1990; Legesse, 1980; An-Naim, 1990, Mutua, 2013) as a way of highlighting the diverse cultural values underlying the concept, Donnelly (1982)² (in his early works) speaks of a lack of conceptual grasp and practice of human rights in non-Western cultures and sees a tremendous distinction between Western and non-Western approach to human dignity. However, Baxi (2007) severely problematizes this historical claim that human rights traditions are some form of "gift of the west to the rest" and that non-Western countries lack an understanding of human rights. As Baxi (2007)

² In his later works, Donnelly highlights the limits of universality of human rights and acknowledges the need for space that allows for claims of relativism. For full discussion see Donnelly, J. (2007). The relative universality of human rights. *Human rights quarterly*, 281-306.

explains, non-Western societies and cultures employed different language in articulating what it means to be a human being and what it means to have rights.

Furthermore, unlike many non-Western nations where the rights of the community or group are put on a pedestal, Western democratic societies are preoccupied with the dignity of the individual, his/her worth, personal autonomy and property (Legesse, 1980). This view is also shared by Ake (1987) who believes that Africans tend to think of their obligations to the community as opposed to their claims against them. But from Donnelly vantage point, cultural views where collectivity is valued over the individual represent a significant threat to the very character of human rights. Hence, like Donnelly, Howard (1992, 1993) regards the cultural relativism perspective as confusion between human rights and human dignity and between rights and duties.

In spite of numerous attempts to discard arguments from cultural relativists as a confusion of human rights, and human dignity, questions regarding “transferability” and “cross-cultural validity” of human rights remain a battlefield of intense debate with no end in sight. In response to this ongoing discussion, Preis (1996) problematize how both universality and relativist repeatedly borrow and use the notion of culture in a manner that does not fully capture the complexity of the concept. Rather than treating culture as static, homogenous, bounded unit or some quantitatively measureable unit, Preis (1996) proposes a more dynamic approach where culture is viewed as a practice rooted in the everyday life experiences and understanding of local people.

In thinking about how to move the universalist-relativist debate forward, Preis turns to the theoretical and methodological advances in development research. In particular, she sees the idea of human agency and actor oriented approach (Long & Long, 1992) as a useful way to inform and promote the practice of human rights. This is because an actor-oriented approach recognises social actors as knowledgeable individuals with the capacity to cope with harsh life conditions, devise appropriate solutions for various problems, and learn how to encroach on the stream of social events happening around them (Long & Long, 1992). Preis concludes by stating that if we are to take issues about culture and contextual differentiation seriously in the area of human rights theory and practice, we must begin by viewing “human worlds as constructed through historical and political processes and not as brute timeless facts of nature” (Rosaldo, 1989,p.39).

2.3 The Right to Development: A Brief Overview

With the UN’s official endorsement of the Declaration of the Right to Development (UNDRD) in 1986, human rights received soaring prominence within development policies and practice. Simultaneously, this marked the evolution of the *rights-based approach to development* (RBD). The UNDRD characterises the right to development as ‘an inalienable human right’ (Article 1) and positions ‘the human person’ (rather than the nation) as the central subject of the development process (Article 2). Prior to 1986, much of the human rights literature centred on the civil and

political rights of individuals (i.e., personal and private rights) or what Mohan and Holland (2001) describe as the first generation of human rights which are generally/arguably regarded as the product of the American and French revolutions in the 18th century and the Enlightenment era. As Shivji (1989) rightly remarked, demands for rights arose from socio-political struggles within a specific historical setting.

The historical context in which RBD emerged was that of neoliberal structural adjustment policies in Africa and its perceived failings (Mohan & Holland, 2001). Faced with four central issues: (1) *globalisation and uneven development*, (2) *capability and good governance*, (3) *human rights and development* and (4) *the role of NGOs in development policy*, the development industry sought for new ways of fighting inequality and poverty in the global South (Manzo, 2003). It is within this global political set of circumstances that the rights agenda found appeal as an alternative to decades of abortive market-driven development. For some, RBD's foundation in human rights law makes it unique, partially due to its potential to re-politicise mainstream development practice and its associated powerful actors like the World Bank (Nyamu-Musembi & Cornwall, 2004). In fact, some believe that, since the late 1990s, the language of human rights has come to embody the new norm within mainstream development thinking and work (Potter et al., 2012). Furthermore, the legal groundings of RBD have been traced to international and regional human rights instruments (see Table 2) that have, overtime, effected a shift towards rights-based discourse in international development (Potter et al., 2012).

Mohan and Holand (2001) explain that the right to development agenda is a state-centric approach in that it endows the government with the obligation to ascertain the basic welfare of its citizens. Moreover, RBD is considered empowering and people-centred as the beneficiaries are called upon to define their needs and participate in the formulation of appropriate policies and programmes (OUNHCHR, 2006). Similarly, Tsikata (2007) argued that RBD is predicated on the shared consensus of the following fundamentals: (1) *the relationship between development and human rights*, (2) *more accountability of state and international actors*, (3) *highlighting empowerment*, (4) *participation, non-discrimination and consideration of marginalised groups (e.g. women, children, indigenous people etc.)*. Some have argued that there are distinct advantages to RBD. For instance, Potter et al (2012) pointed out that RBD can foster accountability and legitimacy as governments sign international human rights instruments and have duties to respect, protect and fulfil their citizens' rights.

For Tsikata (2007), another advantage of RBD relates to its emphasis on all human rights including economic, social and cultural rights as well as political and civil rights. The rise of RBD is often viewed as a move from a 'needs-based' charity approach to a model that strives to redress injustices and can spur institutional changes (Potter et al, 2012). For instance, RBD has proven valuable in mobilising towards anti-colonial struggles, social movements and human rights instruments for marginalised social groups (e.g. women, children, indigenous people) as it has provided a foundation for making legal arguments and demanding for social justice (Potter et al, 2012).

In spite of these strides in the rights arena, the controversy surrounding the concept of rights-based development (RBD) has not ceased. Indeed, Schech and Haggis (2000) pointed out that the question of whether the realisation of economic rights (i.e. the right to material well-being) should be prioritised over other human rights (i.e. civil and political rights) continues to be debated. Not surprisingly, writers are polarised across spectrums, offering varying perspectives. On the one hand, some Third World governments have argued that socio-economic development and their corresponding human rights constitute their paramount concern (Uvin, 2007 and Schech & Haggis, 2000), yet, on the other hand, some academics have highlighted the interdependence of all human rights and have consequently disputed the idea of ascribing precedence to certain human rights (Sengupta, 2000; Weinstein, 1983).

Another point of divergence has been the very definition of rights-based development or more so the relationship between human rights and development. For the World Bank, the enjoyment of human rights is a goal to be achieved through development, or differently put a developmental outcome (World Bank, 1998). In contrast, the UN Development Programme asserts that human rights must be seen as a requirement for attaining development rather than a goal in itself (UNDP, 2000). Perhaps, Manzo (2003) is right to speculate that "RBD is destined to remain a contested political concept" (p.438).

In addition to these ongoing debates, RBD has also faced numerous other critiques. Among others, RBD is said to be a nebulous concept that is difficult to

distinguish from other development alternatives like participatory development, gender and development etc. (Tshikata, 2007). In contrast, Okafor (1995) argues that the formulation of developmental right is not more ambiguous than other formulation of international legal frameworks. As he sees it, global norms are generally couched in a vague and extensible fashion to allow for the needed flexibility to respond to a wide variety of contexts.

Secondly, while RBD implicitly gives citizens the legal right to potentially make claims against their government to fulfil their economic, social and cultural rights, it also appears to ignore the declining power of governments in the global South. Indeed, within the context of a neoliberal global order, decisions relating to public sector spending is often outside the sphere of influence of global South states. Hence, from Tshikata (2007) point of view, the privatisation of public goods like water, education and healthcare under Structural Adjustment Programmes (i.e. conditional loans from IMF & World Bank) impedes access to essential services for poor people and can consequently be understood as a violation of their economic and social rights. In fact, it was not uncommon for governments that accepted these conditional loans and underwent structural adjustment to experience challenges in realising their citizens' economic and social rights.

Because RBD was largely interpreted as a state and people-driven development approach; initially non-state actors were not gaining extensive attention among rights scholars. More recently, however, thinkers like Clapham (2006) have provoked us to

move beyond the conventional attention on states to direct our lens on the human right obligations of non-state actors like multinational corporations. Particularly, Clapham (2006) discusses the legal obligations of non-state actors in international law by examining the political debate about the suitability of extending human rights obligations to non-state actors. By pointing to the implications of changes in international responsibility and international criminal law on how human rights are implemented in national law, Clapham (2006) advocates for the need for a framework for the human rights obligations of non-state actors in international law.

In line with Clapham argumentation, we can understand the right to development as being part of the range of human rights, corporations must uphold within the context of their corporate duty to respect human rights. Truly, one could argue that local communities' demand for companies to engage in sustainable development projects constitute an implicit articulation of their right to development. In a basic sense, these community stakeholders often perceive non-state actors like businesses as agents of development alongside governments (Blowfield, 2015).

But, Tskikata (2007) also pointed out that even though international financial institutions, multinationals, multilateral and bilateral agencies, civil society organisations and Western governments are often considered the key actors and drivers of development practice, there are challenges in holding them accountable. Consequently, Nyamu-Musembi and Cornwell (2004) advocated for an interpretation of

RBD that can transmogrify the unequal power relations and interactions between various development agencies and the most vulnerable social groups.

Table 2: Key UN milestones in the development of international human rights legal framework

- Declaration on Human Rights (1948)
- International Covenant on Civil and Political Rights (1966)
- International Covenant on Economic, Social and Cultural Rights (1966)
- Convention on Elimination of Discrimination Against Women (1979)
- Declaration on the Right to Development (1986)
- Convention on the Rights of the Child (1989)
- Convention on the Rights of Disabled Persons (2006)
- Declaration on the Rights of Indigenous Peoples (2007)

Source: Office of the United Nations High Commission for Human Rights, 2012

2.4 What is the Relationship between Business and Human Rights?

For decades, it was a common practice for scholars to treat business and human rights as two distinct entities. This was partly because states were considered the main violator and protector of human rights (Obara, 2017). Cragg, Arnold and Muchlinski (2012) noted that discussions on corporations' human rights duties were generally confined to their indirect legal responsibilities. However, with the rising social and economic influence of multinational corporations, and the subsequent disempowerment of governments caused by neoliberal globalisation (Kinley & Tadaki, 2004), there has been a shift towards increasing companies' direct human rights obligations. At the international level, there is a growing recognition among diplomats, policymakers, business strategists, and social activists of the need for mechanisms to pursue remedies for victims of corporate-related human rights abuses, particularly for transnational claims that cannot or will not be processed by local legal institutions. At the national

level, we are witnessing varying degrees of effort to implement the 2011 United Nations (UN) Guiding Principles on Business and Human Rights among states, with a number of states yet to produce a National Action Plan and commence the implementation process (Ford, 2015). Central to these debates and recent developments in the BHR rights arena is the quest for greater corporate accountability (Ramasastry, 2015).

Since the late 1990s, a number of civil society groups have been at the forefront of drawing attention to issues of corporate misconduct with the goal of holding businesses to account for their actions (Cragg et al, 2012). For example, Utting (2008) pointed out that grave human rights violations by transnational corporations, including the issues of sweatshops and child labour (such as in the case of Nike), sent a wave of shock among Western citizens and consumers and provoked different forms of activism (e.g. protests, campaigns etc.). Extractive companies like Eron in India, Unocal in Burma, and ExxonMobile in Indonesia have been implicated in human rights violations committed by hired security forces and accused of colluding with governments to violently stifle protests (Wettstein, 2012).

With the most allegations of human rights violations made against companies in the extractive sector, it is not surprising that the industry has faced tremendous public scrutiny and critique (Obara, 2017). However, it was events like Shell's alleged complicity in turning a blind eye to the arbitrary execution of Ken Saro-Wiwa and eight other Ogonis by the Nigerian government in November 1995 that partly catalysed calls for change in corporate human rights obligations and gave rise to the emergence of a

number of voluntary codes of conducts among key transnational businesses and industry associations (Cragg et al, 2012; Idemudia & Ite, 2006). These kinds of incidences have meant that global businesses have faced social pressure aimed at regulating business social responsibility and their human rights obligations.

Whilst these corporate-related human rights violations were unfolding in the public worldwide, theoretical interest in the field was also growing. A number of scholars have devoted themselves to writing about the relationship between business and human rights since the late 1990s. As a “new” field of inquiry, human rights legal scholars were among the first to publish edited volumes and law review articles (Ramasastry, 2015). Connolly and Kaisershot (2015) classify BHR as an interdisciplinary field given that no single academic discipline can convene an adequately wide array of theoretical constructs to provide answers and potential solutions to the challenges and debates pertaining to corporate human rights obligations. Naturally, it follows that the business human rights landscape spans scholarships in economics, sociology, psychology, law, human rights and political science. Based on Obara’s (2017) analysis, overall, the debate within the literature can be divided into five thematic areas:

The first being *why should companies respect human rights?* Of interest to writers here are the various normative groundings and moral arguments in favour or against the allocation of human rights to private entities (see for example Campbell, 2004; Wettstein 2009; Cragg, 2012 etc.).

The second topic asks *whether companies can or should be held directly responsible for human rights under international law*. Specifically, academics investigate what legal instruments, mechanisms and frameworks could govern business with respect to human rights.

The third branch of scholarly works is concerned with understanding *what human rights companies are responsible for*? In particular, intellectuals are interested in examining the range of human rights responsibilities for businesses and what practical tools, frameworks and mechanisms can help businesses in determining these responsibilities (see, for example, Santoro, 2000; Kolstad, 2009; Macdonald, 2009).

The fourth strand within the literature comprises works from Campbell, 2007; Wettsein, 2009, 2012 and Ramasastry, 2015 which explore how the human rights concept relates to corporate social responsibility. Some of the key questions are: what is the nature of the relationship? How can the two concepts be better integrated? How can the language of human rights contribute to our knowledge of CSR theory and practice?

Lastly, researchers are increasingly looking at the impact of the UN Guiding Principles as well as its strengths and limitations. Within this line of work, scholars engage with the question of *how the introduction of the GPs has moulded corporate behaviour in relations to human rights*. For instance, in their editorial, Ruggie and Sherman III (2015) discuss the impact of the GPs on the commercial legal practices and conclude that the GPs have come to be seen as the authoritative universal standard on BHR. Arguably the first subject area is the most developed whereas there is still a dearth of studies needed

in the last strand. In light of this, the thesis concentrates on and seeks to make a contribution to the existing vein of work on the strengths, weaknesses and impact of the GPs from a community perspective.

2.5 What is the History of Business and Human Rights?

Few would deny that transnational corporations constitute influential actors in the global economy with the capacity to create employment, generate wealth, and contribute to poverty alleviation (Ruggie, 2008). In fact, whereas Berle and Means (2007) maintain that the economic power of today's multinational corporation is at a level equivalent to the political power of the modern state, David Korten (2001) in his book *When Corporations Rule the World*, go as far as arguing that some multinationals companies are more powerful than nation states. Nevertheless, as Arnold (2010) observed, transnational corporations (TNCs) are also known to commit human rights infringements such as paying low wages to workers, providing inhumane working environment, contributing to environmental degradation and disregarding host communities' rights. These cases of corporate human rights harm have been publicised in the media through the advocacy work of non-governmental organisations (NGOs) (Muchlinski, 2001) like Amnesty International and Human Rights Watch. In particular companies in the oil, gas, and mining industries have been reported to be the most complicit in business-related human rights violations, followed by the food and beverage industry, apparel and footwear industry, and information technology

industry (Arnold, 2010). While egregious corporate misconducts are not new, the context in which these business-related human rights violations are being debated has evolved. According to Ochoa (2009), the issue of BHR can be categorized into three eras: the era of impunity, the era of civil society and self-regulation and the era of law and legal institutions. As with many categorisations in the social sciences, there are often limitations since they can oversimplify complex real-world phenomenon. Accordingly, Ochoa's interpretation of the history of BHR should not be read as a strictly linear progression. Rather, the three eras should be viewed as non-linear and having geographic variations. This is because these eras consist of a series of dynamic and overlapping events that occur in different cultural, social and political settings. By way of example, Ghana may simultaneously be in the era of civil society and self-regulation as well as in the era of legal institutions. While the country has some legal provisions (see Table 7) and institutions like the Commission on Human Rights & Administrative Justice, civil society organisations are avidly engaged in activism given that corporate misconduct continue to happen.

Starting with the era of impunity, Ochoa (2009) pointed out that, businesses committed human rights encroachment in different jurisdictions, causing much harm to several individuals and communities across the globe. While victims of corporate human rights abuses documented their experiences, no institution was willing to consider their business-related rights claims. The geopolitical context of this era is underpinned by a debate as to whether *universally recognized human rights principles*

embodied in international legal instruments (e.g. The Universal Declaration of Human Rights) were historically applicable to the private sector. This debate is partly due to the fact that international law is traditionally made *by* states and *for* states (e.g. drafting, adopting, signing and ratifying treaties). Even with the evolution of the role of non-state actors, states are still seen as the primary actors in international law (International Council on Human Rights Policy, 2002). Indeed, some companies maintained that their only responsibility was to respect national laws, even when those laws did not meet international human rights standards (Business and Human Rights Resources, n.d.).

However, at the 50th Anniversary of the Universal Declaration in 1998, Professor Louis Henkin (1999), a leading international legal scholar, re-emphasised the preamble to the Universal Declaration which calls on “every individual and every organ of society” to promote and respect human rights. Hence, for Professor Henkin it is clear that “every individual and every organ of society excludes no one, no company, no market, no cyberspace. The Universal Declaration applies to them all.” Professor Henkin’s statement is in line with those who interpret “organs of society” to mean institutions or a group of people that perform a function in society. Given that businesses are institutions with a clear economic function within society, it follows that from a theoretical standpoint, corporations can be said to have had human rights responsibilities for decades. Nonetheless, the first attempt to create a global norm that would formerly assign social and environmental responsibilities to transnational enterprises specifically was in 1970 with the Draft United Nations Code of Conduct for

Transnational Corporation (Hurtado, 2011). Because the negotiations turned out to be extremely contentious, the attempt ultimately failed.

What followed was the era of corporate accountability movement led by civil society groups that built up immense pressure and demanded laws that would make businesses liable for their misdemeanours (Ochoa, 2009). Traditionally, states were the primary institutions to develop and enact laws but unfortunately, states were ignoring these demands. Instead, response to such organized civil society manifested in the form of increased corporate self-regulation and the initiation of global dialogues on BHR which were facilitated by international financial organisations and the United Nations (UN). For instance, in 1999, the UN Secretary-General launched the *Global Compact* with the aim of encouraging businesses to adhere to basic principles of human rights, labour, environmental protection and corruption. Corporate support and international acceptance of the Global Compact was an indication that businesses embraced this initiative. But according to Knox (2011), the effectiveness of the Global Compact was constrained by its voluntary nature and generality of its principles.

Another such notable effort came from the International Labour Organisation (ILO), the Organisation for Economic Co-operation and Development (OECD) and the UN in the form of the *UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Respect to Human Rights*. Hillemanns (2003) explained that the report drafted by the UN Sub-Commission for the Promotion and Protection of Human Rights in 2003 was an attempt to make businesses amenable to international

law, that is, the report was calling for a radical rethinking of allocating responsibilities for protecting and promoting human rights to the state. Naturally, the report was met with fierce resistance by members of the business community (Arnold, 2010). Although the Norms did not garner significant support, it gave reason to believe that the era of civil society and self-regulation could potentially lead to the formation of concrete legal instruments.

More importantly, it led to the appointment of special representative John Ruggie in 2005, who produced one of the most significant works within the business and human rights discourse. This, according to Ochoa (2009), marked the beginning of the era of law and legal institutions. Although this era has not produced concrete legal instruments yet, Ramasastry (2015) maintains that the discussion within the business and human rights domain is now concentrated on advocating for one binding law to hold corporations accountable. In part, this era emerged out of the need for greater clarity and consensus on the substantive legal obligations directly applicable to business and/ or the state with jurisdiction over them (Ford, 2015). As Brenkert (2016) explained, understanding of what constitute human rights and what human rights responsibilities corporations have varies significantly among businesses and business ethicists. For instance, McBeth and Joseph (2005) conducted a study with 17 multinational companies and discovered that even though human rights are regarded as relevant, many of these human rights-related issues were not necessarily classified as such but were rather seen as belonging to corporate social responsibility (CSR).

During the early days of business and human rights literature, legal scholars were fundamentally interested in determining whether the private sector, which has been enjoying the protection of certain human rights, should also be assigned concrete human responsibilities or duties. (Cragg, Arnold, Muchlinski, 2012). There are some business ethics scholars who argued that multinationals have direct human rights responsibilities on contractualist grounds (Donaldson, 1991; Cragg, 1999) and on an agent-based conception of human rights (Arnold 2010). Similarly, some advocated for the use of human rights as potentially enforceable norms for business behaviour (Campbell, 2006, Kobrin, 2009). In contrast, Strudler, 2008 contends the notion of human rights obligations for businesses in non-Western context. While the business and human rights debate has to a large extent moved from asking theoretical and normative questions (*i.e. why business should have human rights responsibilities?*) to focusing more on practical issues (*i.e. how businesses can contribute to the promotion and protection of human rights*) (Obara, 2017), the nature and scope of business human rights responsibilities continues to be discussed (Brenkert, 2016).

In an attempt to provide some answers to these pivotal questions, the UN Human Rights Council adopted John Ruggie's "Protect, Respect and Remedy" framework on June 2008 which has received both praises and critiques within the academic circle. According to this tripartite framework, companies have an obligation to obey the law even in circumstances where the formulation and enforcement of national laws are limited or nonexistent (Ruggie, 2008). Furthermore, multinationals are

called up to exercise due diligence by becoming aware, preventing and adequately handling human rights issues. In specific terms, companies are expected to adopt human rights policies, undertake human rights impact assessment, create an internal corporate culture that is based on a commitment to human rights as well as track and report on performance.

The corporate duty to respect human rights constitutes the baseline responsibility of companies in addition to complying with national laws (Ruggie, 2008). Because it is a minimum requirement, companies cannot compensate for human rights abuses by 'doing good' elsewhere. Beyond respecting human rights which is a *negative moral duty to do no harm*, companies are encouraged to proactively take steps towards the promotion of human rights (*positive moral duty to do good*). For instance, Wettstein, (2009) and Santoro, (2010) argue that businesses have positive duties to help in the protection and provision of remedies for victims of human rights violations by others. The idea that business have both negative and positive moral duties is because companies can impact almost all internationally recognised rights (see Table 3). Thus, the concept of "sphere of influence" remains a helpful construct for companies in considering the impact their business activities may have on their employees, host communities, supply chain, consumers and other stakeholders.

Table 3: Human Rights Impacted by Businesses

Type of Human Rights	Rights Impacted by Business Activities
Economic, Social and Cultural Rights	<ol style="list-style-type: none"> 1. Right to social security 2. Right to an adequate standard of living 3. Right to education 4. Right to work 5. Right to a safe work environment 6. Right to equality at work 7. Right to equal pay for equal work 8. Right to just and favourable remuneration 9. Right to organise and participate in collective bargaining 10. Abolition of child labour 11. Abolition of slavery and forced labour 12. Right to marry and form a family 13. Right to rest and leisure 14. Right to physical and mental health; access to medical services 15. Right to participate in cultural life, the benefits of scientific progress, and protection of authorial interests
Civil and Political Rights	<ol style="list-style-type: none"> 1. Rights to life, liberty and security of a person 2. Right to self-determination 3. Right to private and family life 4. Equal recognition and protection under the law 5. Freedom from torture or cruel, inhuman and degrading treatment 6. Right to a fair trial 7. Right to political life 8. Right to privacy 9. Right to freedom of opinion and expression 10. Right to freedom of association/assembly 11. Right to freedom of movement 12. Right to non-discrimination 13. Right to freedom of thought and religion 14. Right to own and dispose of property 15. Right to seek asylum

Source: This table is based on a study of 320 cases (from all regions and sectors) of alleged corporate-related human rights abuse reported on the Business and Human Rights Resource Centre website from February 2005 to December 2007.

The promotion of Ruggie’s framework seemed to have facilitated a shift from pursuing legally binding instruments to establishing norms and duties with emphasis on promoting national-level awareness. Ruggie himself precluded the possibility of

drafting a multilateral treaty as a viable solution for effective and legitimate remedies for business-related human rights abuses (Ford, 2015). This, however, did not put an end to the debate about a treaty. In fact, by mid-2013 it became increasingly evident that treaty proponents never abandoned the idea and were willing to revive discussions about a legal document which would bind multinationals to their human rights obligations. For instance, from 23 to 27 October 2017, the Intergovernmental Working Group (WG) of the United Nations Human Rights Council (UNHRC) met in Geneva to start negotiations on a potential binding treaty on global businesses. During these sessions, stakeholders discussed the human rights obligations of TNCs and States as well as on access to justice for victims. Hence, Ford (2015) noted that “from this perspective, GPs [Guiding Principles] were a parallel development and are not substitute for moving towards a treaty” (p. 3). In contrast, opponents of the treaty path argued that a legally binding agreement will not necessarily result in greater protection of human rights. While consensus between the two camps, that is, voluntary industry schemes versus international legal instruments, is not insight, it appears that ‘soft norms’ are presently being privileged (Ford, 2015).

Nonetheless, the current ‘era of law and legal institutions’ (Ochoa, 2009) represents a considerable leap forward in that global norms, or international “soft” laws, have been established which lay the foundation for the possible transition to hard laws. While the responsibilities ascribed to businesses remain non-binding under international law at the moment, Ruggie’s work significantly contributed to altering the

conventional perspective on the allocation of human rights responsibilities between the public and private sector. More importantly, it initiated a discussion on the human rights responsibilities of transnational corporations operating in areas of limited statehood where conflicts, weak institutions and governance gap are prevalent (Cragg, Arnold & Muchlinski, 2012).

Lately, attempts have been made to integrate human rights issues into bilateral, regional and multilateral trade agreements and investment instruments (Ford, 2015). At the December 2014 UN Forum on Business and Human Rights, the head of the World Trade Organisation (WTO) suggested the integration of ILO labour rights convention into WTO agreements (Lamy, 2014). Within the World Bank Group, the International Finance Corporation is using the UN Guiding Principles as a benchmark for its performance standard (Ford, 2015). It remains to be seen how the trajectory of “soft norm” and integration of human rights commitments in international trade and investments will unfold in the future.

2.6 Business and Human Rights in Developing Countries: Gaps in the Literature

Possibly, due to the relatively recent history of the BHR scholarship (i.e. mid- late 1990s), studies offering insights into corporations’ approach to human rights duties and their capacity to fulfil these duties in an African context are not very common. For instance, Obara (2017) pointed out that while writers have been articulating their various opinions on why corporations should observe human rights, far less has been

written about what companies do in practice. Indeed, van der Ploeg and Vanclay (2017a) have also noticed the paucity of research on how companies actually avoid, mitigate and remedy their adverse human rights impacts caused by or related to their operations.

Some scholarly work within the literature theorises the feasibility of the UN business and human rights framework and explores possible mechanisms for implementation (e.g. Muchlinksi,2012) however, with little reference to specific case studies. At the same time, Brenkert (2016) noted that one of the major obstacles in the field of BHR is that a number of corporations have not explicitly recognized or made a firm commitment to human rights yet. Consequently, there is a need for empirical research that investigates whether the GPs has significantly motivated multinationals to publically acknowledge their commitment to human rights as well as made concrete efforts to improve their on the ground human rights practices. Moreover, empirical data is needed to better understand the challenges companies operating in areas of limited statehood encounter in designing and implementing human rights policies and tracking their performance.

Secondly, we also know little about how contextually relevant the UN framework is for countries in the Global South that contain areas of limited statehood. For instance, the framework assumes that all states possess the capacity and/or willingness to protect the human rights of its citizens. Yet, there is a large body of

literature on the rentier state and resource curse theories that explain that governments with an overdependence on natural resources tend to lag behind economically, exhibit high level of corruption, are prone to conflicts and tend to be politically unstable (e.g., Sachs & Warner, 2001; Wheeler, 1987; Ross, 1999). Indeed, a number of resource-rich African countries have been “diagnosed” with the resource curse and it is not uncommon for these governments to prioritise foreign direct investments over the enjoyment of their citizens’ human rights. Multinational corporations operating in such context are often faced with the reality of a nearly absent government, and host communities who expect them to fulfil a quasi-governmental role in order to obtain a social license to operate.

Considering the limited institutional capacity and governance gaps in these areas, should we restrict the responsibilities of businesses to the respect of human rights (i.e. negative moral duty to do no harm) or should their range of human rights responsibilities be extended to include the protection and promotion of human rights (i.e. positive moral duty to do good) in their respective host communities? With exception of a few scholars like Wettstein (2012) and Bradford (2012) who have advocated for a stronger role of companies in the promotion and realization of human rights, the nascent literature offers limited insight into these intricacies.

2.7 How does the Corporate Duty to respect Human Rights relate to CSR?

The subject of business ethics (also known as Corporate Social Responsibility (CSR) or corporate citizenship) is by far not a new debate as it dates back to the advent of Western modern economics with the publication of Adam Smith's ground-breaking work *The Wealth of Nations* in 1776. Since then, different writers have discussed the interaction between ethics, market and the state with various arguments being put forward in favour and against the social duty of business (Hamann et al., 2008). These ethically charged discussions premised on the notion that businesses do not only have an economic function (i.e. making profits) but, they equally have a responsibility in contributing to solving social and environmental problems (e.g., Frederick, 1960; McGuire, 1963; Lodge, 1970; Idemudia, 2008).

Generally, CSR lacks a consensual definition but Scherer and Palazzo (2007) have characterised CSR as an umbrella term for the “responsibilities of business and its role in society, including categories such as business and society, business ethics or stakeholder theory” (p.1096). At the very core, the notion of CSR is concerned with what it means to do and be a business in contemporary society (Jonker, 2005). In many instances, Harold Bowen (1959), author of *Social Responsibilities of the Businessmen*, is viewed by some as the father of CSR because his book examines the notion of businessmen and their responsibilities in pursuing goals desirable for society.

Notably, the literature on CSR has grown significantly and now encompasses diverse school of thoughts. For instance, the managerial literature is concerned with

instrumental theories of what is often referred to as “the business case for CSR” (Blowfield, 2005). Scholars within this camp theorise and analyse whether and how CSR activities can benefit a company’s reputation, brand value, employees, consumer loyalty etc. (see Margolis & Walsh, 2003 and Kurucz et al., 2008). In contrast, the literature on business ethics and stakeholder theory centres on the “normative case for CSR” (Morsing et al., 2007) and discusses the moral obligations and duties of corporations (Freeman, 1987). Another rising school of thought focuses on the relationship between business and development. This group of scholars examine the financial and non-financial activities of businesses and how their corporate practices hinder and/or contribute to sustainable development in Global South countries (e.g. African countries) Whilst CSR in Africa has a long history rooted in colonialism, the business, and sustainable development linkage, as a unit of analysis, is a more recent evolution. Originally, the notion of sustainable development was restricted to the territories of development agencies and actors (Utting, 2000). This was because historically a number of multinational corporations (MNCs) conducted business in ways that resulted in extensive waste and environmental degradation evidenced by the destruction of tropical forests, marine and coastal resources, freshwater sources, agricultural land as well as global warming (Utting, 2000). He reasons that a number of economic, political and structural factors are likely to be the drivers behind firms' interest in CSR. These factors include "win-win" outcomes, reputation management, the enhancement of competitive advantage, pressure from civil society groups, regulations or the threat of

regulation, and changes to production and marketing globally. Hence, many analysts regard CSR as a new form of corporate colonialism (Malan, 2005; Fougere & Solintander, 2009; Vertigans, 2011). In fact, different writers have voiced their concerns about prompting business to assume the role of development agent (e.g., Cash, 2012; Friedman, 1970; Henderson; 2001; Levitt, 1958). Yet as Idemudia (2011) informs us, as of late the debate has moved from conceiving business as the problem and shifted towards viewing them as part of the solution to underdevelopment in Africa.

Given the long history of CSR and the large body of knowledge, it is rather surprising that legal scholars within the BHR literature seemingly “discovered” CSR in the past decade (Buhmann, 2009; McCorquodale, 2009). According to Santora (2015), this “discovery” is partly due to the expansion of the BHR debate which began to incorporate concerns such as environment rights (Joseph, 2012; Bauer, 2011; Hiskes et al., 2009), economic, social and cultural rights (Nolan & Taylor, 2009), debt relief (Ondersma, 2015) and access to affordable medicines (Joseph, 2003; Leisinger, 2005; Santoro, 2006). In contrast, Ramasastry (2015) believes that the emergence of BHR as a distinct debate is partly a response to the perceived failure of CSR to deliver on its promises.

Indeed, Wettstein (2012) observed that human rights issues have not significantly informed our understanding of CSR principally because management scholars have yet to extensively engage with the notion of human rights. He further highlighted the lack of integration of human rights into the concept of CSR and refers to this as "human

rights minimalism" (p. 740). To be sure, this is not to say that CSR does not encompass some aspect of human rights. In fact, the CSR debate has included discussions about labour and social rights, in particular during the 1970s and 1980s when a discourse about the role of global business in development and investment was forming.

From Wettstein's (2012) perspective, many of the debates within CSR are fundamentally about human rights but rarely are these issues couched within the language of justice. Rather, CSR scholars often address human rights-related concerns as virtue and beneficence or even as philanthropy or charity (Wettstein, 2012). Nevertheless, overall, the CSR movement has not explicitly focused on human rights as an end goal (Detomasi, 2008).

Although Ramasastry (2015) acknowledges the interwoven nature of CSR and BHR as two concepts centred on the socio-environmental responsibilities of the corporation, she argues that their contextual and conceptual differences have created a gap that is facilitating divergence rather than convergence. For Ramasastry (2015), CSR underscores responsible behaviour via corporate-driven voluntary initiatives or other self-guided decision-making activities by the corporation. By contrast, BHR focusses on legally binding requirements, state-sponsored regulations and voluntary corporate measures grounded in a specific core set of human rights obligations. Human rights, by definition, imply legal or quasi-legal obligations enacted by the state or other international institutions involved in the global governance system (Smith, 2013). In many ways, BHR is driven by a mission to instigate corporate accountability and a

pursuit to ensure access to remedies for individuals and communities adversely impacted by business activities. It is for this reason that the BHR debate should not be misinterpreted as a mere subset of CSR (i.e. as part of the social responsibilities of the firm).

Bilchitz (2009) observed how BHR has tended to concentrate on corporate human rights harm rather than on the role that business could potentially play in protecting and promoting human rights. As Ramasastry(2015) sees it, this emphasis on legal rather than on ethical and moral considerations within the BHR literature should not come as a surprise. Essentially, the BHR movement emerged due to negative impacts and the needs for remedies for violations already caused by businesses as opposed to a debate about the role of corporations as protectors and promoters of human rights alongside states. This narrow focus on business' duty to do no harm is even more pronounced when it comes to their global operations in so-called "host" state countries (Sornorajah, 2010). Ratner (2001) alluded to the governance gaps in these "host" state countries which often arise as a result of a government's unwillingness or inability to provide its citizens with access to remedies for corporate-related human right harm. It is not uncommon for these states to lack regulation or as Risse (2013) would put it contain areas of limited statehood that would avert incidences of human rights violations in the first place. Oftentimes, commercial enterprises operating in such contexts are not always perpetrators of human rights violations but rather tend to be accomplices (Ramasastry, 2015). Accordingly, the term *corporate complicity* was coined in the late 1990s and

companies were directed to avoid being complicit in human rights abuses of their business partners and others (Ramasastry, 2002; Clapham and Jerbi, 2000).

Beyond these reasons, Wettstein (2012) principally attributes the gap between CSR and BHR to “a perceived conceptual mismatch between conventional understandings of CSR and the nature of human rights.” (p. 748) and provides two explanations. The first explanation relates to the interpretation of CSR as purely discretionary responsibilities that a company can adopt on a voluntary basis. Yet Wilburn and Wilburn (2001) alluded to a growing political support for CRS and the corresponding shift in which CSR is increasingly viewed less and less as belonging to the realm of volunteerism. In spite of this transformation that is occurring on a political level, CSR as voluntary corporate initiatives continues to dominate the conventional CSR discourse (Waddock & Smith, 2000). Arguable, this understanding of CSR as primarily voluntary collide with the legalistic and moral underpinnings of human rights claims (Wettstein, 2012).

The second reason for the CSR-BHR divide pertains to the tendency to conceptualise CSR as something apolitical and restricted to the private domain; compared to human rights which are perceived as apparatuses to restrain political power, thus falling within the political realm. Wettstein (2012) problematizes this narrow view of companies as a private institution by pointing out that the boundaries between public and private are increasingly becoming more and more blurry. Recently a new branch called “political CSR” has evolved within the CSR literature, calling this

supposed divide between private and public sphere into question. A number of intellectuals have started seeing the various ways in which global enterprises are involved or are increasingly expected to get involved in the construction and implementation of international standards for the global market place (Scherer, Palazzo & Baumann, 2006; Scherer & Palazzo, 2007).

For Ramasastry (2015) and Wettstein (2012), the distinction between corporate behaviour in CSR and corporate accountability in BHR has put the two movements on slightly different paths. Nonetheless, they are both convinced that there is room for the two movements to connect and borrow from each other's strengths. To that effect, a combination and integration of the two fields would require the BHR debate to go beyond non-violation of human rights to consider positive human rights responsibilities for private entities while the CSR debate would have to move from allocating a peripheral role to human rights to making human rights the very core (Wettstein, 2012). In this regard, a merging of the CSR and BHR could be a way to configure corporations' pro-active role in contributing to the realisation of the right to development.

2.8 Theoretical Framework

The study adopts Risse's (2013) idea of 'areas of limited statehood' as an analytical framework to understand the political context within which corporate-community engagements take place in Ghana and the nature of the business

environment within which mining companies are expected to meet their human rights obligations.

Additionally, the study draws on stakeholder theory and the notion of social license to operate (SLO) as a useful lens through which we can comprehend the role of local communities as key arbiters possessing the ability to negatively or positively affect the process and outcomes of mining projects in Ghana.

Whereas Risse's framework permits me to analyse business and human rights issues from an institutional context perspective, stakeholder theory and the concept of SLO can be utilised to offer a company and community perspective respectively.

2.8.1 Areas of limited statehood: What does it mean to govern with(out) the state?

What does the concept of limited statehood mean and what is its analytical value? To answer the first part of the question, Risse (2017) commences by drawing on Max Weber's (1922) definition of statehood, namely, an institutionalized authority structure with the ability to steer hierarchically and to legitimately hold the means of violence. For Risse (2017) *statehood*, (i.e. an institutional structure of authority) must clearly be distinguished from *governance* which refers to the services the state provides. As he sees it, a state's enforcement capacity pertains to "the quality of governance" (p.140) as opposed to a definition of statehood.

Taking Max Weber's understanding of statehood as a point of departure, Börzel and Risse (2010) then define areas of limited statehood as territories, policy areas and/or parts of the population where the government does not hold the monopoly over the instrument of force and possess limited political and administrative capacity to undertake authoritative decisions or enforce collectively binding rules and policies. In contrast, those areas within a country where the state commends "domestic sovereignty" (Krasner, 1999), possess full control over the means of violence and is able to make and enforce central decision are called "consolidated" statehood.

Areas of limited statehood are not ungoverned or ungovernable spaces that lack complete social coordination and/or provision of collective goods (Krasner & Risse, 2014). In these contexts, governance processes are not directed by state actors through a traditional top-down command-and-control approach of hierarchical steering, instead, governance gaps create an opportunity for non-state actors to engage in non-hierarchical modes of coordination (Risse, 2011). What this means is that non-state actors on their own and in collaboration with other non-state actors and/or the state contribute to the provision of much-needed collective goods and services (Azizi & Jamali, 2016).

As Risse (2013) noted, the inability to enforce rules or exercise full control over the means of violence can be along several dimensions: (1) territorial, which refers to a geographic space within a country; (2) sectorial which refers to specific policy field like

security; (3) social which refers to a segment of the population that is excluded from service provision by the state (4) temporal (e.g. during time of natural human disaster).

In view of that, we must speak of degrees of limited statehood within an otherwise functioning state and acknowledge that limited statehood is not synonymous with the absence of governance or provision of basic services. Here, governance is understood as both *structure* (i.e. institutions and actor constellations) and *process* (i.e. modes of social coordination for rulemaking, implementation and provision of collective goods) (Börzel and Risse, 2010). Importantly, governance as a process is not restricted to government actors alone. This is because non-state actors such as civil society organisations, businesses and international organisations can and often act as functional equivalents to states that have insufficient political and administrative capacity to provide social coordination and collective goods.

It is important to highlight that limited statehood conceptually differs from “fragile, failing or failed statehoods” which are commonly used in the mainstream governance literature. Risse (2013) problematizes the use of these concepts on analytical and normative grounds. First, the notion of “fragile states” or “states at risk” often set the Western democratic and capitalist state as a benchmark and in so doing implicitly equates statehood with Western liberal statehood and market economy.

Risse (2013) argues that writers in the failed, failing and fragile states debate conceptualise statehood within a Western paradigm and consequently tend to conflate

definitional issues with research questions. Yet, if we are to understand states as political entities that provide services and public goods like security, the rule of law, welfare and clean environment, then a number of states in the world could not be classified as such. Thus, Risse (2013) points out that the idea of “limited statehood” is not only applicable to countries in the Global South but also to the so-called Western and modernized nations. Historically speaking, fully functional Weberian states are an ideal that hardly existed and cannot be said to represent contemporary global systems either (Risse, 2017). Despite this strength of the concept, areas of limited statehood is often used to describe political institutions and governance challenges of non-Western countries (see e.g. Börzel, 2013; Azizi & Jamali, 2016; Awortwi & Walter-Drop, 2017 etc.); thereby creating the false impression that the concept predominantly applies to countries in the Global South.

Nonetheless, the analytical value of this conceptual framework lies in its ability to not deny states in the Global South of their agency. Within the context of this research, the notion of areas of limited statehood permits me to understand the post-colonial African state on its own terms as opposed to forcing it to fit into a Western reality or construct. This is because the concept allows for the discussion of specific policy, social or territorial areas within Ghana where political institutions are too weak to hierarchically adopt and enforce collective binding rules. Hence, I avoid having to be simplistic by characterising the state as fragile in its entirety and not capture the nuances in its capacities and incapacities.

Secondly, the concept presents itself as a valuable tool to interrogate GSR as a functional equivalent to the shadow of hierarchy and the opportunities and challenges that may arise from private actors assuming roles that have traditionally been associated with the state. For instance, Azizi and Jamali (2016) assert that non-state actors have significant space to navigate and influence the national setting of where they operate through governance. The implication here is that non-state actors are also able to significantly shape their terms of engagement as well as the nature and scope of their responsibilities.

Thirdly, Risse (2017) finds variations of human rights performance in areas of limited statehood but nonetheless concludes that degrees of statehood do not correlate with the level of human rights (non)compliance. Rather, he uses two scope conditions, that is (1) regime type as well as (2) the material and social vulnerability of local rulers to explain the various levels of human rights (non)compliance in areas of limited statehood. For Risse (2017) human rights violations in areas of limited statehood are primarily linked to weak central government and lack of enforcement capacity. Hence, drawing on Risse's (2017) work, this thesis seeks to understand the extent to which the degree of area of limited statehood plays a role in the human rights conduct of extractive sector companies in Ghana.

2.8.2 Social license to operate (SLO) and stakeholder theory.

Originally coined by the Canadian mining executive, Jim Cooney, the concept of Social License to Operate (SLO) was first introduced in the vocabulary of the minerals industry around the late 1990s (Prno, 2013). However, scholarly interest in the use and practice of SLO within the mining sector came much later. In 2002, the International Institute for Environment and Development published a milestone industry study entitled *Breaking New Ground: Mining, Minerals and Sustainable Development* in which the authors described a sector that is facing challenges to maintain viability. Previously, companies were principally expected to fulfil legal compliance with state environmental regulations (Prno, 2013). But more and more local communities across the globe demanded greater public participation in the decision-making process of minerals-led projects and expected to be direct beneficiaries of resource extraction activities happening on their indigenous land or close to their residential area (Bridge, 2004).

Confronted with the issue of distrust among their stakeholders and growing societal expectations, the concept of SLO emerged as a means for minerals companies to “earn accountability, credibility, flexibility and capacity for both stakeholders and industry” (Nelson, 2006, p.161). Wilburn and Wilburn (2011) see the evolution of SLO as a response to the principle of free, prior and informed consent (FPIC), outlined in the United Nations Declaration on the Rights of Indigenous Peoples. FPIC recognises the inherit rights of indigenous people to their land and resources and asks third parties like private entities to seek the prior consent from indigenous people by fully disclosing

potential harms (*e.g.* loss of fish or farmland, erosion of soil, pollution of water etc.) and benefits of the proposed project. Owen and Kemp (2012) pointed out that the realisation for the need and ultimate acceptance of a 'social license to operate' transpired against the background of intense debate about the industry's social and environmental responsibilities. SLO evolved within the contexts of growing popularity and spread of a global sustainable development agenda (Prno, 2013).

From a business standpoint, mineral developers are increasingly recognising the importance of obtaining SLO to prevent potentially costly conflicts and the upsurge of risks. For example, Davis and Franks (2011) mentioned that protests, violence, global activism, media campaigns, heightened shareholder, government scrutiny, project shut downs and delays are some of the ways in which communities have expressed their disapproval of minerals projects and generated unwanted and unexpected costs for extractive sector companies. Unlike environmental permits that are state-driven and tangible, the existence of a SLO can be presumed when a mining project gains and maintains its "social" approval and acceptance by the community or the public to conduct its business activities in a safe and responsible manner (Joyce & Thomson, 2000; Thomson & Boutilier, 2011).

Generally, for a company to be "issued" an SLO by society, it must incorporate sustainability issues into the mine planning, development and operation and mine closure phase. What this means in practical terms is that mineral development projects must be done in a safe, socially and environmentally responsible fashion without

generating negative externalities that would immensely impact communities (Canel et al., 2010; MacDonald & Gibson, 2006; Prno & Slocombe, 2012; Veiga et al., 2001). Some scholars acknowledge the challenges in integrating sustainability issues into mining on an operational level (McAllister and Fitzpatrick, 2010) but according to Wilburn and Wilburn (2011) and Prno (2013), in the context of SLO, what matters is the community's vision of social, economic and environmental sustainability. Ultimately, if the company manages to meet local community's expectations around sustainable development, the company may then be reward with the issuance of a SLO.

It should be noted, however, that SLO is not a formal license or contract granted by the community but rather it is an intangible agreement which minerals developers have to obtain via negotiations with their local stakeholders. Through the analysis of four case studies, Prno (2013) concluded that the social, environmental and economic contexts of mineral development play an instrumental role in shaping SLO outcomes. This is because contexts dictate which issues will become a priority and what strategies will likely be the most suitable for their resolution. He also stressed the need to understand SLO as a relationship building and engagement process in which companies must make purposeful efforts to form a part of the fabric of the community and garner the necessary local support for mining projects. In this regard, firms would need to exhibit characteristics such as trustworthiness, respect, being community-oriented and transparency for their stakeholders to build confidence/faith in them.

Furthermore, the extent to which a mining project produces local benefits in the form of jobs, procurement opportunities, donations, tax payment, royalty payments to name a few should be considered another influencing factor in earning widespread community support. Whether a SLO will be granted or not hinges on several determinants. In cases where the value differences of the local community and the mining company seem irreconcilable, the SLO outcome is likely going to be unfavourable for the minerals developer. Accordingly, there is no guarantee a company will succeed in securing and maintaining a SLO.

Central to the idea of SLO is an implicit understanding and recognition of local communities as stakeholders. Stakeholder theory was first introduced by Dr. Edward Freeman in 1984 in his landmark book *“Strategic Management: A Stakeholder Approach”* where he maintains that shareholders should be regarded as one of the various stakeholder of a corporation.

Donaldson and Preston (1995) describe stakeholders as persons or groups with legitimate interest in procedural and/or substantive aspects of a firm’s commercial activities, regardless of whether the firm has any corresponding interest in them. Generally, the interests of stakeholders are of intrinsic value. That said, stakeholder theory does not suggest that every stakeholder group should be involved in all processes and decisions of an organisation in an equal manner. Prior to the establishment of stakeholder theory in management literature and practice, the dominant paradigm was the conventional input-output perspective where investors,

employees and suppliers were understood as contributing inputs which the business then converts into outputs for customers. Unlike the input-output model of the firm, the stakeholder model of the corporation asserts that all stakeholders with a legitimate interest in the commercial entity participate in that entity to gain benefits.

Phillips et al. (2003) define stakeholder theory as a theory of organisation management and ethics which explicitly promotes morals and values as a key characteristic of managing organisations. Indeed, a number of authors have examined the moral underpinnings of stakeholder theory using different normative cores such as common good (see Argandoña, 1998), feminist ethics (see Burton & Dun, 1996; Wicks, Gilbert & Freeman, 1994) and integrative social contracts theory (see Donaldson and Dunfee, 1999) to name a few. In this sense, stakeholder theory does not only consider shareholder wealth maximisation as alleged by notorious economists Milton Friedman (see *The social responsibility of business is to increase its profit*) but more so, it takes the interest and wellbeing of other groups or actors who are able to promote or impede the achievement of corporate objectives, seriously.

While Phillips et al. (2003) introduce us to the conceptual breadth of stakeholder theory, Donaldson and Preston (1995) point to the descriptive, instrumental, normative and managerial dimension of the theory. They argue that stakeholder theory is descriptive as it depicts the corporation as a collection of cooperative and competitive interests holding inherent value. At the same time, the theory can be said to be instrumental given that it offers a frame to look at the relationship between the practice

of stakeholder management and the accomplishment of various business performance goals (e.g. profitability, stability, growth etc.). For instance, Freeman's (1984) was convinced that a more appropriate measure or indicator of a company's success is whether it has sufficiently met the expectations of all its stakeholders and not merely those of its stockholders.

Even though the descriptive and instrumental elements of stakeholder theory are imperative, fundamentally the theory has a strong normative basis which includes the recognition of the following ideas: (a) stakeholders are identified based on their interest in the corporation and (b) each stakeholder group deserve consideration for its own sake. Lastly, stakeholder theory is considered managerial because it advocates approaches, structures and practices, which combined, form stakeholder management.

In some respects, stakeholder theory can be seen as an alternative way of understanding the corporation and doing business, especially because it encourages private sector entities to look beyond the conventional shareholder profit maximization doctrine. In a similar vein, SLO offers minerals company an avenue to rethink their approach to stakeholder management, social investment and community development.

For example, Louche et al. (2010) suggest the need for a paradigm shift from a risk management orientation to a collaborative long-term development agenda. Certainly, if mining multinationals embrace a stakeholder theory framework and fully grasp the ways in which host communities as legitimate stakeholder can affect or be affected by the business operation, then stakeholder engagement will not be perceived

as an obstacle to overcome by the company but rather an opportunity to involve communities as partners in both project and sustainable community development.

CHAPTER 3: RESEARCH METHODOLOGY

3.1 Justification for selected Methodology

This study seeks to address the limited empirical studies on how the GPs have impacted business human rights conduct on the ground. Hence, given the interdisciplinary and exploratory nature of the study as well as the specific research questions, a mixed method approach was used in a complementary fashion for primary and secondary data collection (see Table 4 & Table 5). Greene et al. (1989) explicated that “in a complementary mixed method study, qualitative and quantitative methods are used to measure overlapping but also different facets of a phenomenon, yielding an enriched, elaborated understanding of that phenomenon” (p. 258). As they further noted, by capitalizing on the strengths and offsetting biases in methods, complementary mixed method design is beneficial in increasing the interpretability, meaningfulness and validity of the findings. In line with Greene et al. (1989) delineation, my study integrated both quantitative and qualitative data to create a more holistic picture of the situation in Dumasi. For instance, the themes covered in the qualitative interviews and focus group discussions resembled the ones in the survey questionnaire, however, the specific questions varied. While the data from the survey questionnaire was used to quantify respondent’s expectations and experiences with the mining company, the qualitative data was valuable in offering a deeper comprehension of these expectations and experiences which are often shaped by community members’ cultural paradigms.

Table 4: Overview of institutions that were interviewed

Corporate Entities	Government Agencies	Civil Society Organisations
Golden Star Resources Bogoso/Prestea (GSR)	Minerals Commission (MC)	World University Service of Canada (WUSC)
Ghana Chambers of Mines	Prestea Huni-Valley District Assembly <i>(Assembly men/woman & traditional authorities)</i>	Wassa Association of Communities Affected by Mining (WACAM)
	Office of the Administrator of Stool Land	
	Commission on Human Rights & Administrative Justice (CHRAJ)	
	Ministry of Land & Natural Resources	

Guided by the philosophical tradition of pragmatism, the underlying goal is to mix research methods in a manner that provide the best opportunities for answering relevant research questions while compensating for the weakness of each method (Johnson & Onwuegbuzie, 2004). Pragmatism as a philosophic position has an extensive history. In fact, American philosophers and writers like Peirce, James, Dewey, and George Herbert Mead developed the essential ideas and features of pragmatism. However, at its core, the philosophy of pragmatism advocates for the “combining of methods in a way that achieves complementary strengths and non-overlapping weaknesses” and this is seen as the *fundamental principle of mixed method research* (Punch, 2013).

It should be noted that researchers who believe in the philosophy of pragmatism reject the either/or choices and the metaphysical concepts associated with the quantitative-qualitative divide that is principally based on epistemological and

ontological questions (Punch, 2013). This is because pragmatism is mainly concerned with the practical consequences of the object of conception (Peirce, 1878; James, 1975).

Punch (2013) stressed that there are two important implications worth highlighting at this point: The first being that research questions are more important than the method used or the paradigm underlying the method. Secondly, the selection of qualitative or quantitative research methods fundamentally depends on the research question(s) being asked (Hammersley, 1991).

Among the numerous advantages that Johnson and Onwuegbuzie (2004) listed for mixed method research was the prospect of producing “more complete knowledge necessary to inform theory and practice” (p.21). Indeed, Elwood (2009) pointed out that mixed method can be used in a complementary fashion “as different methods [...] may be used together to enhance the explanatory power of our research” (p.96). For instance, a qualitative analysis of interviews can provide insights into meanings, relationships and interactions which quantitative analysis of survey data might miss. At the same time, quantitative analysis of survey data can uncover patterns of structural relationships that can be further examined through qualitative analysis of interviews (Elwood, 2009). Similarly, Punch (2013) noted that on one hand, quantitative research has the advantage of being able to conceptualise variables, profile dimensions, trace trends and relationships, formulise comparison and utilise large or representative samples. On the other hand, qualitative research has the strength of sensitivity to meaning and context, the in-depth study of smaller samples and remarkable

methodological flexibility which allow researchers to study process and transformation. What is more, qualitative research allows the researcher to get insight into the lived experiences of participants based on their own words and their perspective.

Table 5: Field Activities & Methodological Tool

QUESTIONNAIRE SURVEYS	QUALITATIVE IN-DEPTH INTERVIEWS	FOCUS GROUPS/ COMMUNITY DISCUSSIONS	DOCUMENTS
Unit of analysis: households	19 semi-structured individual interviews	2 all-female group discussions	Relationship & Sustainable Livelihood Agreement – btw GSR & Bogoso community
Sample frame: 552 houses (with 676 households)	Semi-structured group interview with staff from GSR Community Relations department	2 all youth group discussions	Country Implementation Plan for Voluntary Principles and Human Rights – Work Plan for Ghana
Sample size: every fifth house Estimated: 110 Actual: 119	Semi-structured group interview with staff from Minerals Commission		Mineral’s Commission CSR Guidelines & the Minerals & Mining Policy of Ghana
<u>TOTAL: 119 respondents</u>	<u>TOTAL: 21 in-depth interviews</u>	<u>TOTAL: 4 focus group discussions</u>	GSR 2015, 2016 & 2017 Corporate Social Responsibility Report
			Ghana’s Minerals & Mining Act, 2006, 703
			CSR Agreement - btw GSR & Bogoso community
			Local Employment Agreement btw GSR & Bogoso community
			Dumasi Resettlement Agreement

3.2 Justification for selected Study Area

My fieldwork took place in Dumasi located in Wassa West District of Ghana where most of my key informants reside. This village was selected for four primary reasons. In choosing a study area, the criteria of recognition as a host community and

the relatively close geographic proximity to the mining site were used to establish the existence of a company-community relationship.

Secondly, Dumasi is one of the oldest mining areas in Western Ghana (nearly 20 years) where a Canadian mining multinational, that has publicly accepted the GPs, conducts business. Thus, the long interaction between GSR and its host community in Bogoso (including the village of Dumasi) allowed me to (1) explore how the company-community relationship has evolved over time as well as (2) examine how mining activities have altered the lives of community members both positively and negatively.

Thirdly, Dumasi was selected because of the media attention it received in relation to alleged corporate human rights abuses and the level of community activism that seemed to be taking place there (see for example Anane, 2006; Tetteh, 2012; Ghana Web, 2012; Ghana News Agency, 2013a; Ghana News Agency, 2013b etc.).

Lastly, based on Geenen's (2016) report, members of the Dumasi community anticipated to undergo project-induced displacement as a result of the planned expansion of the Dumasi open-pit. Consequently, residents of Dumasi had expectations with regard to the developmental outcome of the displacement and resettlement. Given the interrelations between resettlement, human rights and development as discussed in the *United Nations Basic Principles and Guidelines on Development-Based Eviction and Displacement*, the Dumasi resettlement project constituted another compelling ground to potentially study the nature of this relationship.

Combined, these four reasons were a strong indication that the village of Dumasi constitutes a befitting area for a case study that seeks to investigate the various factors that shape the human rights conduct of ESCs and the effectiveness of community-based accountability strategies.

3.3 Collection of Qualitative Data

Qualitative data was gathered from June 2017 to August 2017. The collection of qualitative was done through semi-structured interviews and focus group discussions as they allowed for flexibility and the emergence of new ideas (Parr, 2015). In order to establish the trustworthiness of the study, the collection and analysis of qualitative data were guided by the principles of *credibility, transferability, dependability and confirmability* (Lincoln & Guba, 1985). Credibility was confirmed through the purposeful sampling of interviewees. This sampling strategy allowed for the recruitment of knowledgeable participants who provided “information-rich cases” (Patton, 2002, p. 242). Specifically, I conducted in-depth interviews with (1) three Community Relations Officer(s) of Golden Star Resources; (2) a representative from the community organisation WACAM; (3) a representative from the community organisation WUSC; (4) local chiefs; (5) representatives of the Ghana Minerals Commission; (6) a representative of the Commission on Human Rights and Administrative Justice, (7) a representative from Ghana Chambers of Mines as well as facilitated (8) four focus group discussions with community members. Participants for the focus group

discussions were identified and recruited during the survey questionnaire administration. The qualitative interviews and focus group discussions were semi-structured and done using an interview guide. The use of the interview guide meant that all participants were asked a set of common questions about the institutional context in Ghana, the GPs, as well as expectations and experiences of mining communities with regard to the human rights responsibilities of businesses. However, because the questions were open-ended, some interviewees also discussed issues they felt were relevant to them or issues they wanted to draw my attention to. Where there seemed to be inconsistency and/or ambiguity, different participants were approached to provide clarifications and confirmation of major claims. For instance, following a group interview, individual interviews were scheduled to obtain more insight and elaboration on a topic. Moreover, the detailed descriptive field notes contributed to ensuring transferability and confirmability. Finally, credibility was further established through participants' feedback on the transcribed interviews as the feedback helped in eliminating personal bias.

In addition to primary data, relevant secondary data on minerals and mining laws, policies, as well as socio-demographic characteristics on Bogoso/Dumasi mining community were obtained through the various national and local government institutions. Other secondary data include official reports produced by the Government of Ghana and Golden Star Resources which were used for document analysis.

Since documents can be seen as “social facts” which are created, proliferated and used in socially organised fashion (Atkinson & Coffey, 1997), the intention is to “elicit meaning, gain understanding and develop empirical understanding” (Bowen, 2009, p. 27). The critical analysis of the documents was meant to ascertain the language that the mining company and the various government institutions use to engage with and give meaning to corporate human rights responsibilities.

3.4 Qualitative Data Analysis

A total of nineteen (19) semi-structured individual interviews, two (2) semi-structured group interviews and four (4) focus group discussions were analysed. On average, these interviews and focus group discussions lasted between 30 to 60 minutes and were conducted in English and/or Twi (Ghanaian local language). Interview locations varied based on participants’ preferences. Field notes, containing reflective information, further enriched the analysis. The semi-structured interviews and focus group discussions were tape-recorded with participants’ permission and transcribed afterwards. For the interviews that were not allowed to be recorded, notes were taken instead. In terms of the analysis process, the transcripts and notes were prudently read from beginning to end so as to become familiar with the data (Wolcott, 1994). Subsequently, the transcripts were read a second time for open coding and first-order analysis (see Gioia, Corley & Hamilton, 2013).

The qualitative data analysis process involved identification and coding of themes in the data, followed by the grouping of codes into related themes or concepts

(Bazeley & Richards, 2000). Throughout this process, the relationship between the different emerging themes was established and corresponding quotes were matched with the identified categories. By using the process of arranging quotes in accordance with identified themes (i.e. axial coding), other themes were able to emerge, especially when some data did not fit into current categories. To ensure internal consistence, the data in each themes were carefully read again. Given the importance of anonymity, participants were allocated a code (i.e. R1, R2 etc.).

3.5 Collection of Quantitative Data

Like most quantitative research, the worth of the research project was assessed by the reliability and validity of the work (Payton, 1979). Hence, specific efforts were made to ensure internal and external validity, objectivity and reliability.

To procure quantitative data on community members' expectations of and experience with mining companies' human rights activities and contribution to sustainable community development in the region, a survey questionnaire was administered face-to-face to the head of the households in Dumasi using a systematic random sampling technique. Household formed the unit of analysis in this study largely because the household is often considered the principal or perhaps the most significant context of human behaviour (Netting et.al. 1984, Netting 1993, Varley 1994). Nonetheless, formulating a universally applicable definition has been a challenge. For the purpose of this research, the household is understood as a person or

group of related or unrelated persons who share a housing unit(s) and acknowledge one adult as their head and have a common housekeeping arrangement (Idemudia, 2007). Household as a unit of analysis permits an exploration of how household dynamics (i.e. gender, income, hierarchy etc.) impact the community's ability to hold mining companies accountable. Furthermore, paying attention to household dynamics is important as Arku and Arku (2009) have suggested that socio-cultural factors, like religious beliefs and gender roles, can promote or impede well-being in rural households in Wassa West District of Ghana. In a similar vein, these socio-cultural factors may also affect the capacity of individual households to engage in community-based corporate accountability strategies.

The survey included close and open-ended questions on respondents' (1) socio-demographic background (e.g. sex, age, marital status, ethnicity, education, occupation etc.); (2) community expectations of mining company; (3) community experience with the mining company. The sample for the household questionnaire was selected based on systematic sampling to reduce threats to internal and external validity.

According to Krefting (1991), threats to internal validity are minimized when changes in the dependent variable are attributable to changes in the independent variable, or put differently when the design minimizes the impact of competing confounding variables by control or randomization. Furthermore, Payton (1979) explained that to establish external validity, the study sample should be generalizable to the larger population as such the sampling technique is crucial. Considering the

sample size of this study, generalisation can only be made to the Dumasi community specifically.

The sample frame from which the sample was drawn was based on statistics from the Prestea-Huni-Valley District (2010). A total of 552 houses with 676 households in Dumasi were identified. In doing the questionnaires, every fifth house was approached, and the head of the household was asked to complete the questionnaire when available. In cases where the head of the household was not available, the next adult figure was asked to participate in the household questionnaire. While some houses had a more traditional multigenerational household composition (i.e. father as the head of the household with a wife, children and grandparents), other households were made up of all-females or all-youth. Overall, 119 household questionnaires were personally administered to head of the households in the village of Dumasi (see Table 8). The design of the quantitative portion of the study was done in a way that it would pass a possible replication test. Sandelowski (1986) discussed the importance of reliability in quantitative studies and classify it as the criterion concerned with the stability, consistency and equivalence in the study. Reliability can be confirmed via replication test, that is, the extent to which repeated administration will not alter the findings.

3.6 Quantitative Data Analysis

For quantitative data analysis, I used SPSS to input data and obtain descriptive statistics such as simple frequency tables and basic cross-tabulations. Simple frequency tables display how the values of nominal variables are distributed across the data set. Each variable within the table has values with differing frequencies. The tables provide me with the frequency (i.e., the number of observations of a specific value within a variable), percent (i.e., the relative frequency expressed in a percentage value), valid percent (the percentage of missing data that were excluded from the calculation) and cumulative percent (Punch, 2013). Some of the simple frequency tables that were created include socio-demographic background of respondents (see Table 8), reasons for corporate-community conflicts (see Table 10) and community-based corporate accountability strategies (see Table 17) which are discussed in the subsequent chapters.

Cross-tabulations are helpful in testing a research hypothesis and in examining how two variables covariate. Differently put, these tabulations allow the researcher to look at the association among two variables and measure the strength of that relationship. The bivariate cross-tabulation organises observation of the dependent variable and independent variable and allow for simple comparison across categories.

For this study, I used a basic cross tabulation to show how mining activities impact respondents along gender dimension as it has often been argued that men and women are affected differently by mining (see for example Sharma, 2010; Hill & Newell, 2009; Akabzaa & Darimani, 2001 etc.).

3.7 Critical Reflection on Fieldwork

3.7.1 The limits to language.

Like other African countries, Ghana is ethnically, culturally and linguistically diverse. It is estimated that there are over 48 languages and dialects spoken in Ghana (Dakubu, 1988; Hall, 1983), however, English is the official language. Originally introduced during British colonial rule, English has become the standard language for government affairs, business activities and educational instructions. While all my questionnaires and interview guides were designed in English, community members in Dumasi/Bogoso generally expected me to communicate with them in Twi (i.e. the language spoken among the various subgroups of the Akan ethnic group). As one of the dominant local languages in Ghana, community members seemed to feel much more comfortable in expressing their ideas in Twi as opposed to in English.

Older research participants sometimes used Akan proverbs in answering my questions during face-to-face interviews, focus group discussions and household questionnaires. Among the Akan ethnic groups, the use of proverbs and metaphors/analogies is meant to summarise the core idea of what is being said. Furthermore, using ancient proverbs is supposed to establish the validity of one's statements because the words of the ancestors are conceived as words of wisdom and truth.

In translating the Twi language, Akan proverbs and metaphors/analogies into English, some of the meanings and nuance may have gotten lost in the process. This is because some Twi words and certain cultural expressions do not have a direct/one-to-one English equivalent. However, concerted efforts were made to provide the best possible translation that captured the meaning of the responses given during the interviews and focus group discussions.

In doing research, it is important to keep in mind that the process of gathering data is not mediated by epistemology and ontology concerns only as practical questions must also be taken into consideration. Thus, from a practical point of view, hiring a professional translator was not a viable option due to financial constraint. Besides, as a member of the Ghanaian diaspora who understands and speaks Twi, it was important for me to personally interact with participants in order to grasp their lived experiences as best as possible, capture their stories by using their own words and translate them into academic writing while retaining the core message of their narrations. The use of a professional translator could have altered my interaction with participants as well as impacted the dynamics and flow of the interview. While I acknowledge the challenges that may arise from doing the translation myself, for the reasons mentioned above, the decision not to involve a professional translator appeared to be the most appropriate approach.

3.7.2 Meeting the community gatekeepers.

Reeves (2010) stated that gatekeepers are essential to negotiating access and gaining entry to a fieldwork site or research participants. This is because gatekeepers can either advance or impede the research progress depending on their perspective on the validity and value of the research as well as their attitude towards the wellbeing of the community they are in charge of.

For my research, I had to negotiate access to the Bogoso/Dumasi community with both formal and informal gatekeepers (Reeves, 2010) or as Ortiz (2004) call them internal and external gatekeepers. Upon my arrival in the small village of Dumasi, I visited the Assembly woman to introduce myself, and explain the research and its purpose. Given the size of the population, it was necessary for me to seek approval from a formal gatekeeper prior to embarking on data collection. After reading my fieldwork confirmation letter and questioning me about my intentions, she granted me permission to proceed and suggested two young people who could assist me in navigating the village. Ordinarily, I would have visited the local / traditional chief as part of the process of negotiating community access and entry. However due to the obscurities and controversies relating to the chieftaincy in Dumasi, it was best not to approach the chief of Dumasi in order to not get entangled in village politics.

In contrast to Dumasi, informal gatekeepers were essential in attaining access to participants in the town of Bogoso. For instance, I attended a religious service at the main Catholic Church in Bogoso and requested an appointment with the priest

following the service. During my meeting with the priest, I was asked to state my intentions with the research and show some sample interview questions. At the end of the meeting, the priest gave his go-ahead and offered to support my undertaking by making an announcement in the church to encourage members to participate. While I interviewed formal gatekeepers like the three assembly men and the traditional / local chief of Bogoso, it was informal gatekeepers like church leaders that were instrumental in helping me gain the trust of research participants. As I learnt from some participants during focus group discussion in Bogoso, formal gatekeepers such as the assembly men or the traditional /local chief of Bogoso are viewed as authorities with whom they have little to no direct communication and interaction. Rather, church leaders are seen as the ones who are easily approachable, accessible and available.

All in all, my positionality as a member of the Ghanaian Diaspora (insider/outsider) proved valuable in building rapport with the various gatekeepers of Dumasi/Bogoso and securing entry into the community.

3.7.3 'So, how does your research benefit us?': Over-researching a community.

One of the reoccurring question and theme among community members was the possible benefit of the research to them. There were expectations that I should go beyond conducting interviews and surveys for my graduate studies. Most of the time, a respondent or participant would remind me that I was a Ghanaian and needed to contribute to building our country by helping the Dumasi community. These remarks

may have been made due to the perception that I am in a more powerful position and have access to resources as a Ghanaian from abroad. Quite often I was given the following instruction: “Make sure you tell the company and the government what we are telling you oo.”

Based on my observations and comments from some of the interview participants and survey respondents, some segments of the Dumasi village appeared to be over-researched. In those parts of the village, community members, in particular adult men, rejected my request for an interview or the completion of a household questionnaire. Clark (2008) explains that research fatigue and over-researching occur in context where participants feel that their engagement in research has not led to any form of change. For instance, while interviewing one of the Chief linguists, he showed signs of disinterest. He later admitted that a number of researchers have approached him over the years. Hence, he is getting fed up of giving interviews as he does not see the how the numerous research have directly benefitted the community.

In trying to balance the tension between recognizing my social privilege as a Ghanaian from abroad and not wanting to exhibit a “saviour” complex, I explained some of the potential benefits that can come out of the research. Specifically, I mentioned how publications in journals that emphasise their voices can increase awareness of their situation. Overtime, a collection of empirical work on the lived experience of mining communities can affect a shift in thinking and practice among various stakeholders in the mining industry. For instance, in the past, several extractive

sector companies tended to apply a top-down approach to community relations. In recent year, however, most mid-tier to large resource extraction companies have created a separate department for community relations where they support and fund projects that are led by members of their host communities. I provided these examples to reinforce the idea that their participation in research matters and can make a difference, but change often occur in a slow pace.

3.8 Research Limitations

There are a few of limitations to this study pointing to promising areas for future research. While the sample (119 household questionnaires) approximates the relative number of households in Dumasi village, the arrangement of the houses presented a challenge (see Figure 1). Hence, due to the lack of proper randomization, the resulting data from the household questionnaire are not necessarily representative of the entire village.

Since the case study is restricted to the specific views and lived experience of the Dumasi mining community, the qualitative data cannot be used to make generalisations to the population. The inherent limitation of qualitative data means that participants cannot be taken as representative of all mining communities in Ghana. However, because the interview questions were developed based on the BHR literature, the data is generalizable to theory. Accordingly, findings from the study may prove useful in offering theoretical, practical and policy recommendations that could aid in mitigating

corporate-community conflicts in other mining communities in developing countries with a similar economic, political, social and cultural context as Ghana. Hence, an interesting extension of this study could be a nationwide or a cross-country comparative study to strengthen its generalizability and discover other nuances.

Another limitation of the study relates to the absence of an all-male focus group discussion. Several factors may have contributed to the difficulty in recruiting men in Dumasi for a focus group discussion. One reason may have been in relation to my positionality as a female young adult of Ghanaian background who is considered an outsider of this particular community. In a Ghanaian context, gender, ethnicity and age are used as important markers of social identity to determine social hierarchy and negotiate power relations. From this perspective, as a female Ghanaian youth, my social status among elderly men in the Dumasi community was relatively low and did not permit me to assemble them to lead a focus group discussion. Notably, while there was resistance to participate in a focus group, some men were comfortable and willing to complete the questionnaire as the head of the household.

Although this challenge may have presented itself as a disadvantage initially, the emphasis on all-female and all-youth focus group discussions allowed for these traditionally marginalised voices to be highlighted. Within the mining industry, it is not uncommon for men to dominate through the decision-making power they possess as a result of their positions within mining companies and public institutions. In a similar vein, men tend to dominate the political arena in Ghana (Bawa & Sanyare, 2013).

For instance, within the local government of the mining town, the Dumasi assemblywoman is the only female community representative. The other (3) three community representatives of Bogoso are men. As such, facilitating all-female and all-youth focus group discussions can be seen as a way of giving voices to social groups whose views and perspectives are usually not emphasised. To this effect, future studies could examine the socio-cultural dynamics within mining communities and how these factors affect the ability of the community to secure corporate accountability.

CHAPTER 4: CONTEXTS AND STUDY AREA

4.1. A Historical and Contemporary Account of Ghana's Mining Industry

Gold mining in Ghana has a long history that dates back to the fifteenth century (Ghana's Minerals Commission, 2014). In fact, the country's former colonial name was Gold Coast. That is because Ghana is richly endowed with resources such as gold, diamonds, manganese, oil, and bauxite, with gold as the largest contributor to the national economy (Garvin et al., 2009). Aryee (2001) estimated that gold accounts for 38% of total merchandise and 95% of total mineral export. According to Ghana's Minerals Commission (2014), gold has made up 90% of all mineral revenue over the past two decades.

There are two types of gold mining in Ghana: small-scale and large-scale. Within the small-scale mining sector is a practice known as *galamsey*, which refers to individuals who make a living through illegal mining activities, *i.e.* gathering and selling minerals at or just below the soil surface without possessing the necessary license (Aubynn, 2009). Despite being illegal, *galamsey* is said to dominate the small-scale gold mining sector, with an estimated 60,000 people involved in these practices (Aubynn, 2009). On the other hand, large-scale mining operations are predominantly undertaken by foreign multinationals with access to more resources, greater capacity, heavier equipment, and up-to-date technology and this sector employ approximately 20,000 Ghanaians. While fewer people are employed in the large-scale mining sector, it

contributes about 45% of the country's foreign currency, making the sector crucial to the Ghanaian economy. Generally, the distribution of mining benefits is disproportionate. Due to their low level of education and skills, the labour of residents from the smaller towns and rural areas, where mines tend to be located, are not particularly sought after (Akabzaa & Darimani, 2001). Consequently, Aubynn (2009) has argued that large-scale mining does not significantly contribute to promoting local economies.

As part of the nationalization process after its independence in 1957, the majority of the mines came to be state-owned and eventually globally uncompetitive. During this period (*i.e.* 1960 to 1985), the mining industry faced production, technological and financial challenges, resulting in decreasing output (Akabzaa and Darimani, 2001; Aryee, 2001; and Dumett, 1998). Budget deficit, expansionary monetary and fiscal policies as well as excessive borrowing meant that there were clear indicators of deteriorating economic conditions by the early 1980s (Government of Ghana, 1984). Consequently, Ghana turned to the World Bank and International Monetary Fund for financial assistance. During the 1980s and 1990s, Ghana adopted the Structural Adjustment Program (SAP) to supposedly promote socio-economic development. Like other countries in the global South, Ghana was expected to implement certain economic and social policies to qualify for funding and debt-relief from these lending agencies. Among others, Ghana was forced to devalue its currency, adopt a flexible exchange rate, decrease inflation, reduce public services and government spending (especially on education, health, and welfare), eliminate trade barriers, privatise public enterprises,

and stimulate economic growth through export (Aubynn, 2009; Aryee, 2001; Government of Ghana, 1984; Brohman, 1996; Portes, 1997; Konadu-Agyemang, 2000). While the benefits and drawbacks of SAPs have been widely debated (see Osabu-Kle, 2000; versus Prempeh, 2001), there is little doubt that the mining industry witnessed immense growth between 1983 and 1998, particularly with rising export earnings from gold and diamonds.

In 1986, the Government of Ghana created the Minerals Commission to provide a stable policy environment and further enacted its first mining-specific legislation called PNDC Law 153 (Rutherford & Ofori-Mensah, 2011). To further encourage foreign direct investment through the provision of financial incentives, the Ghanaian government revised the mining code to the *Mining and Minerals Act* (Act 703) in 2006 with technical assistance from the World Bank (Rutherford & Ofori-Mensah, 2011). The establishment of a regulatory institution and the introduction of a new legal framework created an enabling environment for large-scale mining as they offered foreign transnational corporations generous tax allowances, exemption from customs duties, a rebate on royalties, and fewer foreign ownership restrictions (Akabzaa & Darimani, 2001; Aryee, 2001; Aubynn, 1997; Sweeting & Clark, 2000; Ghana's Minerals Commission, 2001 also see Table 6).

Table 6: Mining fiscal regime in Ghana 2006-2014

Items	2006	2012	2014	Remarks
Incentives and Taxes				
Mineral Right (Mining lease)	One-time payment	Annual payment		<i>Minerals & Mining Licences Regulations 2012; LI 2176; Effective September 2013.</i>
Initial Capital Allowance	80%	20% ; Straight line	20% ; Straight line	<i>Act 839; Third schedule to IRA, Act 592 amended.</i>
Upliftment Allowance	5%	0%		
Carried forward Losses for purposes of taxation	5yrs	5yrs	5yrs	
Corporate Income Tax Rate	25%	35%	35%	
Mineral Royalty	3%-6%	5%	<i>Based on prescribed regulations</i>	<i>On Gross Revenue</i>
Gov't Equity Participation	10% free carried interest.	10% free carried interest.		

Ultimately, these factors made Ghana an attractive destination for many foreign mining companies seeking for lucrative business opportunities in a politically stable environment. Not surprisingly, the increase in foreign direct investment in Ghana's mining sector had various implications for different stakeholders. For mining communities, the increased presence of foreign multinationals has given rise to human rights violations, environmental degradation, and loss of traditional sources of livelihood, among others (Garvin et al., 2009). For the government, the conditions of global neoliberal restructuring transformed its role from being a regulator to becoming more of a facilitator of resource extraction (Idemudia, 2017). However, due to increased incidences of corporate misdemeanours in mining communities, the Ghanaian government designed various policies, guidelines and other non-enforceable forms of

regulations as a way of shaping the human rights conduct of mining multinationals (see Table 7).

Table 7: Laws, policies & global standards governing human rights responsibilities of businesses in Ghana’s mining industry

LAW / POLICY / GLOBAL STANDARD	LAUNCHED IN	INITIATED BY
Constitution of the Republic of Ghana: Chapter Five, Article 12(1)	1992	Government of Ghana
Minerals & Mining Act, 2006 (703) –Section 72 -75 (<i>Surface right & compensation</i>)	2006	Government of Ghana
Guidelines for Corporate Social Responsibility in Mining Communities	2012	Minerals Commission
Voluntary Principles on Security and Human Rights (Work Plan for Ghana)	2014	Ministry of Land & Natural Resources
Minerals and Mining Policy of Ghana	2016	Ministry of Land & Natural Resources
National Corporate Social Responsibility Policy (NCSRP)	2016	Ministry of Trade and Industry

Source: Author’s compilation

Of significance here (see Table 7) is the Mining and Minerals Act of 2006. This is because the valuation of land and crops has remained a source of tension and disagreement between mining companies and local communities. As such the Ghanaian government has sought to address this tension via Section 72 to 75 of the Minerals and Mining Act, 2006. In part, the valuation of land and crops is a complex matter because land ownership and tenure system in Ghana are based on the principles and practice of communal ownership. Land is predominately owned by clans, extended family and communities who entrust the land to traditional authorities for management (Yeboah, & Shaw, 2013). Hence, the Western notion of individual land ownership is not necessarily prevalent in the Ghanaian setting. Interestingly, in pre-colonial Akan society, the sale of

land was even forbidden since land belonged to the entire lineage, that is, the ancestors, the living members and those to be born (Wiredu, 1990). In contemporary post-colonial Ghana, landowners are entitled to exercise surface rights and must be compensated by the holder of minerals rights for the disturbance of their surface rights according to customary land law, (Minerals and Mining Act of 2006 (703)).

Even though Ghana's mining law sets out how land disputes and compensation are to be handled, the issue of adequate compensation for the loss of land, earnings, expected income remains a major human rights concern for local communities. For instance, farmers, who are dislocated as a result of a mining project and consequently have to completely restart, expect to be compensated for the loss of income from foregone crops yields (Dashwood & Puplampu, 2010). One of the challenges is that negotiations relating to the "deprivation of use" compensation and compensation for matured, high-yielded trees initially occur without the government's involvement. However, when a farmer and a mining company cannot reach a mutually beneficial agreement and have exhausted all options, then the Land Valuation Board steps in as the last resort.

4.2 Governing the Mining Industry through Global Standards: VPs & Ruggie's Framework

In 2014, the Government of Ghana joined the Voluntary Principles on Human Rights & Security (VPs) Initiatives to "affirm its commitment to protect, respect and

remedy human rights as outlined in the UN Guidelines on Business and Human Rights and in accordance with the Constitution of the Republic of Ghana” (Government of Ghana, 2014, p.3). Notably, Ghana is the only African country to have signed on to the VPs. In addition, while Ghana has not officially drafted a National Action Plan on Business and Human Rights based on the GPs, the United Nations Human Rights Office of the High Commissioner (n.d.), noted that Ghana is one of the states in which either the National Human Rights Institution or civil society has commenced the process of developing a national plan. Consequently, the VPs and GPs are the two global norms that seem to be shaping how mining companies seek to meet their human rights obligations within local communities.

Developed in 2000, the Voluntary Principles (VPs) are industry-specific human rights principles for extractive sector companies (ESCs). Freeman et al (2000) and Pitts (2011) explain that companies’ determination to protect their assets (i.e. facility, equipment etc.) and the controversial interaction between security forces (i.e. police, military, private security personnel) and local communities were among the drivers for the drafting of the VPs. Similar to other global standards, the development of the VPs was in part sparked by various corporate scandals involving oil companies and their complicity in violent political and ethnic conflicts in regions like Nigeria, Columbia and Indonesia to name some (Wettstein, 2012). Given the economic power of these multinationals and their presence in these regions, it is not uncommon for protesters to target their employees or even vandalise their assets. Allegations about oil companies’

use of security forces to stifle protests and the ensuing human rights abuses of local communities drew the attention of the home governments of these multinationals. Thus, starting in March 2000 the US and UK government initiated and presided months of discussions and negotiations between leading ESCs, human rights NGOs and corporate responsibility groups to find a common ground on security and human rights issues.

Finally, 20 December 2000 saw the public announcement of the VPs by then US Secretary of State Madeleine Albright in Washington and UK Foreign Secretary Robin Cook in London (Freeman et al, 2000). As a multi-stakeholder initiative, the VPs involve the participation of governments, corporations and non-governmental organisations (NGOs). Its objective is to guide ESCs in respecting human rights while maintaining the safety and security of their business operations. Specifically, the VPs were designed to address the human rights concerns of local communities in the global South who have allegedly suffered deaths, kidnapping, torture, and physical harm in the hands of security personnel hired by ESCs (Pitts, 2011). Thus, for companies, joining the VP Initiative is meant to create synergy between corporate policies and practices pertaining to the provision of security for operations in accordance with internationally recognized human rights principles.

Civil society groups can also become member organisations of the VPs and interact with business and state actors to push for the design of corporate policies,

practices and procedures that are in line with the VPs. Governments that participate in the VPs can supposedly tackle some of the challenges relating to security and human rights concerns within the extractive industry. According to Freeman et al (2000), one of the strengths of this non-binding standard is that it has created a process of collaboration, information-sharing, and dialogue among home governments, ESCs and NGOs. However, Freeman (2004) also draws our attention to its implementation challenges as this voluntary initiative has yet to demonstrate its ability to spur concrete progress on the ground. This is partly because the VPs are said to lack monitoring mechanisms as no follow-ups by states are required (Freeman, 2004).

In spite of these criticisms, the Government of Ghana decided to subscribe to the VPs as a potential strategy to respond to the pressures from community leaders, and civil society campaigns about the environmental degradation and human rights issues (e.g. the brutalization of host communities by security forces etc.) within the extractive sector. For instance, in March 2008, Ghana's national human rights institution, Commission on Human Rights and Administrative Justice (CHRAJ), published a national study that investigated the nature and cause of corporate human rights abuses in mining communities. This study prompted the government to respond to the allegations of human rights violations made by host communities to adopt a number of guidelines and global standards like the VPs (see Table 5) in managing business-related human rights concerns within the mining sector (CHRAJ, 2008).

That said, it is also important to keep in mind that local pressure is not necessarily the only impetus for the acceptance of Western- driven voluntary codes of conduct in Ghana. This is because unequal power relations between the Global South countries and Western institutions may be another important determinant in the diffusion of Western corporate standards. For one, governments in Global South countries in pursuit of economic growth may lower their social and environmental standard as a way of attracting foreign investments (Börzel, 2013). Furthermore, Dobbin, Simmons, and Garrett (2007) surveyed four main theories of policy diffusion (i.e. constructivist, coercion, competition and learning) and highlighted that diffusion theorists have come to acknowledge the ways in which “policy choices of one country are shaped by the choices of others” (p. 450). For instance, soft coercion theorists posit that hegemonic ideas and policy leadership drive policy diffusion. These theorists point to coercion exercised by governments, global institutions, and non-state actors via physical force (Owen, 2002), the manipulation of economic costs and benefits, and the monopolisation of information and expertise. Decisions about policy adaptation in countries that depend on the United States, the European Union, the World Bank or the International Monetary Fund for aid, grants, trade, foreign direct investments, loans and securities are often influenced by these powerful nation-states and international financial institutions. This process is further reinforced by the fact that multinational corporations tend to favour global norms and industry initiatives over concrete legal instruments. Importantly, these global enterprises also enjoy the support of their home

governments that increasingly downplay the need for laws and accountability mechanism (Clapham, 2006).

Even though the Government of Ghana does not explicitly engage with the GPs, it nevertheless remains relevant as some non-state actors such as mining companies (e.g. Golden Star Resources) have adopted the framework. An authoritative global standard introduced in 2011, the GPs are a set of 31 principles designed for businesses to prevent and address the risk of causing or contributing to human rights violations relating to their activities or that of their business partners (United Nations, 2011).

Led by the UN Secretary-General's Special Representative for Business and Human Rights, the GPs are a product of six (6) years of research and multi-stakeholder consultation across the globe on the matter of human rights and transnational corporations and other business enterprises. Generally, the framework is based on three core principles. The first being the state's existing duty to respect, protect and promote human rights and fundamental freedom of its citizens. States are required to protect against human rights violations within their territory and/or jurisdiction by third parties, including businesses by taking appropriate measures to prevent, investigate, penalise and redress such violations through policies, legislation, regulations and adjudication (United Nations, 2011). Failure to take such steps can be seen as a breach of the state's international human rights obligations. By bestowing the state with the primary duty of protecting human rights, the GPs follow the traditional hierarchy established by public international law. According to the principle, home states are not

obligated to regulate the extraterritorial activities of corporations based in their territory and /or jurisdiction. Nevertheless, home states are also not forbidden from exercising the extraterritorial dimension of their duty to protect against corporate-related human rights harm overseas if a recognised jurisdictional basis exists (Ruggie, 2007).

The second principle refers to the responsibilities of business enterprises. The framework asks all business irrespective of size, sector, location, ownership and structure to comply with applicable laws and prevent infringement of human rights. With regard to the range of human rights, businesses must respect internationally recognized civil, political, economic, social and cultural rights as specified in the International Bill of Human Rights and the International Labour Organisation's Declaration on Fundamental Principles and Rights at Work. Among others, companies must avoid or mitigate adverse human rights impacts directly connected to their business activities, even if they have not contributed to those impacts (United Nations, 2011). Therefore, companies have an obligation to obey the law even in circumstances where the formulation and enforcement of national laws are limited or nonexistent (Ruggie, 2008).

Furthermore, businesses are called to exercise due diligence by identifying, preventing, and adequately handling human rights issues. Graf and Iff (2017) argue that while the concept of human rights due diligence for businesses can potentially be reduced to operational, financial and reputational risks for the company; its main purpose is to reduce risks for those who could potentially be negatively affected by a

company's operation. It is important to note that adverse human rights impacts can refer to actual or potential. As per the principle, actual impacts should be managed via engagement in remediation while potential impact requires a preventative and mitigation approach. In line with this understanding of human rights impact, the principle encourages business to have a statement of policy, human rights due diligence processes and remediation processes (United Nations, 2011). Likewise, Ruggie (2008) suggested that companies exercise due diligence by adopting human rights policies, undertaking human rights impact assessment, creating an internal corporate culture that is based on a commitment to human rights, and track and report on their performance.

The third principle within the framework puts the responsibility on the state to facilitate access to effective remedies for those affected by business-related human rights abuses through administrative, legislative or other appropriate means. Remedies can come in different forms including but not limited to apologies, restitution, rehabilitation, financial or non-financial compensation and punitive sanctions as well as the prevention of harm through injunctions or guarantees of non-repetition (United Nations, 2011). Since businesses also have a responsibility to redress and remediate human rights violations, the third principle constitute a joint duty of states and businesses. However, the role of businesses is secondary. This is because, under international human rights law, states have three fundamental legal obligations (i.e. respect, protect and fulfil) and "access to remedy" is considered part of the state's duty

to protect. There is a procedural and a substantive component to providing effective remedies to victims of corporate-related human rights violations. With regard to the procedural component of "access to remedy", the process must be impartial, protected from corruption, and free from political or other influences that could change the outcome of the remedial procedures. The substantive aspect relates to the various mechanisms that must be put in place to guarantee victims have access to appropriate remedies (i.e. grievance mechanisms). Within the GPs, grievance mechanism is understood as "routinized, State-based or non-State-based, judicial or non-judicial process through which grievances concerning business-related human rights abuse can be raised and remedy can be sought (GP 25 Commentary).

While some have highlighted the strengths of the GPs, others have heavily criticised it. For instance, Addo (2014) maintains that the GPs' approach to BHR is distinct and adequately robust compared to other governance regimes. For him, some of the characteristics making GPs unique include its flexibility, its blend of processes and substantive standards as well as the support and acceptance by stakeholders from various industries (Addo, 2014). In contrast, Jägers (2011) noted that "from the very beginning Professor Ruggie has steered determinedly away from the concept of human rights obligations for corporations and instead placed exclusive emphasis on the State as the sole duty-bearer" (p. 160). Jägers (2011) attribute this weakness to Ruggie's pragmatic approach to developing the GPs which ultimately led him to interpret corporate responsibility for human rights in a minimalist fashion. Similarly, Cragg

(2012) suggested that the corporate duty to respect human rights should be based on ethical rather than on pragmatic grounds (i.e. enlightened self-interest) as suggested by Ruggie. For Cragg (2012), the assumption that respecting human rights will always be in the economic interest of a corporation is not credible or not likely to be seen as credible. Therefore, Cragg views this as a serious weakness of Ruggie's framework that could impede its implementation. While these debates continue, limited efforts have been directed at exploring the effects of PRR on the ground so far.

4.3. Study Area

4.3.1 Socio-demographic characteristics of Dumasi.

Dumasi is a village with a population of approximately 2,776 people (Ghana Statistical Service, 2014), and located four kilometres north of the Bogoso processing plant complex in the Wassa West District of the Western region of Ghana (see Figure 4 and 5). The village is approximately four kilometres away from the town of Bogoso but considered part of Bogoso and the Prestea Huni-Valley District. It is estimated that there are 552 houses with about 676 households in the community (see Figure 1). Dumasi is divided into two by the main road that connects Tarkwa/Bogoso and Prestea. The leading ethnic groups are Wassa, Fantes, Ashantis and Nzemas with Ewes, Kusasis and Daagaba as the minorities with community members speaking Wassa, Fante and Twi (Ghana Statistical Service, 2014). The village is located in the tropical evergreen

rainforest and possesses fertile soil for the cultivation of food crops and cash crops (Obiri, 2007).

Figure 1: Dumasi village



Source: Author's fieldwork pictures

In terms of basic social amenities, the community has one school building (see Figure 6) and no clinic or hospital. Community members who require medical attention must visit a health facility in Bogoso, or Prestea or Takwa. There are six water streams in Dumasi (*i.e.* Apepre, Worawora, Henya, Eniabo, Nana Anyeabo and Atsesua) which used to be the sources of safe drinking water (Commission on Human Rights and Administrative Justice (CHRAJ), 2008). However, Geenen (2016) explained that following major cyanide spills in October 2003 and June 2006, these sources of water become contaminated and unsafe for daily use (see Figure 2). Similarly, according to a

report by CHRAJ (2008), there was spillage into the river Apepre on October 23, 2004, and June 17, 2006. As a result, Golden Star Resources (GSR) supplies the community with water on a day-to-day basis through six large poly tanks that have been installed across the village (Geenen, 2016). Furthermore, based on a report by CHRAJ (2008), GSR's tailing dam is supposedly also contributing to the pollution of water bodies. Although community members notified the Environmental Protection Agency (EPA) of these environmental discharges, no action was taken (CHRAJ, 2008). It may not come as a surprise that the inaction of the EPA and other governmental bodies has produced frustration and a trust deficit among members of the Dumasi community. With regard to economic activities, most inhabitants earn their livelihood through agriculture, fishery and forestry (Ghana Statistical Service, 2014).

Figure 2: Contaminated Water in Dumasi



Source: Author's fieldwork pictures

In 1999, GSR acquired the Bogoso concessions which include several open-pit mines (i.e. Chejuh, Dumasi, Bogoso North, Buesichem, Opon and Ablifa) (see Figure 3). Therefore, the Dumasi village is in close proximity to mining activities. During the active operation

of the Dumasi pit, community members experienced blasting, and harmful mine gas frequently.

In accordance with the socio-demographic information provided by the Ghana Statistical Service (2014) on Prestea Huni-Valley District, the respondents who completed the survey questionnaire were predominantly farmers (37%), students (20.2%) and petty traders (16.8%) (see Table 8). Out of the 119 respondents, 59 were women while 60 were men. The majority of the respondents (%84.9) have lived in Dumasi for over 11 years.

Table 8: Socio-Demographic Background of Respondents

Variable / Question	Residents of Dumasi (N=119)
Sex:	
%Female	49.6
%Male	50.4
Age:	
Below 19 years	1.7
20 – 29 years	41.2
30 – 39 years	30.3
40 - 49 years	14.3
50 - 59 years	6.7
60 years and above	5.0
No response	0.8
Marital Status:	
Single, never married	35.3
Married	55.5
Divorced	4.2
Widowed	4.2
No Response	0.8
Education:	
No formal education	14.3
Junior Secondary School	31.9
Senior Secondary School	37.8
Bachelor's degree	3.4
Master's degree	0.8
Other (diploma etc.)	11.8
Ethnicity:	
Ahanta	0.8
Nzema	4.2
Sefwi	2.5
Wassa Fiase/Mpohor	58.8

Wassa Amenfi	15.1
Other (Ashanti, Northerner, Ewe, Fanti etc.)	17.6
No Response	0.8
Occupation:	
Trader	16.8
Farmer	37.0
Student	20.2
No employment	14.3
Other (Teacher, Nurse, Driver, Security etc.)	11.8
How long have you lived in this area?	
Under 5 years	5.9
5 - 10 years	9.2
11- 20 years	34.5
21 – 30 years	24.4
Over 30 years	24.4
Other	1.7
Are you a native of this area?	
Yes	73.9
No	26.1

Source: Author's fieldwork data

4.3.2 Background on project-induced resettlement in Dumasi.

On January 30, 2013, a resettlement agreement was signed between Golden Star Resources (GSR) and the Dumasi Negotiation Team which consisted of 33 representatives of elders, religious group, traders, farmers, artisans, civil servants, youth, unit committee and the Dumasi Oversight Committee. Initial discussions regarding relocation started in 2005 after the company “identified the need to re-open and expand the existing Dumasi pit, which is adjacent to the Dumasi community” (Dumasi Resettlement Agreement, 2013, p. 4). However, the actual negotiations began in January 2011 (Thorpe & Gyamfi, 2013). A total of 25 working meetings were facilitated comprising of community forums (e.g. Dumasi Resettlement Negotiation Forum on March 2011), focus group discussions, a series of consultations and resettlement discussions.

As it is commonly done in the extractive sector industry, the agreement makes reference to the International Finance Corporation Performance Standard 5 (IFC PS 5) and promises to adhere to both relevant national laws and international best practices during the relocation process (Dumasi Resettlement Agreement, 2013, p. 4). Importantly, the negotiation process and planning activities were supposed to be in accordance with the local content agreement and “provide fair, high standard resettlement package supported by livelihood restoration and community development programme” (Dumasi Resettlement Agreement, 2013, p. 6). One of the key principles within IFC PS 5, relates to the quest for an improved living standard for affected individuals and communities. Recognising the importance of this principle, GSR made a commitment to strive for a general improvement of the living conditions for residents of Dumasi via the provision of replacement housing as well as appropriate communal structures and services for public use such as community centre, public school, marketplace, sacred sites, cemeteries, electricity, water systems and a public refuse waste system (Dumasi Resettlement Agreement, 2013, p. 6 & 12-13).

According to the agreement, members of the Dumasi community were supposed to be relocated to a new site approximately five (5) kilometres from the village, near the main road that is leading from Bogoso to Kumasi. As part of the process, about 1,696 structures from within 533 compounds would have been physically displaced. Compensation was to be done based on ‘buildings for buildings’ – only annexes and second or third houses of multiple house owners may be compensated in cash. It was

anticipated that production from the Dumasi deposit commences in early 2015 and that the deposit would provide both refractory and non-refractory ore sources for at least six (6) years from 2015 (Golden Star Resources, 2013). However, community leaders and the Assembly woman of Dumasi explained that GSR halted the resettlement process due to financial constraints and may or may not resume at a later (unspecified) time. Thus far, GSR has not issued an official public statement or press release to provide clarity about the resettlement status of Dumasi

Figure 3: Golden Star Resources open-pit and underground mines

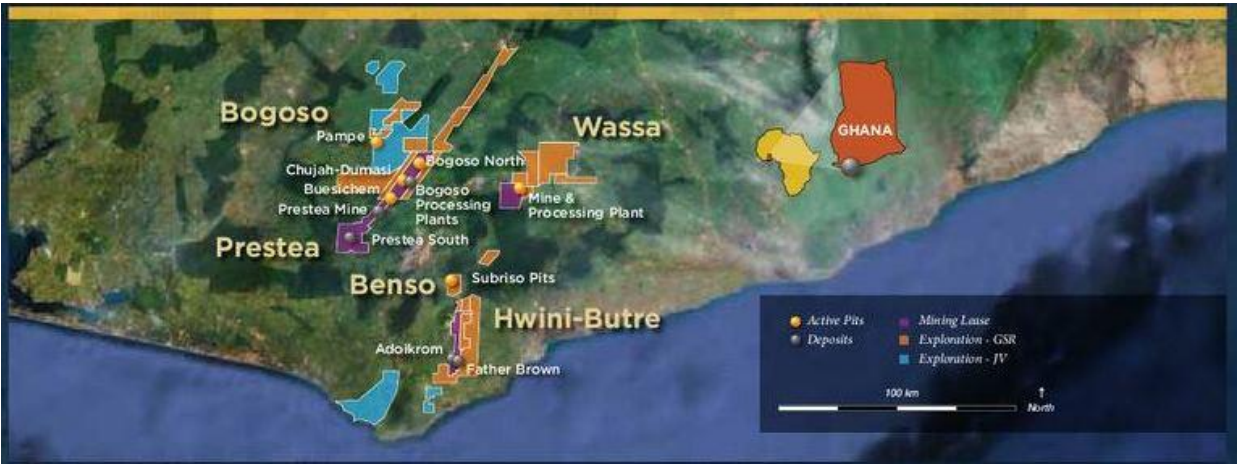
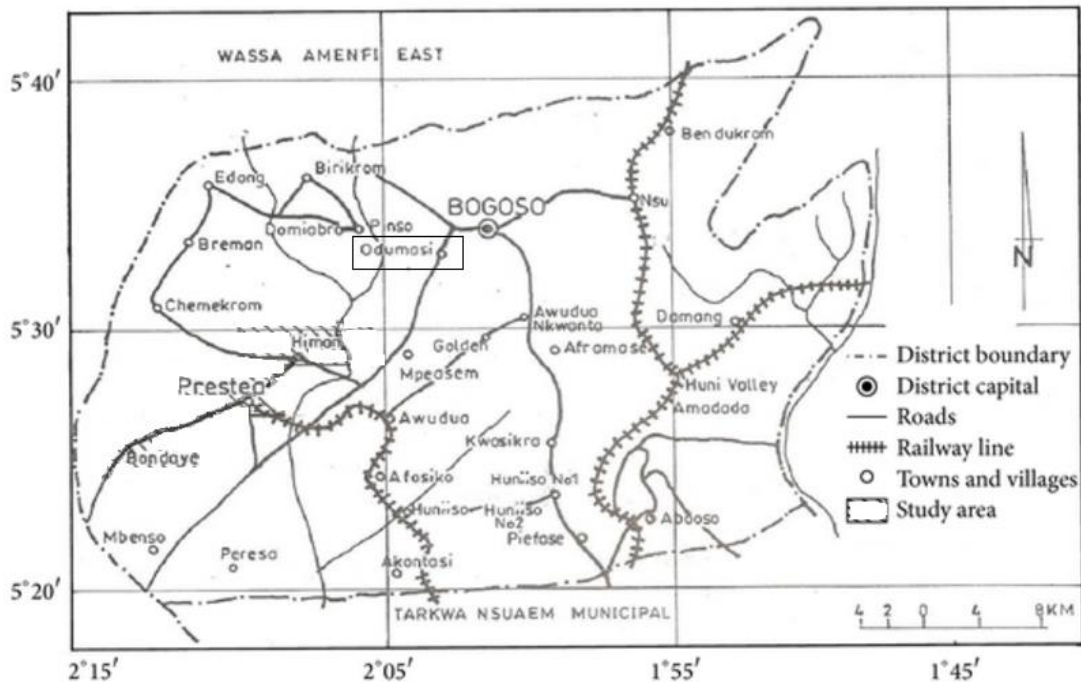


Figure 4: Map of district and study area



Source: Prestea-Huni Valley District Assembly

4.4. Golden Star Resources and Community Relations in Dumasi

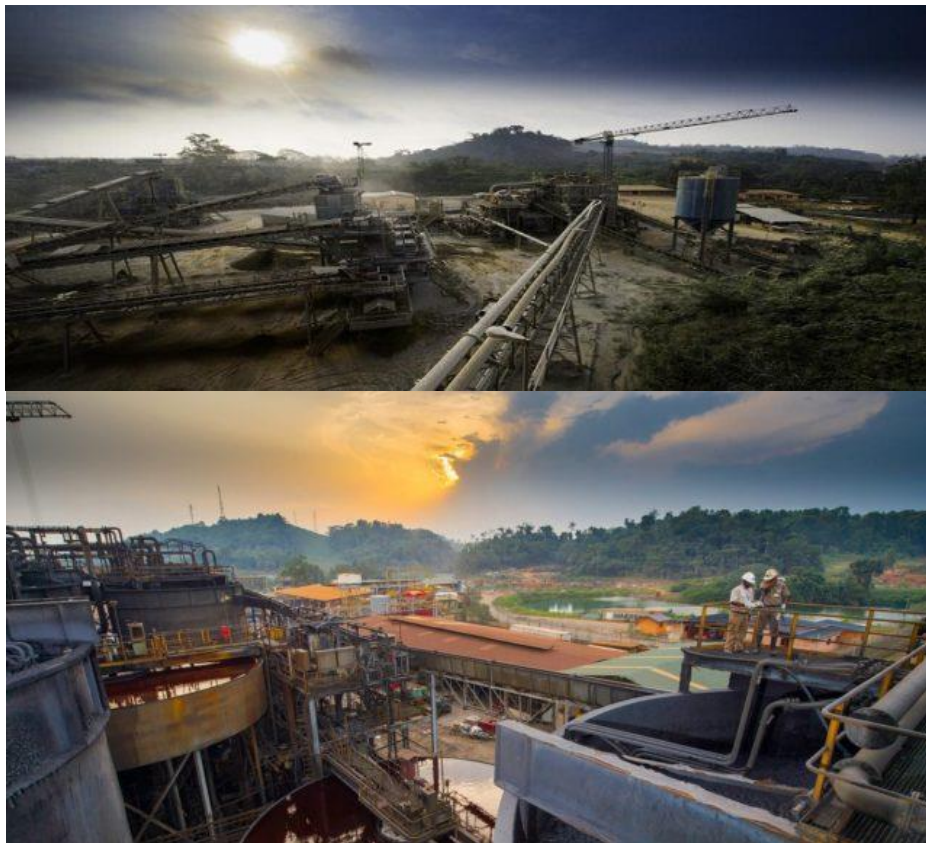
Incorporated in May 1992, Golden Star Resources (GSR) is a global mid-tier gold mining and exploration company with its headquarters in Toronto, Canada. While the company has several subsidiaries (i.e. Golden Star (Bogoso/Prestea) Limited, Golden Star (Wassa) Limited, Caystar Holdings, Bogoso Holdings, Wasford Holdings and Golden Star Exploration Holdings etc.), its gold properties are situated in south-west Ghana. It owns 90% of two operating mines; (1) Wassa and (2) Prestea/Bogoso, located on the Ashanti Gold Belt in Ghana (Golden Star Resource, n.d.; also see Figure 3).

Having operated in Ghana for over 17 years, the company is now strategically concentrated on transitioning into a high grade, low cost, non-refractory gold producer. In 2017, GSR started expanding its operations through the development of two

underground mines below existing open pit operations. In light of fluctuating gold prices, GSR's strategy for improving profitability includes the increase of gold production and reduction in operating expenses (see Golden Star Resources, n.d.).

An integral element of its vision and mission is to be both a profitable gold producer and a responsible corporate citizen that creates value for shareholders, develops internal talents, adopts global standards and becomes a desirable partner for indigenous communities and the host government (Golden Star Resources, n.d.). Consequently, GSR facilitates a number of community development initiatives to establish good community relationships and maintain its social license to operate (see Thorpe & Gyamfi, 2013 and Table 9).

Figure 5: Golden Star Resources Gold Mines





Source: <http://www.gsr.com/about-us/photo-gallery/default.aspx>

Thus, GSR believes its CSR practices are in line with a human rights approach to sustainable community development (see chapter 2 for a discussion on rights to development/ human rights-based approach to development). This view might be due to the shift from top-down to bottom-up approach to CSR that occurred in 2005 after several allegations of human rights violations and environmental degradation arose against the company (Puplampu & Dashwood, 2011). Prior to that, GSR suffered from reputational damage and trust deficit within its host communities, partly because of its own actions or inactions. Consequently, in 2005, the senior management of GSR made concerted efforts to improve its social and environmental performance via internal changes and the initiation of community-led projects (Puplampu & Dashwood, 2011 and Table 9).

Table 9: List of selected CSR Projects by Golden Star Resources

Name of community	Type of community project	Details
Adamanso	Education, School Building	3 unit classroom block and toilet facilities
Akymepim A	Education, School Building	3 unit classroom block and extension of electricity to the school
Akymepim B	Education, School Building	6 unit classroom block, library, and extension of electricity to the school
Nsaweso	Education, Preschool Building	renovation of community kindergarten
Ningo and Subriso	Education, School Building	6 unit primary school with teachers quarters and toilet facilities
New Togbekrom	Education, Preschool Building and Community Library	kindergarten and community library (New Togbekrom resettlement)
Mbease Nsuta	Education, Preschool Building	Daycare centre
Mamponso	Education, School Building	roofing of a three-unit classroom block
Kwame Niampa	Education, School Building	classroom block
Juabeng	Education, School Building	6 unit classroom block, toilet facilities, and a school field
Daboase	Education, School Building	student dormitories
Ateiku	Education, School Building	3 classroom blocks and teachers accommodation (New Togbekrom resettlement)
Prestea	Education, School Building	8 unit classroom block
Old Subri	Education, School Building	classroom block and extension of electricity to the school

Source: <http://goldenstarinthecommunity.blogspot.ca/2017/05/star-pupils.html>

Figure 6: School building in Dumasi sponsored by Golden Star Resources



Source: Author's fieldwork pictures

For instance, in 2006, the Golden Star Development Foundation in Prestea and the Golden Star Oil Palm Plantation (funded with US\$1 per ounce of gold produced) were created to serve as long-term strategies for sharing the socio-economic benefits of mining with host communities (see Thorpe & Gyamfi, 2013). Similarly, a company representative explained that *GSR has had a foundation for years. Community members are in the driving seat and make the decision so it is a very participatory process* (R6). In spite of GSR's efforts to remodel its CSR approach, the legacy of 'bad' corporate behaviour has left stains on its relationship with host communities (Puplampu & Dashwood, 2011). This means that GSR must continuously renegotiate its SLO and implement preventative and mitigating strategies to foster positive corporate-community relations (see Idemdudia, 2014).

CHAPTER 5: CORPORATE HUMAN RIGHTS OBLIGATIONS IN DUMASI: EXPECTATIONS & EXPERIENCES

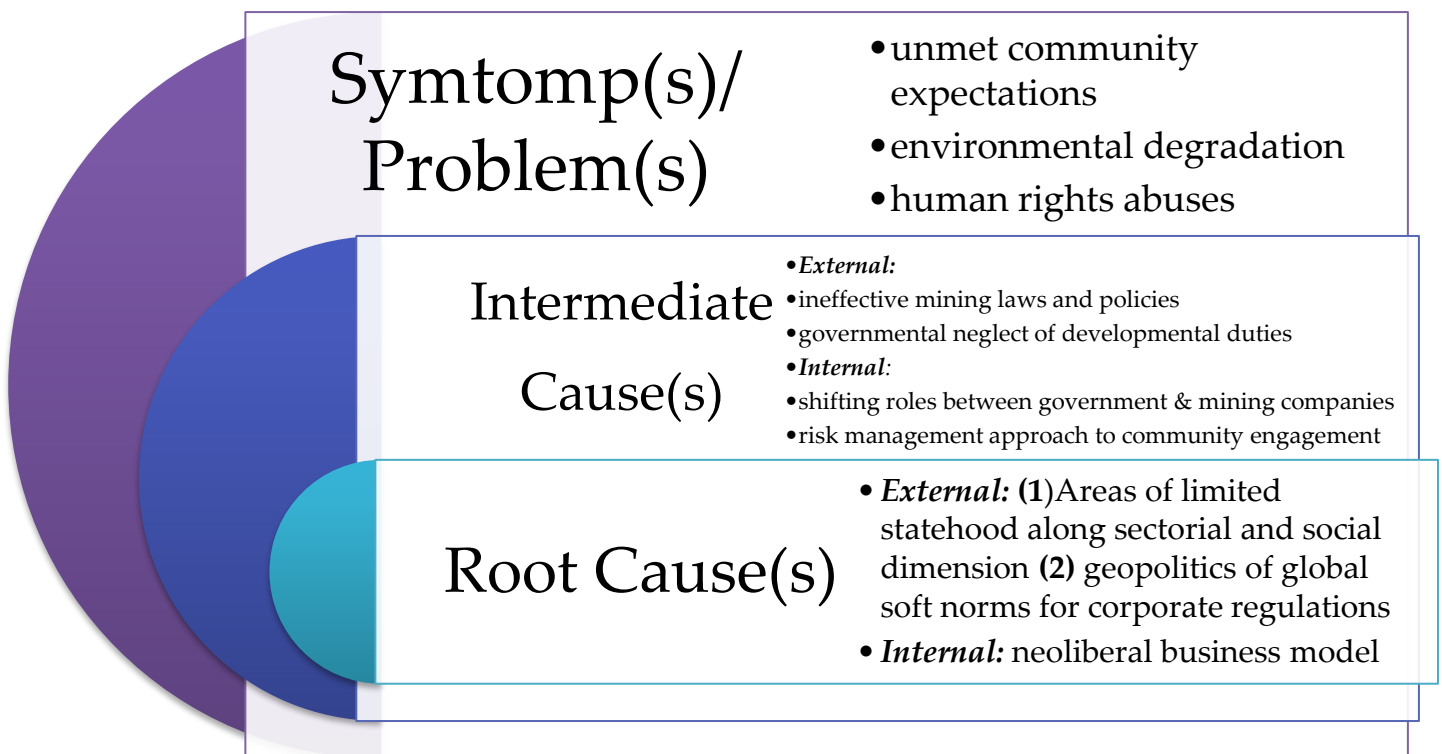
5.1 Drivers of Conflict and Corporate Human Rights Abuses

Underpinning many of the conflicts between TNCs and mining communities is the failure of the governance mechanisms in the mining sector due to the nature and the character of the Ghanaian state (Figure 7). In essence, the Ghanaian state seems to show some characteristics of areas of limited statehood along sectoral and social dimensions.

With regard to the sectoral dimension, the state appears to lack the political will and the capacity to implement and enforce mining-related laws. In fact, a respondent indicated, *one of the major challenges we face relates to weak state institutions and weak enforcement of the law. It seems to me that there is little appreciation for democratic principles by some government officials. For instance, when citizens are breaking the law, they might turn a blind eye due to the fear of losing votes in the next election.* (R6). Another respondent expressed a similar concern about the regulatory environment by stating that *“there are a lot of uncertainties with regard to regulations. Presently, there are too many regulators trying to pass conflicting laws. For instance, there is a regulator for air, one for diesel, another for a vehicle, and yet another for water and so on.”*(R19). For the NGO WACAM, the inefficiency of regulatory bodies contributes to corporate-community conflicts: *“One thing we have realized is that in most instances, most of the stakeholder, and I’m speaking from the community point of view and our experiences, we have realized that there is a very slow response from the regulators to these [human rights-related] reports from communities. This has led to several*

forms of riots between the community and the company and even the regulators” (R23). Based on these accounts, the state appears to be unable to serve as an impartial arbitrator of conflicting and competing stakeholder claims. Consequently, while the Ghanaian government has enacted laws and policies (see Table 7) to regulate corporate behaviour, the extent to which these laws and policies are able to deliver on their objectives remains questionable.

Figure 7: Root cause analysis of corporate-community conflicts in Ghana’s mining communities



The neglect of developmental responsibilities in mining communities by the Ghanaian government represents the manifestation of the social dimension of the areas of limited statehood. For example, a community member complained, *“the government is not helping at all. I can’t remember the last time I even saw one of them in the community.”*

(R16) This view was shared by a number of community members in Dumasi where the company was unsuccessful in relocating the community twice allegedly due to lack of funds to carry out the resettlement process. Because of this, the members of the Dumasi host community are living in a state of uncertainty and ambiguity with regard to their ability to secure their livelihood and build a stable sense of community. Moreover, based on the Minerals and Mining Act of 2006, 703 Article 73 and 74, issues surrounding resettlement and compensations are to be negotiated between the holder of the mineral rights (i.e. mining companies) and the owners or lawful occupiers (i.e. community members). Often this means that government oversight and involvement in these procedures is either minimal or absent. For example, a respondent asserted that *"the government knows about our plight and has not shown any willingness to step in. For instance, when we approach the District Assembly with a request, they rather refer us to GSR as they believe it is an issue that falls within the responsibility of the company."* (R14) These quotes signify that governmental preference for self-regulation is indirectly allowing government not to meet its responsibility to protect host communities.

Indeed, from the perspective of some government officials, companies should take more responsibilities when social and environmental problems are directly or indirectly related to their operations. For example, a respondent from the government noted that *"If a mining company is taking the livelihood of community members, I expect more of them. For me, providing water when you have contaminated the water is not CSR. The company is simply providing an alternative as it should."* (R3) The implication is that

emphasis on self-regulation means the Ghanaian government is indirectly transferring governmental responsibilities to the mining companies. Furthermore, the contestations between government and mining companies that often result from this governmental transfer of regulation function allows for the human rights of communities to be violated and no adequate remedies are provided (see Idemudia, 2014).

Since the inception of commercial gold mine production in Ghana, conflicts between mining companies and local communities over land and natural resources have existed (Hilson & Nyame, 2006). Due to the near absence of government in these communities and the limited legal instruments to protect community rights, mining communities tend to expect companies to function as a surrogate to the government by contributing to sustainable development (Garvin et al., 2009). As an employee from Ghana's Minerals Commission puts it, *"companies say that they are not surrogate government, but the community believes that they represent the government"* (R3). However, an employee from the community-based organisation WUSC noted that *"communities have lots of expectations and want the company to do the work of the government due to their [community members] lack of understanding"* (R4).

Notably, the idea that local communities have high or unrealistic expectations were echoed by other research participants including staff from GSR, Ghana Chambers of Mines and local assembly men in Bogoso/Dumasi. One assumption underlying these assertions is that local communities see a clear demarcation between the state, the market and society. However, it is possible that community expectations are somewhat

mediated by their specific socio-cultural understanding of what they conceive as the responsibilities of post-colonial political, social and economic institutions. Looking back on traditional Akan society, members of the society were entangled in a network of reciprocal responsibilities based on kinship relations (Wiredu, 1990). The lineages formed the basic units for political organisation. Every Akan town, had a council made up of lineage heads that were tasked with the responsibility to maintain law, order and peace, ensure the safety and advance the welfare of members of the town (Wiredu, 1990). Therefore, unlike contemporary democratic Ghana where governance and decision-making occur within an institutionalized context on a national level, political life in pre-colonial Akan society was much more interwoven in everyday life and conducted on a micro level.

Furthermore, Wiredu (1990) also highlighted the importance of Akan communalism by pointing to the Akan person's strong sense of dependency of a human being and the need for "mutual aid for survival" as one is not sufficient by his/her own (p. 247). A human being is not a palm tree and *onipa hyia mmoa* (**English translation:** a human being needs help) are common sayings among the Akan ethnic group which attest to their worldview that a human being is entitled to help from others in order to achieve an adequate level of well-being (Wiredu, 1990). Drawing from this particular world paradigm, one could reasonably argue that the role of post-colonial institutions (i.e. the state and non-state actors) from an Akan perspective would involve functions and activities aimed at the promotion of community well-being.

Nonetheless, the expectation of host communities that mining companies should initiate sustainable development projects is partly because of the negative effect of mining on their lives. For example, one respondent pointed out, *if we look at our environment, the blasting and vapour from the mining site always bring sickness and problems to the community. Some houses have cracks. Others have even collapsed completely. So there are always problems but the company doesn't respond to our demands. There is no hospital in this community meanwhile blasting is going on.* (R17) (also see Figure 8). In a similar vein, another respondent said, *[...] sometimes the company cuts our crops and damages the land in order to do their mining activities, but they don't compensate the farmers adequately* (R26).

Figure 8: Cracked and collapsed or unfinished houses in Dumasi



Source: Author's fieldwork photos

In the case of Dumasi, community members believe that the government is neglecting their demands partly due to the resettlement status they have been labeled with. The implication here is that by being marked for resettlement, the community is further marginalized as it creates uncertainty for governmental community interventions. According to one youth, “[...] *it’s been ages since GSR promised to relocate us but every time they set a date, they fail us. Even if somebody wants to do something to better the community, they will end up not doing it because of the resettlement plan.*” (R17). Similarly, host communities have expectations of mining companies’ developmental role because they believe they should also benefit from the business activities in their immediate vicinity (Idemudia, 2007). As two community members put it, *“Mining is still going but we are not profiting from it. Only the foreigners do but we the youth of Dumasi are not reaping the benefits of mining”* (R17). Another respondent noted that *“You know, when someone asks me where I am from and I mention this place, the response will usually be “Wow, so you are from the gold town.” But the truth is I have never had the privilege of holding any of that gold in my hands”* (R10).

Unfortunately, host community’s expectation for mining companies to assume this quasi-governmental role (Crane, 2011) does not always align with mining companies’ strategic priorities of increasing production while minimising operational costs. According to a staff from Ghana’s Chambers of Mines, which is the national association that represents the interest of mining companies, *“it is important to keep in mind that mining companies are not agents of development but rather facilitators of*

development. Mining companies can contribute to sustainable community development through the Mineral Development Fund that goes to the District Assembly and by providing more procurement opportunities for members of their host communities.” (R19) The implication is that mining companies in Ghana see themselves as a tool of development rather than as an agent of development (Blowfield, 2015). Whereas businesses simply contribute to development when they are tools of development, they consciously facilitate development and become accountable for their actions when they assume the role of agents of development (Blowfield, 2015). This is at the heart of the disagreement between mining companies and host communities. As community members expect the companies to assume the role of an agent of development, but mining companies see their role merely as tools of development. As such, it appears that the three stakeholders (i.e. government, companies and communities) share different views about the roles and responsibilities of both the government and companies. Consequently, Garvin et al. (2009) have explained that differences in expectations about the roles and responsibilities of companies and host communities contribute to misunderstanding, lack of trust, and disputes.

Essentially, host communities demand increased community investments that will minimize the negative social and environmental externalities of mining activities and ensure they extract some developmental benefits from the presence of mining companies. When these community expectations are not met, then corporate–community conflicts tend to become persistent with associated human rights violations.

In support of this, one respondent from Dumasi stated that *“the conflicts are plenty. We have done countless protests about different issues in the past.”* (R16). In an attempt to better understand what Garvin et al. (2009) classify as misunderstandings, distrust, and disagreements, residents of Dumasi were asked to identify the different reasons for corporate-community conflicts. Table 10 shows that 73.1% of the respondents viewed the lack of community benefits as one of the primary factors contributing to company-community conflicts in Dumasi.

Table 10: Reasons for corporate-community conflicts in Dumasi (Ranked)

Variable / Question	Residents of Dumasi (N = 119)
No Benefits to Community	87(73.1%)
Company’s Disregard of Community Rights	55(46.2%)
Lack of Transparency	49(42.1%)
Environmental Impact	47(39.5%)
Change in Company’s Management	44(37%)
Government’s Disregard of Community Rights	7(5.9%)
Weak Laws & Regulations	6(5.0%)
Close Relationship between the Chiefs and the Company	1(0.8%)

Source: Author’s fieldwork data

Conversely, GSR points to high community expectations and emphasise the challenges it faces when trying to meet these expectations. For example, in an interview, a company representative stated that: *Sometimes a community member might not be happy with the outcome of the grievance process. The issue might be resolved but because the outcome did not meet his or her expectation, it then becomes another issue. For instance, the government has a standard rate for land and crop valuation. And even though most of the time; we pay more than the set rate, community members are hardly ever satisfied* (R6).

However, what is glossed over in the above statement is the fact that mining multinationals are primarily concerned with increasing cost efficiency and profitability which in turn sets constraints on how many resources is directed toward community development. For instance, during an interview with a Ghanaian business newspaper, Katherine Sutton, Director, Investor Relations and Corporate Affairs at GSR, stated that weak gold prices impact all areas of business including community investments. As profit margin decrease, GSR will face pressure from shareholders to contain operational expenses (Dugbartey, 2016). Indeed, a government official captured the issue in the following manner: *“There is competition between companies’ pursuit for profit maximization and community members’ livelihood and mining communities tend to be on the losing end”* (R3). Because ESCs operate within a neoliberal business model, where capital accumulation constitutes the ultimate measure of success, their approach to community engagement tends to be encapsulated within a risk management framework (Idemudia, 2009). This tension between community expectations and mining multinationals’ neoliberal business logic continue to form a source of conflict in Ghana’s mining sector and often create the context within which human rights abuses occur.

5.2 Living in a Limbo: Resettlement, Development and Human Rights

Over the years, different actors including the international community, national governments and local communities have lavished a wide range of expectations on companies as well as launched a number of international norms pertaining to how

companies ought to contribute to national and local sustainable socio-economic development (Van Alstine & Barkemeyer 2014; Harvey, 2014; Vanclay, 2017). Globally, Southern and Northern human rights NGOs are advocating for more attention and efforts to combat the violation of economic, social and cultural rights by multinational corporations (Winston, 2002). Furthermore, the growing acceptance of global norms means that large-scale projects facilitated by multinationals (e.g. mining projects, infrastructure projects, resettlement and relocation projects etc.) in the extractive industry are expected to respect human rights and contribute to the realisation of human rights such as effective impact mitigation in relation to local communities and the natural environment, job creation for local communities, training programs for knowledge transfer to local communities and improving access to basic services. This is because companies must effectively address the social and environmental impacts of their projects in order to demonstrate their respect for the human rights of local communities.

In line with this thinking, some scholars have advised to avoid treating resettlement as a “rehousing project” intended to improve the material quality of houses but rather consider, in a holistic manner, the ways in which resettlement can impact the life of affected individuals and the enjoyment of their human rights (Vanclay, 2017; Smyth & Vanclay 2017). Indeed, for van der Ploeg and Vanclay (2017a; 2017b) and Morel, 2014, project-induced displacement and resettlement (PDR) is a contested human rights issue which has attracted attention, particularly in relation to the

necessity for improved compensation and resettlement outcomes for affected people, that is individuals, families and communities who are economically and/ or physically displaced by a project (Smyth et al., 2015; Vanclay, 2017).

By way of example, land acquisition by mining multinationals often times require the relocation of local communities and/or their assets (e.g. houses, farmland etc.). These relocation projects, however, can have several human rights implications since it can adversely impact the rights of local communities including their right to freedom of movement, work, food, water, health, development etc. (Esteves et al., 2017). Similarly, when a PDR is going to result in the loss of traditional source of livelihood that provided for food, water and /or general income and affected community members cannot secure access to similar resources, the company must ensure that there are appropriate mitigation measures in place such as new livelihood prospects and training opportunities (Cernea & Mathur, 2007; Vanclay, 2017). Within the context of this research, livelihood is understood as ‘the full range of means that individuals, families and communities utilize to make a living such as wage-based income, agriculture, fishing, foraging and other natural resource-based livelihoods, petty trade and bartering.’ (IFC PS5, 2012a, p.1). To put it in the words of a member of the NGO WACAM, *in rural communities, everything is about farming. Farming is the primary occupation [...]. So when we joke with issues concerning land, we are joking with their livelihood and that is one key issue of rights violation (R23).*

Conceivably, this quote may be an indication of the contemporaneity of the Akan conception of human rights within post-colonial Ghanaian society. Similar to traditional agricultural Akan society, land constitutes an essential resource for the earning of livelihood in modern day Ghana. Thus, it is possible that the traditional notion of land as a human right continue to shape community members' views about the possession and loss of land. In other words, the clash between the Western commodification and commercialisation of land and the Akan cultural meaning of land may be a contributing factor as to why issues around fair compensation for the loss of income-generating land remain a significant discord among project stakeholders.

In Dumasi, for instance, the process of agreeing on a resettlement package transpired to be a rather lengthy one. As a matter of fact, a community member explained that *one of the main sources of conflict revolves around compensation for landowners. What a landowner or farmer might consider fair might be quite different from what GSR sees as adequate compensation. Because of that, negotiating a decent resettlement package took as long as two years (R14)*. In support of this, an employee from the Ghana chambers of mines stressed that questions surrounding compensation are common problems within resettlement projects across the country and points to some of the grievance mechanisms available to affected mining communities. As he sees it, *resettlement comes with a lot of challenges because the value of land and crops are not properly regulated. However, mining communities can take advantage of the petitioning mechanism that has been put in place.*

For instance, they can file a petition to the Minister of Lands and Natural Resource. But generally, we do encourage mining companies to go above and beyond the law (R19).

A look at Table 11 reveals that 85% of the respondent reported being negatively impacted by mining activities while only 3.3% associated positive outcomes with mining. Additionally, based on the available data, more women (44.6%) reported being negatively impacted by the mining operation than the men (40.4%).

Table 11: Overall impact of mining activities by gender

	Negatively	Positively	Mixed	I don't know	Total (N=119)
Female	53 (44.6%)	1 (0.8%)	3 (2.5%)	2 (1.7%)	59 (49.6%)
Male	48 (40.4%)	3 (2.5%)	8 (6.7%)	1 (0.8%)	60 (50.4%)
Total	101 (85%)	4 (3.3%)	11(9.2)	3 (2.5%)	119 (100%)

Source: Author's fieldwork data

Furthermore when asked to identify in specific terms how mining affected them negatively (see Table 12), respondents named water/ air pollution (84%); loss of farmland (81.5%); loss of livelihood (57.1%); spills to the environment (50.4%), forceful resettlement (46.2%) and inadequate compensation (46.2%).

There are two implications worth highlighting here: First, when it comes to resettlement, the process matters as much as the outcome, particularly, when there is a history of tensed company-community relations due to alleged corporate human rights abuses. In such situations, the minerals company should adopt unconventional business thinking and consider ways in which it can move from respecting to fulfilling the human rights of its host community including their rights to development. While companies cannot compensate for bad behaviour by doing good elsewhere, seeking

opportunities to assume a more proactive role in their human rights responsibilities (Wettstein, 2012) would go a long way in possibly restoring broken relationships.

Secondly, companies can expose themselves to the risk of infringing on human rights by delaying, postponing or halting a planned resettlement project. Not only do delays or abrupt pause in resettlement project create multidimensional stress (Scudder, 2012), but more importantly it forces affected individuals to live in a limbo. In particular, host communities find themselves undergoing an increased sense of insecurity and greater dependency on government and the company as their homes, social relations, and work and subsistence activities are disrupted. Ultimately, this can constitute a form of infringement of their right to self-determination (i.e. having the freedom to determine one's own destiny) as well as their right to development.

Table 12: Positive and negative contributions of mining activities (Ranked)

Variable / Question	Residents of Dumasi (N = 119)
Positive Impacts	
Supply of Water	104(87.4%)
School Building	12(10.1%)
Employment	9(7.6%)
Hospital / Health Care Services	5(4.2%)
Negative Impacts	
Water / Air Pollution	100(84%)
Loss of Farmland	97(81.5%)
Loss of Livelihood	68(57.1%)
Spills to the Environment	60(50.4%)
Forceful Resettlement	55(46.2%)
Inadequate Compensation	55(46.2%)

Source: Author's fieldwork data

Beyond income-producing activities, social, cultural and spiritual displacement constitutes a loss of place attachment and sense of place (Vanclay, 2002, 2008; Vanclay et al., 2015). Failure by the project operator to devise and implement a suitable livelihood restoration plan would, therefore, mean that the private actor is contributing to the violation of fundamental human rights, specifically, the right to work, water, food, health and life (van der Ploeg & Vanclay, 2017a). Depending on the specific context and local dynamics, human rights risks and impacts will vary for each project site. But, in any event, the human rights of displaced people under international law must be fully respected and protected by project proponents and contractors even when the necessary licences have been secured (de Schutter, 2009).

In an attempt to follow some of these recommendations within the GPs, several global extractive sector companies have adopted human rights policies and perform human rights impact assessments. Yet as Owen and Kemp, (2014) and Götzmann et al., (2016) pointed out, these efforts to prevent and mitigate adverse human rights impact at the project site level are not always adequately rigorous. Truly, responses to business-related human rights harm have come in the form of protests (Hilson, 2002; Hanna et al., 2016a, 2016b) and lawsuits that often have significant consequences for the accused companies (Drimmer, 2010).

From a legal and human rights standpoint, expropriation and involuntary resettlement are generally prohibited and can only be deemed permissible when these four conditions are satisfied: (1) the project must clearly be in the interest of the public

(2) the principles of proportionality and reasonableness must be fulfilled (i.e. *when the expected harm is proportional to the potential project benefits*) (3) due process has been observed (i.e. *affected families and communities have adequate access to legal counsel and possess the ability to contest the decision*) (4) affected persons have been given full and fair compensation (i.e. *adequate alternative housing and compensation and/or replacement productive land*) to the extent that they are not worse off (Hoops et al., 2015; United Nations, 2014)

However, in the context of Ghana, mining projects are overwhelmingly interpreted as worthwhile undertakings that will benefit the general public. For instance, according to an employee from the Minerals Commission, *sometimes you will have farmers or community members who completely reject the idea of mining and show very little willingness to engage in dialogue. In most cases, when there is a dispute, the mining project wins because it is very difficult for farmers to make the case that their farming activity will create as many jobs and generate as much income for national development* (R12). What this suggests is that the financial prospects of mining projects predominantly guide the decision of the Ghanaian government to justify projects and associated involuntary resettlement as being in the public interest. An employee from the community organisation WACAM alluded to the self-interest that government agencies may be pursuing (i.e. political elite interest) by stating that *I'm not surprised [about the statement] because they are the Minerals Commission. [...] One way or the other they have to find ways to exploit our minerals*. Furthermore, the participants stressed that *this argument that mining*

is contributing to the countries development shouldn't really be used [...] because those involved in agriculture are contributing far more with less environmental impacts, and less human rights violations. Also, the fact that one has the right to property is a strong enough reason. So for me sometimes I'm saddened when I hear the Minerals Commission make such statement (R23).

In addition to fulfilling the requirements for legitimizing project-induced displacement, the right to alternative land of equal or better quality and housing must fulfill the criteria of accessibility, affordability, habitability, security of tenure, cultural adequacy, suitability of location, and access to essential public services such as health and education (United Nations, 2007, p. 6). To sum up, theoretically, legal evictions can only be enacted in very exceptional circumstances when all other alternatives have been completely exhausted. In such cases, adherence to the IFC Performance Standard 5 *Land Acquisition and Involuntary Resettlement* (abbr. IFC PS5) and the *United Nations Basic Principles and Guidelines on Development-Based Eviction and Displacement* are expected given that they form international best practices.

In 1980, the World Bank introduced a resettlement policy (World Bank, 2004), after allegations from vulnerable groups (e.g. indigenous peoples, minorities, informal settlers, people in extreme poverty) surfaced regarding impoverishment and trauma caused by project-induced resettlement (see Cernea, 1997; United Nations, 2014). Emulating the World Bank's action, IFC and other development banks also produced resettlement policies and procedures that continue to be improved. Due to the fact that the 2012 version of the IFC PS5 is embedded in the requirement for Equator Principles

Banks (Vanclay et al., 2015), the IFC resettlement policies and procedures, in particular, are well known among resettlement and social performance practitioners and extractive sector companies. As Vanclay (2017) expounded, within the private and social sectors, the IFC PS5 is widely recognised for delineating the general understanding of the concepts, objectives and requirements concerning dislocation, involuntary resettlement and livelihood restoration and improvement.

According to IFC, the project must not only provide adequate compensation but they must also improve the well-being of the physically displaced people at the new location. Symth and Vanclay (2017), as well as the World Bank (2013), stress the importance for development projects to contribute to poverty alleviation and sustainability as outlined in the United Nation's sustainable development goals (SDG). This is because aligning resettlement projects with United Nation's SDG has the benefit of making the project more socially legitimate and helping companies obtain their social licence to operate (Jijelava & Vanclay, 2014a, 2014b). IFC's requires project operators to draft a Resettlement Action Plan (RAP) and a Livelihood Restoration Plan that will be used in undertaking the resettlement. The two documents must outline the relevant national laws and regulations, the characteristics of the affected population, the anticipated losses and the proposed mitigation strategies. In the case of Dumasi, these documents were created to ensure community's right to work and an adequate standard of living was not being harmed via the resettlement process. Unfortunately,

though, the existence of the documents turned out to be insufficient in protecting the community from business-related human rights violations.

Reddy et al. (2015) noted that governments have the primary duty to respect, protect and fulfil the human rights of its citizens under international, however, when it comes to project-induced displacement most human rights responsibilities tend to fall under the purview of the company. Besides, the GPs instruct businesses to respect human rights notwithstanding the government's human rights obligations. This is particularly relevant in areas of limited statehood where businesses may be called upon to help fill some governance gap by complementing the work of governmental institutions via CSR programmes and positive corporate human rights activities. As part of their corporate duty to respect human rights, businesses must apply due diligence and avoid adverse human rights impact relating to their operation or the activities of their business partners (United Nations, 2011).

Ultimately, what this means is that in the context of resettlement project, a company's scope of human rights obligation may be wider than in other circumstances. In fact, according to Ruggie, social expectation or SLO should form the basis for outlining the exact scope of corporate human rights responsibility (Ruggie, 2008). In light of the severity and range of human rights risks in project-induced resettlement, van der Ploag et al. (2017) believe that project operators should take pro-active steps in helping realise human rights of affected people so as to facilitate sustainable development outcomes via their projects.

5.3 “We don’t always know what happens behind closed doors”: Intra-Community Dynamics & Representation in Dumasi

While a company’s lack of human rights-based approach to resettlement can tremendously impact the well-being of communities and their enjoyment of human rights; it is also important to keep in mind that communities are not always a homogenous social unit whose interests constantly align. This is particularly true in the context of resource extraction where inter and intra-community conflicts over resources, development benefits or distributional issues can occur (see for example Banks, 2008; Muthuri et al., 2012).

To be sure, findings from interviews and focus groups discussions indicate that Dumasi faces its own challenges in relations to community cohesion and good leadership for community representation. For example, one youth lamented that *everything is dependent on our community leaders and elders. But the issue is that our leaders wear their entoma (cloth), attend their meetings and return home after the company gives them something small. They don’t think about the community members and the future. As young people, how can we open our mouth and say something?* (R28) Interestingly, a similar sentiment regarding the lack of inclusion in decision-making processes seemed to be prevalent among the women in the community. During an all-female focus group discussion, a participant explained, *when we have concerns, we cannot go and talk to the chief. Only people who have a personal relationship with him can approach him. And most of the time, GSR Community Relations Officers do not communicate with us directly. They tend to*

talk to the chief so we are left out of the conversation (R10). At the same time, another female participant also noted that we depend on our elders to negotiate with them [GSR] and represent our interests. Whatever they agree upon, we do. But we don't always know what happens behind closed doors (R16). Standling and Hilson (2013) alluded to the ambiguity surrounding the use of disbursed mineral funds within the Ghanaian context. While chiefs / traditional authorities are entrusted with funds which presumably will be utilized for community development (see Table 13), it has been alleged that this is not always the case. They refer to this as "elite capture" of mining wealth. Findings from fieldwork, seem to confirm Standling and Hilson's (2013) report.

For instance, when asked about existing accountability mechanism for traditional authorities, a representative from the NGO WUSC noted that *we are not at the point that there is a tool or there is a way of monitoring what the chiefs use their money for. They determine what they want to use the money for and some of them try to use it to support their communities like providing scholarships and all of that. But generally, accountability of chiefs is a dicey issue which you don't want to push (R24).*

Table 13: Disbursement of Minerals Development Fund in Ghana

SOURCE OF FUNDS	BENEFICIARIES	SHARE (%) OF FUNDS
1. Twenty (20%) from mineral royalty payments	Office of the Administrator of Stool Lands (OASL)	50%
2. Money from Parliament	<ul style="list-style-type: none"> 10% administrative expenses of OASL 	
3. Grants, donations, gifts and other voluntary contributions	<ul style="list-style-type: none"> 25% given to the stool through the traditional authority for the maintenance of the stool in keeping with its status 20% traditional authorities 	
4. Investments made by the Board	<ul style="list-style-type: none"> 50% District Assembly 	
5. Other	Mining Community Development Scheme <u>Local Management Committee consisting of:</u>	20%

<ul style="list-style-type: none"> • Chief Executive of District Assembly • Traditional Rulers • Mining company representative • Minerals Commission representative • A representative of the District Office of Minerals Commission • A representative of a woman's group • A representative of a youth group 	
Ministry of Lands and Natural Resources	4%
Minerals Commission	13%
Geological Survey Department	8%
Research Training & Sustainable Development Projects	5%
<ul style="list-style-type: none"> • 40% Geological Survey Department • 60% other research training 	

Source: Minerals Development Funds Act, 2016, Act 912 and Ghanaian Constitution Section 267 (6)

Undoubtedly, the lack of accountability mechanism within the chieftaincy system on its own poses a tremendous challenge to different stakeholder within the Ghanaian mining industry. But, in the case of Dumasi, the situation is further exacerbated by major confusion about the traditional authority. While some participants insisted that Dumasi has its own regnant chief, others believe the village was suffering from a leadership vacuum. For instance, when asked about the current chief in Dumasi, a youth asserted that, *for Dumasi, no one has crowned that man as a chief but it is due to his self and stomach interest that Golden Star Resource regard him as the chief* (R27). [emphasis added]

According to another participant, however, the traditional leader of Bogoso is trying to de-enthroned the Dumasi chief in order to stake a claim to the resources in Dumasi. As he narrated, *at some point in time, the Dumasi chief started fighting among themselves and the family split into two. So the Bogoso chief was asked to take charge of Dumasi until the issue is resolved. But the Bogoso chief himself is facing legitimacy crises. In fact, he has*

been challenged by another family and taken to court in 1992/1993 and has lost the court cases. So we don't have a strong leader who can advocate on behalf of the community.

At a national level, the matter of chieftaincy disputes largely driven by the quest for power and access to land and resource wealth is also becoming more and more noticeable. Indeed, a representative from the Minerals Commission highlighted that the Dumasi case was not necessarily unique: *Generally speaking, Dumasi community can be difficult to deal with. [...] But of course, a town can get dividend when chiefs are fighting over the stool. In fact, this is increasingly becoming a problem in resource-rich areas in Ghana (R18).* While government officials seemed to be aware of these growing local governance problems within mining communities across Ghana, there also appear to be a preference for taking an avoidance strategy by ignoring the issue.

To make matters worse, the behaviour and strong company alliance of appointed community liaisons are contributing to mistrust among community members. Originally, community liaisons were instituted by GSR as a mechanism via which the company manages complaints from members of its host communities. Host communities would select a trusted member of the community to provide a voice and relate pertinent issues to the company for effective conflict prevention and resolution. However, if we are to believe the chief linguist, this initiative appears to have transformed into a curse rather than a blessing. As he expounded, *GSR has community liaisons within Dumasi but they are not very useful. If anything, they are counterproductive. Rather than being a mouthpiece through which the community can express their grievances,*

*these community liaisons have become **company informants** who notify GSR of community activities that could negatively impact GSR's operations or reputation (R15) [Emphasis added].* A similar concern was also raised by the assemble women who alleged that some of the community liaisons transmit sensitive information about community organizing to GSR Community Relations department in return for rewards.

In essence, participants are pointing to the existence of competing and conflicting agendas among different groups in the village who are in pursuit of individual rather than communal benefits. In lieu of this, Muthuri et al. (2012) caution us not to fall into the trap of homogenizing communities and pay close attention to how and who we classify as the community stakeholder.

Overall, the case of Dumasi mining village suggests that when community-related, company-related and institutional challenges converge, they immensely undermine the prospects of sustainable community development and the realisation of human rights. Indeed, owing to the complex interplay of delayed/ paused resettlement, a leadership vacuum and the absence of cohesive community interests, members of the Dumasi community are potentially experiencing the burden of a lack of representation and shared community vision as well as an uncertain future.

CHAPTER 6: FROM GLOBAL TO LOCAL: AN ANALYSIS OF CORPORATE HUMAN RIGHTS PRACTICES, COMMUNITY-BASED ACCOUNTABILITY STRATEGIES AND GP'S ON THE GROUND

6.1 Golden Star Resources and Community Relations in Dumasi: (Re)negotiating a Social License to Operate (SLO)

In discussing the concept of SLO, Wilburn and Wilburn (2011) elucidate some of the challenges mining companies could potentially face. For instance, when attempting to secure its SLO, a company may sometimes discover the various community power dynamics emanating from the multiple stakeholder groups and their respective leaders and interests. As a result of this, mineral developers could find themselves in a circumstance where they obtain a SLO from a fragment of the community while a different segment of the community may completely oppose the project.

Such situations are not surprising given that minerals development project can impact various stakeholder groups within the community differently (e.g. create business opportunities for local sub-contracts while destroying the livelihood of farmers) who also possess varying degrees of power. Wilburn and Wilburn (2011) refer to this as *vested and non-vested stakeholders* with vested stakeholders being those who have the power to grant a SLO and non-vested stakeholder being those who are restricted to simply voicing their concerns. Oftentimes, companies concentrate their time and energy on wooing vested stakeholders such as local leaders and authorities. In fact, the assemblywoman at Dumasi made the following observation: *Chiefs pursue their*

self-interest as opposed that of the community. They are more concerned with securing contracts and GSR is more than happy to award these contracts in order to silence them. We all know that in Ghana here if someone wants to stop you from making noise, the person buys you a gift (R25).

One way of interpreting the company's behaviour is that from an operational point of view, minerals companies may perceive a focus on vested stakeholder as the most practical, cost-efficient and effective strategy in securing a SLO.

Having said that, non-vested stakeholders are not completely powerless as their perception and response to a mining project can pose a threat and determine a company's ability to access land, water and other resources. It is, therefore, imperative that companies first identify the different groups who stake a claim in what is acceptable to the community and understand the variety of stakeholder expectations. By way of example, GSR had to approach the Dumasi community twice to garner support for the proposed resettlement project. A community member recalled that, *in 1991, GSR started working in this area. I remember former President Rawlings attending the opening ceremony to cut the rope. Discussion about resettlement started during that time but the community did not agree to it. In 2006, GSR started the dialogue regarding resettlement again and this time about 80% of the community agreed to it (R14).*

Considering that no internally coherent definition for SLO exists, Owen and Kemp (2012) view the attainment of stakeholder acceptance in the form of overt support or by way of reducing opposition a somewhat appropriate indicator of a company's SLO. Notably, the existence or absence of public or community consent can manifest

itself in diverse ways and may range from a reluctant acceptance to a relationship based on high levels of trust (Thomas & Boutilier, 2011; Boutilier, 2007; Joyce & Thomas, 2000). Despite their scepticism and criticism of the industry’s superficial use of SLO, Owen and Kemp (2012) still recognise that SLO forces minerals companies to at least engage with the social and community dimension of mining and demonstrates some level of openness to identifying what they call “expectation gap” between a company and its stakeholders. A stakeholder expectation gap might present itself when what a company presumes to constitute a SLO is in stark misalignment with what stakeholders actually require and/or desire.

Within the context of the case study, findings from the community survey questionnaire signify the presence of a stakeholder expectation gap. Strikingly, close to 90% of the respondents believe GSR is not meeting their expectations (see Table 14). Meanwhile, employees from GSR Community Relations Department are convinced that *all stakeholders are our allies in spite of the challenges we face with them. Our job is to maintain communication channels with stakeholders and sustain the good relationship we have built over the years* (R6).

Table 14: Meeting community expectations (Ranked)

Variable /Question	Residents of Dumasi (N=119)
No	107 (89.9%)
Yes	8(6.7%)
I don't know	4(3.4%)
Total	119(100%)

Source: Author’s fieldwork data

Consequently, Owen and Kemp (2012) stress the importance of taking a more nuanced approach to SLO and going beyond the simple notion that a social and community dimension in mining is relevant. Truly, the mere use of the construct is not necessarily an indication that stakeholder expectations have been adequately met.

At the same time, they also warn of not adopting SLO as a strategy to mask stakeholder expectation gaps. For instance, GSR gives an account of their community investment through their annual sustainability report. Underlying many of these reports is an assumption that these corporate sponsored community initiatives (see Table 9) implicitly confirm their SLO. Yet, community perception and interpretation of these CSR programmes could significantly differ from a company’s presumptions as the statement below shows: *“When GSR notice how blasting and smoke was negatively affecting community members, it then engage in community projects, and claim that they have helped us. But how can you make such a claim when you are the cause of the problem in the first place?”* (R25). In addition to this, an analysis of survey questionnaire also reveals that 57.1 % of the respondents classify the community’s relationship with GSR as very poor and another 29.4% rated the relationship as poor. Only, 4.2% of the respondent perceives the company-community relationship as good (see Table 15).

Table 15: Rating the relationship between GSR and the community

Very Poor	Poor	Average	Good	Total (N=119)
68(57.1%)	35(29.4%)	11(9.2%)	5(4.2%)	119(100%)

Source: Author’s fieldwork data

Some participants, who have witnessed the evolution of corporate-community relations in Dumasi also confirm the findings from the quantitative data. As one person puts it, *the relationship between the community and GSR is [...] like a man and a woman who live together simply because they cannot divorce each other* (R25). Another elderly community member depicted the relationship in a similar way: *Allow me to use this analogy to describe the relationship between GSR and the community: Imagine a young man pursuing a young lady for marriage but all the young man does is offer lip service as opposed to concrete actions. Obviously, after a while, the young lady will lose interest and will try to find other alternatives* (R14). Conversely, during the one-on-one interview, the staff of GSR's Community Relations department laid emphasis on their community-centric approach to sustainable development by referencing the Golden Star Oil Palm Plantation and the numerous ways in which the company's CSR programs help in the enjoyment of human rights. As they explained, *our catchment communities are an active sphere of influence and accordingly must be the direct beneficiary* (R6). This perspective is also echoed in GSR's 2016 sustainability report where it states:

As a responsible corporate citizen, we act to respect and uphold human rights in our sphere of influence. This responsibility is embedded in our Policy on Community Relations and Human Rights. [...] Our investments in local schools help provide access to education, in support of the right to education. Our investments in health stewardship initiatives help enable stakeholders to enjoy the right to health. These are but a few examples of the countless ways in which we can help promote the enjoyment of human rights. (p. 18).

There are two ways to interpret these contradictory accounts by Dumasi community members and GSR Community Relations department. For one, GSR could be oblivious to the community's strong negative perception of their community

engagement strategies and their subsequent loss of their SLO in Dumasi. Alternatively, GSR may be very aware of its standing within the community and taking an avoidance strategy. When a company is deeply committed to its business “risk”, “returns” and “reputation” framework, it inevitably pushes them to take a pragmatic approach to SLO, thus limiting the value of SLO as a potential vehicle to achieving sustainable community development. When asked about how GSR can close the existing stakeholder expectation gaps and re-negotiate a SLO in Dumasi, the assemblywoman puts it in the following manner: *Right now, the ball is at GSR’s court. It’s the company’s responsibility to do something that will improve the relationship* (R25).

6.2 Accountability Strategies from Below: What works and what doesn’t?

Scholars widely agree that the process of globalization has considerably altered the influence of global corporations (Strange, 1996; Scholte 2000). With revenues that sometimes surpass the GDP of many developing countries and the mobility to establish businesses in favourable regulatory environments, transnational corporations are said to wield power on a par with governments (Newell, 2000a). Yet, there is also the perception that far less accountability mechanism exists to oversee the activities of these multinational companies (Newell, 2000b).

Over the years, a number of buzzwords like corporate governance, corporate social responsibility and corporate accountability have been invoked to describe the rights and responsibilities that corporations have towards the people they work with

and work for. While corporate governance is concerned with the policies and practices for regulating internal company relationships as well as shareholder and stakeholder relationships, corporate social responsibility is used to express a wide range of ethical, social and environmental responsibilities of business within a society (Newell, 2002).

The notion of corporate accountability is another term often used to refer to the disclosure, auditing and monitoring activities of corporations and other actors (Zadeck et al., 1997). According to Utting (2008), corporate accountability focuses on issues of power and advocates for the need to countervail the interests of big businesses. As he further elucidates, corporate accountability emphasizes questions of corporate obligations, the role of public policy and law, the enforcement of penalties in cases of corporate misdemeanours, the right of victims to seek redress and imbalances in power relations. Similarly, Garvey and Newell (2005) and Newell (2008) link accountability to the concepts of answerability, that is, an obligation to provide an account of one's action and inaction, and enforceability, which refers to a mechanism for ensuring obligations are met and sanctions are imposed in the case of non-compliance. To put it in the words of Schedler (1999), accountability is about 'how to keep power under control [...] how to prevent its abuse, how to subject it to certain procedures and rules of conduct' (p. 13).

This particular conceptualisation of corporate accountability is useful in better understanding the community-based strategies that host communities in Dumasi utilize to hold Golden Star Resources accountable regarding human rights and examine *how*,

why, and when these corporate accountability strategies are effective in regulating business human rights violations and practices. Effectiveness in this context signifies 1) improving the responsiveness of businesses to community demands (e.g. changes in business practices) and 2) enhancing the representation of community members through increasing their accessibility to or inclusion in decision-making pertaining matters relevant to their lives (e.g. changes in the structure of representation) (Newell, 2005).

A look at community-based corporate accountability strategies, or as Garvey and Newell (2005) call it “rights from below”, is also important to shift attention from corporate-driven voluntarism from above within the mainstream CSR literature to the activities communities themselves engage in to demand corporate accountability. In this regard, we must keep in mind that the extent to which a company responds to pressure from below may vary based on sectoral, political and cultural context as well as the broader web of accountability relationship involving global institutions, NGOs and governments (Garvey & Newell, 2005).

To begin with, states have the formal power and can accordingly influence the effectiveness of accountability strategies from below via the provision and enforcement of policies and legal framework. Still, whether sanctions for “bad” corporate behaviour are implemented is also largely dependent on the state’s ability and willingness to put these regulations into practice (Garvey & Newell, 2005). As mentioned in chapter 4 (see section 4.2), institutional restructuring mandated by IMF and World Banks’ SAPs

transmogrified the role of the Ghanaian government from a regulator to an active facilitator of resource extraction. Table 6 shows that the government owns a 10% share in each operating extractive sector company, both national and transnational corporations. As a business partner of minerals companies, the Ghanaian government is more likely to support the business agenda of the corporation to secure its portion of the financial benefits.

One of the drivers of human rights abuse in the mining sector across the globe has been the use of security forces to suffocate community organised public campaigns. The situation in Ghana is a similar story. In actual fact, staff from the GSR Community Relations Department explained how they work closely with state institutions to manage conflicts from escalating: *Usually, when an incidence occurs, we call the District Assembly. Depending on the situation, they might involve the police and security. It is government bodies that are responsible for civil unrest, not GSR. If the District Assembly does not respond, we call the next level of government. And in order to de-escalate the conflict, we disengage (R6).*

Notwithstanding how problematic the employment of security force is, mining companies and governments alike are convinced of the necessity of it, especially within the context of galamsey (illegal miners from the community, oftentimes unemployed youth). For instance, a government official explained at length: *Illegal miners from communities encroach on mining concession and destroy their property. To resolve this issue, we use both the carrot and stick approach. We try our best to educate them and engage in*

sensitization. This is the carrot approach. Occasionally, we have to resort to the stick approach by involving police officers and the military who might use minor force (R18). Likewise, employees from GSR Community Relations Department view the usage of force as justifiable under certain circumstances. In particular, they expressed concerns about some of the vandalism arising from community protests: *During one of their protest, the youth from Dumasi blocked the public road that GSR vehicles were using and threw stones at company vehicles. This causes direct damage to company assets (R6).* Because state and corporate interest are in perfect alignment, the efforts of the Ghanaian government are geared towards the promotion of resources extraction rather than the application of different devices to mandate greater transparency and answerability from corporations.

Naturally, some of the business-driven choices the Ghanaian government makes will be at the expense of the community's rights considering the ways in which these choices can undermine community-based accountability strategies (e.g. protesting). Indeed, based on the survey that was conducted, 50.4% of the respondents believed that the government was not making enough efforts to protect their rights while 40.3 % shared the opposite viewpoint (see Table 16).

Table 16: State protection of community rights

Is the government protecting the rights of the community?	Residents of Dumasi (N=119)
Yes	48(40.3%)
No	60(50.4%)
I don't know	11(9.2%)
Total	119(100%)

Source: Author's fieldwork data

Stakeholder groups within a community seeking ways to achieve greater corporate accountability are often faced with the challenge of overcoming various forms of powerlessness. Not only are these groups marginalized by the lack of governmental support, they are also limited by their resources when compared to large-scale transnational corporations that often possess money for legal advice and PR campaigns.

Besides, Garvey and Newell (2005) believe, the distinctive culture within a corporate entity equally informs the company's attitude towards the relevance of community relations for long-term commercial viability. Thus, they argue that community-based strategies are "necessarily diverse, multi-pronged and contingent upon the particular, context-specific balance between political, economic and social factor." (p. 401) In line with Garvey and Newell's assertion, data from survey questionnaire point to a variety of strategies members of the Dumasi village utilize. When asked about the tools they adopt to resolve corporate-community conflict, 54.6% of the respondent mentioned dialogue with the company and another 36.1% stressed the importance of filing complaints with government bodies (see Table 17).

Table 17: Community-based accountability strategies (Ranked)

Variable / Question	Residents of Dumasi (N = 119)
Direct communication with the company	65(54.6%)
File complaints with government bodies	43(36.1%)
Delay / Interrupt mining operation	11(9.2%)
Public Campaigns (e.g. protests)	8(6.7%)
Shut Down mining operation	3(2.5%)
Lawsuit/Litigation	1(0.8%)
Worked with NGOs	1(0.8%)

Source: Author's fieldwork data

Although only 6.7% made reference to public campaign like protests as a viable mechanism to demand corporate accountability, interviews with participants offer more insights. For example, the chief linguist observed that: *The only way to force the hands of GSR is through protest so the community has organized several demonstrations in the past. In 1998, we had a protest regarding the supply of electricity. In 1992, we organized a protest so that they will build a school. And 16 years ago, the demonstration was about getting access to water on a consistent basis* (R14). Similarly, another participant maintains that *demonstrations are a very effective way of forcing GSR to respond to our demands. So far, that is the strategy that has produced tangible results* (R15). The differences in the survey data and the interviews are not necessarily contradictory but rather a distinction between which strategies are used frequently and which strategies yield favourable outcomes. Whereas direct communication seems to be the most frequently used strategy, interviews with community leaders suggest that protests are much more effective in getting GSR to respond to their demands.

Increasingly, however, community leaders seem to be shifting towards the use of legal strategies to pressure companies to become more responsive to community demands. For instance, a member of the Dumasi Resettlement Committee revealed that *the committee is trying to take GSR to court. We sent a letter of warning to them and GSR responded by stating that their lawyers are currently unavailable and will respond soon.* (R25) This was confirmed by another member of the committee who explained: *As we speak, our lawyer and the resettlement committee are in the process of deciding whether to take the*

company to court or not. They have sent GSR a letter with a deadline for response. Following GSR's response, the community will then decide on how to move forward. (R15) According to a representative of the NGO WACAM, litigations are becoming and more and more necessary in managing company-community conflicts. [...] we just had a case where a community very close to a mine dump site was requesting for the company to relocate them. So the community asked us to support them. We asked the company to come and sit with us to talk. The company didn't come to the meeting so we had no other choice but to take them to court (R23).

Notwithstanding the challenges that communities encounter, it is worth underscoring the ways in which community-based corporate accountability strategies in Dumasi and perhaps other nearby host communities appear to have been effective in influencing corporate behaviour. For instance, prior to 2005, GSR did not have a Community Relations Department. Possibly, the increased incidences of protests, complaints and media publications may have pushed GSR to rethink its approach to community engagement. What is more, in October 2015, GSR entered into a (1) *Relationship and Sustainable Livelihood Agreement* (2) *Corporate Social Responsibility Agreement* and (3) *Local Employment Agreement* with its host communities located on the Bogoso and Prestea Mining Leases? With regard to changes in the structure of representation, the formation of Community Mine Consultative Committees entails the inclusion of women, youth and other stakeholder groups within the community who

are now able to voice their needs and concerns at meetings involving company representatives.

6.3 Ruggie's Framework in Practice: Empirical Insights from Ghana

Under international law, it is generally assumed that sovereign nation-states command "effective authority over their territories" and consequently have the capacity to govern their own domestic affairs (Schuppert, 2011; Ladwig & Rudolf, 2011). Over the last years, states have been prompted to sign on to multi-stakeholder initiatives and international binding instruments in numerous policy areas (Zangl and Zuern, 2004; Ladwig & Rudolf, 2011). At the same time, a number of global institutions and political driven programs are underpinned by the idea that the modern Western nation-state embodies "good governance" (Magen et al, 2009). To an extent, the Protect, Respect and Remedy (PRR) framework is grounded on these assumptions. States are given the responsibility to respect, protect and fulfil the human rights of its citizens and ensure that victims of corporate human rights abuse have access to effective remedies.

Questions about the nature of the state and its actual capacity to satisfy these duties are not sufficiently taken into consideration. Yet, these are pivotal questions that have implications for the implementation of the PRR framework. For example, according to one respondent, *generally, it is the responsibility of the government [to protect and promote human rights]. But given the existing governance gap, all stakeholders must contribute. It is not helpful to simply fold your arms if the government is not doing its job"*

(R2). In line with this view, another respondent stated, *“we all [government, business & civil society] need to do more to protect and promote the human rights of mining communities*

(R2). These quotes indicate that while countries like Ghana might embrace their human rights obligations, they can either lack the institutional capacity or the political will to protect human rights. Hence, there is the expectation that non-state actors like businesses complement their efforts. In fact, Dagbanja (2012) pointed out that the corporate duty to respect and uphold human rights is provided for in Chapter Five of the Ghanaian Constitution, 1992. Specifically, he refers to Article 12(1) where it is stated that human rights and freedoms are to be respected and upheld by all natural and legal person in Ghana which includes mining companies and other business enterprises (Dagbanja, 2012). However, as he explained, the instruments that will ensure businesses fulfil this constitutional duty are presently missing. There are two implications emanating from Dagbanja’s analysis. First, there appears to be an unrecognized tension between global norms adopted by mining companies and the national laws of the host country where mining multinationals operate. Second, government capacity that is seriously lacking in the context of limited statehood is key for transforming PRR into concrete benefits for local communities.

While the VPs and GPs seem to inform the BHR policy environment in Ghana, the VPs appear to be more pervasive in the public sphere. This is because, in a bid to address the growing concerns about alleged business-related human rights violations within the extractive industry, the government of Ghana supposedly opted for a more

context-appropriate and industry-specific international soft law (*i.e.* VPs) as a strategy to potentially generate compliance from extractive sector companies. This is consistent with Abbott & Snidal (2000) who argued that states tend to prefer softer forms of legalized arrangements over hard legalization as soft laws provide strategies for handling uncertainty, infringes less on domestic sovereignty, and facilitates compromise among various actors. As one public servant elucidated, *signing on to the VPs was to ensure that corporate entities get to uphold human rights as well, particularly in the extractive sector where it is deemed that a lot of abuses take place. So we had companies sign on to it, not because they had a choice, but once a country signs to it, it becomes mandatory for private entities to sign on to it as well*(R21).

From the perspective of the Ghanaian state, the VPs is a useful tool through which it could ascribe human rights responsibility to mining companies. This is because actors within the Ghanaian political sphere seem to view the business practices of mining companies as the root cause of corporate human rights abuse (see Government of Ghana, 2014, p. 3) and disregard how the state's inability to enforce national laws contributes to the problem. Perhaps not surprisingly, some participants emphasized that the government has and continues to take its human rights obligations seriously and made mention of the human rights provision in the Ghanaian constitution. For instance, one public servant maintains "[...] *the government on its own, without the VPs, has an agenda to protect human rights because it is enshrined in the constitution. We set up the Commission on Human Rights and Administrative Justice to ensure that this is done. Most*

countries don't have a body to protect human rights so that's at least a step in the right direction

(R21). This is further affirmed in the VP Country Implementation Plan where it says:

“Before signing onto the VPs, Ghana had in place legal provisions and institutions aimed at upholding, promoting and protecting the rights of its citizenry. [...] Ghana has in line with the provisions in the 1992 Constitution established a Commission on Human Rights and Administrative Justice (CHRAJ) and given it a broad mandate to protect universal human rights and freedoms, [...]” (Government of Ghana, 2014, p. 4)

Given that the state was already signed up to the VP, the value of the Ruggie's framework may have diminished. For instance, when asked about the GPs, a public servant responded: *“I'm wondering how this [GPs] is different from the VPs”* (R21). Hence, the decision not to produce a separate Action Plan on Business & Human Rights may partly be because the VPs are seen as serving a similar purpose as the GPs. However, in choosing the VPs over the GPs, two issues might have played a role. First, while ESCs are positioned as the central actor within the VPs, the PRR framework is predominantly state-centric and assigns more responsibilities to the state than businesses. Yet, the Ghanaian government sees the practices of mining companies as mainly responsible for human rights violation and as such a norm that focuses on their behaviour might be more appealing.

The second is the issue of contextual relevance of the norm and the perception that the GP's overemphasis on state responsibility might indirectly be interfering with state sovereignty and exposing its limited capacity. For example, a respondent stated that *“[...] international guidelines like the Ruggie's framework can de-incentivise a country*

from developing its own human rights guidelines, laws and systems that fit the specific context (R2). Another respondent argued that *the responsibility to protect and promote human rights must rest on the government first and foremost. In fact, the Ghanaian constitution provides for the fundamental human rights of every citizen. When an incidence occurs, we involve police officers to resolve the issue. In protecting citizens' human rights, the government tries to use context-specific approach and institutions. For instance, the Commission of Human Rights and Administrative Justice was set up to ensure that human rights of citizens are guaranteed* (R18). The implication here is that the Ghanaian case may provide some insight into why a number of African states might be reluctant to adopt Ruggie's framework on a national level.

Furthermore, there is also the issue of the extent to which Ruggie's framework is able to effect change in corporate behaviour on the ground. The lack of accountability instruments makes the GPs attractive for companies as it allows them to facilitate corporate greenwashing while "doing business as usual". Remarkably, Golden Star Resources (GSR) is among one of the few foreign mining multinationals in Ghana that has publically acknowledged its commitment to human rights through its annual sustainability reports (see GSR's 2015 & 2016 CSR report). In line with Ruggie's framework, GSR developed a policy on community relations and human rights in 2015 which stipulates the company's commitment to sustainable development and respect for human rights within its host communities. When asked about the reason and motivation behind the adoption of GPs, the company answered, *we adopted the UN*

Guiding Principles to be proactive. In 2005, GSR became a member of the UN Global Compact and since then we have been making constant efforts to improve. For instance, we have zero tolerance for child labour and compulsory labour. Employees are free to form labour unions and create a bargaining agreement. In fact, management attends union meetings (R6).

In theory, making policy commitment and publically expressing acceptance to the GPs is supposed to improve a company's human rights conduct, however, in practice; this might not always be the case. In fact, narrations from members of GSR's host community in Dumasi suggest that the relationship between the company and the community has not improved and that human rights concerns remain prevalent. In particular, community members complained about the lack of transparency with regard to the resettlement process and environmental issues:

[...] since the last 4 years or so, the resettlement has been halted due to the lack of funds. As far as I am concerned, GSR people are liars. If they come for negotiation, we can take them to court. Community members had lands but stop building houses because of resettlement. Now the houses are not built and we are still living here (R14). At the same time, another respondent stated that we have a very bad relationship. GSR has seriously disturbed us. We used to have clean water but they have polluted all our water streams so we have fought and fought with them (R15).

Thus, community members' report on GSR's engagement with them, indicate that despite the company's public commitment to the PRR framework, it has not substantially altered its business practices. This is consistent with scholars who argue

that multinationals might seek to align with international standard as a way of mitigating the credibility and legitimacy deficit arising from their operation within a context of institutional void (Gilbert, Rasche, & Waddock, 2011; Lu & Abeysekera, 2015).

CHAPTER 7: EMERGING ISSUES AND CONCLUSION

This thesis adds to the emerging knowledge on the public regulation of transnational enterprises in a globalised world. Specifically, it provides an empirical analysis of business and human rights in Ghana and accordingly makes an important contribution to the debate pertaining to the relevance and implementation of GPs (Cragg, 2012; Muchlinski, 2012; Addo, 2014). There are a few emerging issues worth highlighting.

The first important contribution of the study is in unearthing some of the underlying assumptions underpinning Ruggie's framework and how these assumptions may undermine the effectiveness of the framework. Using areas of limited statehood as a frame, I draw attention to the importance of taking the nature and character of the state seriously. Indeed, the findings offer some empirical evidence that the allocation of human rights responsibility between the state and business may not be adequate in countries where state actors cannot effectively set and enforce collective binding rules. Implicitly, the PRR framework rest on the assumption that all governments possess the institutional capacity to protect and promote human rights as well as ensure access to remedies for victims of corporate human rights abuse. However, the findings suggest that this premise does not necessarily hold true in countries with weak governance structures and consequently constitute a fundamental flaw of the framework. In fact, the case study reveals that the Ghanaian government

already instituted different measures to guarantee the enjoyment of human rights for its citizens but the problem seems to be the inability to enforce them.

The second implication this thesis highlights relates to the insight provided on the contextual relevance of the GPs framework for countries in the Global South confronted with business-related human rights violations by powerful foreign ESCs. Presently, the vast majority of governments that have produced a national action plan are Western nations (with exception of two Latin American countries: Columbia and Chile) (see United Nations Human Rights Office of the High Commissioner website). Based on the findings, the PRR framework appears to be somewhat limited by its state-centric emphasis and inattentiveness to the Global South context. Given the limited nature of the state in Ghana, GPs are perceived as an indirect attack on the state's sovereignty. Such concerns might partly explain reluctance by the state to adopt global norms like the PRR framework.

Although the PRR framework is meant to make sure businesses do not adversely impact the human rights of their stakeholders through their operations, the focus remains on governments whose power to exercise social control over international businesses has been restricted as a result of globalization. Charney (1983) argued that the spread of international codes is partly due to the quest of governments in the Global South to increase their control over MNCs. Hence, international standards like the VPs that can potentially shift the unequal power relationship to the advantage of

governments could be seen as more desirable, especially when the standards correspond more closely with their local realities.

Furthermore, by joining the VPs, the Ghanaian government ensured that mining multinationals deal with mining communities' social, economic, cultural and political rights on a practical level. More importantly, the findings presented here indicate that Brenkert (2016) assertion about how the lack of businesses public recognition and commitment to human rights represent a major obstacle may be too simplistic. This is because the case study demonstrates that public acknowledgement of corporate human rights duties through sustainability reporting does not automatically yield better human rights outcome for affected stakeholders such as mining communities. In fact, companies may simply be adopting it for symbolic purposes as opposed to using the framework as a guide to align business activities with the human rights concerns of its stakeholders. Thus, this study offers analytical nuance to the debates in the business and human rights literature.

The third emerging issue is that there remain gaps between the rhetorical commitment of business to human rights via the adoption of global norms like GPs and community experiences on the ground in areas of limited statehood. This is partly because of weak government capacity as suggested by Risse (2017), and the unwillingness of government to enforce laws due to the tendency to privilege the pursuit of economic development over human development. However, in contrast to Thaur (2014) suggestion that market competition can be a driver of business

engagement with social responsibility in areas of limited statehood, this study showed that market competition can also undermine business willingness to respect or protect human rights. The explicit acknowledgment by GSR that profitability of a mine determines the extent and nature of their social investment makes this point quite clear. Hence, this study contributes to highlighting the limits of the business case argument for business to respect human rights of people in poor communities.

Fourth, the theoretical debate on business and human rights has largely neglected the voices of poor and marginalised communities in areas of limited statehood in the Global South. As a result, the tendency to conceptualise what is or is not business human rights obligations and what form it should take based on assumptions rooted in Western context is problematic for at least two reasons. First, local communities in this kind of setting use a different socio-cultural logic to understand and delimit the human rights obligation of a firm and the form it should take. In this case, the Akan worldview that is based on group solidarity and collective responsibility puts a different kind and a much higher threshold on the responsibility a firm is expected to assume compared to what they might assume in a Western context. As a result, claims that communities in this areas have an undue high expectation or that firms are taking on governmental responsibility tell us more about Western context than the social-cultural context within which corporate-community relations actually unfolds. Second, the neglect of community voices also inadvertently accentuate the disjuncture that exists between the worldview of local communities and the neoliberal

worldview that shapes MNCs behaviour in areas of limited. Unfortunately, the disjuncture tends to provide a fertile ground for corporate-community conflicts (Idemudia, 2017).

Finally, the study makes a strong case for the rethinking of a businesses' role in the promotion and realisation of human rights. In line with Ramasastry's(2015) and Wettstein's (2012) call for a closer integration of BHR and CSR, the case study shows that mining companies like GSR are already appropriating the language of human rights and using a human rights framework to describe their CSR efforts. In many ways, these CSR programs are phrased as pro-active corporate human rights activities intended to help the host community enjoy their various economic, social and cultural rights. As a result, efforts to respect human rights suffer from the same kind of shortcomings that have plagued other mining companies CSR initiatives. This, in turn, raises the question of whether BHR objective can be realised via stand-alone corporate initiatives or via integration into existing corporate CSR platforms. While our study highlights the problem that can arise from an integrated CSR perspective, there is a need for future studies to examine the effectiveness of stand-alone corporate BHR initiatives (e.g. Beyond Zero Harm Framework).

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APPENDICES

Appendix A: Survey questionnaire

SOCIO-DEMOGRAPHIC INFORMATION

1. Sex

- (1) Female []
- (2) Male []

2. What is your age?

- (1) Below 19 []
- (2) 20-29 []
- (3) 30-39 []
- (4) 40-49 []
- (5) 50-59 []
- (6) 60 and above []

3. What is your occupation?

- (1) Trader []
- (2) Farmer []
- (3) Fishery []
- (4) Student []
- (5) No employment []
- (6) Other, Specify

4. What is your marital status?

- (1) Single, never married []
- (2) Married []
- (3) Divorced []
- (4) Widowed []
- (5) Other, specify

5. What is your educational background?

- (1) No formal education []
- (2) Junior Secondary School []
- (3) Senior Secondary School []
- (4) Bachelor's degree []
- (5) Master's degree []
- (6) Doctoral degree []
- (7) Other, please specify _____

6. What is your ethnic background?

- (1) Ahanta []
- (2) Nzema []
- (3) Sefwi []
- (4) Aowin []
- (5) Wassa Fiase/Mpohor []
- (6) Wassa Amenfi []
- (7) Pepesa []
- (8) Other, please specify _____

7. How long have you lived in this area?

- (1) Under 5 years []
- (2) 5-10 years []
- (3) 11- 20 years []
- (4) 21-30 []
- (5) Over 30 years []
- (6) Other, please specify _____

8. Are you a native of this area (i.e. Are your parents or any of your parents from this area)?

- (1) Yes []
- (2) No []

COMMUNITY EXPECTATIONS OF MINING COMPANY

9. Do you know about Golden Star Resources?

- (1) Yes []
- (2) No []

10. What do you see as the expectations of the community of GSR?

11. Is Golden Star Resources meeting the expectations of the community?

- (1) Yes []
- (2) No []
- (3) I do not know []

12. On a scale from 1 to 5, how would you rate the relationship between the community and the mining company?

1	2	3	4	5
Very Poor	Poor	Average	Good	Very Good

13. On the whole, how would you say large-scale mining has impacted your life:

- (1) Negatively
- (2) Positively
- (3) Mixed

(4) I don't know

Please elaborate

14. What human rights concerns are most important to you? Please choose the ones that apply.

- (1) Education []
- (2) Employment []
- (3) Housing []
- (4) Health []
- (5) Food []
- (6) Community development []
- (7) Being able to vote []
- (8) Being able to protest []
- (9) Being able to practice my religion []
- (10) Being able to marry and have a family []
- (11) Being able to move freely []
- (12) Other, please specify _____

15. What do you see as the negative impacts of mining here?

- (1) Loss of livelihood []
- (2) Loss of farmland []
- (3) Water and air pollution []
- (4) Inadequate compensation
- (5) Forceful resettlement
- (6) Spills to the environment
- (7) Loss of sacred and cultural sites
- (8) Other, please specify _____

16. Is the government protecting communities from the negative impacts of mining?

- (9) Yes []
- (10) No []
- (11) I do not know []

17. If no, why?

18. What do you see as the positive impacts of the mining industry here?

- (1) Employment []
- (2) Schools buildings []
- (3) hospital []
- (4) water supply

COMMUNITY EXPERIENCES WITH MINING COMPANY

19. Have there been any conflicts between the mining company and the community?

- (1) Yes []
- (2) No []
- (3) I do not know []

20. If yes, what were the reasons for the conflict(s)?

- (1) The environmental impact of mining activities []
- (2) Community does not benefit from mining []
- (3) Changes in the company's management []
- (4) Lack of corporate transparency and accountability []
- (5) The company's disregard of community rights and demands []
- (6) The government's disregard of community rights and demands []
- (7) Current laws and regulations do not sufficiently protect community rights []
- (8) The close relationship between the government and the mining company []
- (9) The close relationship between local chiefs and the mining company []
- (10) Other _____

21. If yes, were there any arrests, beatings or intimidations when the conflict happened?

- (1) Yes []
- (2) No []
- (3) I do not know []

22. Was the conflict resolved?

- (1) Yes []
- (2) No []
- (3) I do not know []

23. How was the conflict resolved?

- (1) the community shut down the activities of the mining company []
- (2) the community interrupted the activities of the mining company []
- (3) the community took the mining company to court []
- (4) the community talked to mining company []
- (5) the community complained to the government []
- (6) the community organized public campaigns (e.g. protests) []
- (7) the community worked with NGOs []
- (8) Other _____

24. Is there an association or committee that manages relationship with the mining company?

- (1) Yes []

- (2) No []
- (3) I do not know []

25. Are you satisfied with the association or committee?

- (1) Yes []
- (2) No []
- (3) I do not know []

26. If yes, why? _____

27. If no, why? _____

28. Is there a NGO that manages relationship with the mining company?

- (4) Yes []
- (5) No []
- (6) I do not know []

29. Are you satisfied with the work of the NGO?

- (4) Yes []
- (5) No []
- (6) I do not know []

30. If yes, why? _____

31. If no, why? _____

32. If it is within your power, would you like the mining company to continue operating in the area, based on what you know about their operations so far?

- (1) Yes []
- (2) No []
- (3) I do not know []

Appendix B: Interview guide for company

A: COMPANY INTERNAL PRACTICES

1. What is the function of the Community Relations & Social Responsibility Department?
2. How do you manage conflicts with and complaints from community?
3. Have there been any incidences of conflict with your host communities?
4. What was the cause of the conflict?
5. When an incidence/conflict occurs in your host communities, what process do you undertake to resolve the issue? Please walk me through the steps and how you arrive at a satisfactory response.
6. Do you have a formal protocol that you follow when a conflict arises?
7. Which staff and/ or department(s) are involved in the process of formulating a resolution?
8. Why did you adopt the UN Guiding Principles for Business and Human Rights?
9. How do you implement the principles in a country like Ghana?
10. Does GSR offer human rights training for its staff in the community relations department?

B: COMPANY EXTERNAL PRACTICES

1. What are some of the sources of corporate-community conflicts in your areas of operation?
2. Since you adopted the UN Guiding Principles on Business and Human Rights has your relationship with your host communities changed?
3. In your 2015 & 2016 CSR report, you mentioned that your operations and CSR initiatives can help promote the enjoyment of human rights and made reference to the right to education and the right of health. Would you say that GSR has adopted a rights approach to sustainable community development? If yes, elaborate, with examples, how your adopted approach has worked or would likely work to enhance sustainable community development? ,In your CSR report, you used the term “sphere of influence” What is your understanding of the term and how do you set the boundaries for your “sphere of influence”?

C: PROBLEMS, CHALLENGES AND PROSPECTS

1. What are some of the challenges that Golden Star Resources face when trying to meet its human rights obligations?
 - a. Company-related / internal challenges
 - b. State/ government- related challenges
 - c. Community-related challenges
2. Which community groups or individuals, if any, have posed the greatest challenge or opposition to your CSR operations?

3. Which groups or individuals, if any, have been your main allies in your CSR operations here?
4. What are some of the strategies you have adopted to deal with the challenges you have identified?
5. How do you see the future prospects of your CSR operations here?

Appendix C: Interview guide for NGOs

A: EXPECTATIONS OF THE MINING COMMUNITIES

1. In your view, what human rights concerns are most important to the mining community and why?
2. Which entities, agencies or individuals should be responsible for protecting the human rights of the community, and why?
3. What do you think are the main development concerns of the mining community and why?
4. Which entities, agencies, groups or individuals should be responsible for facilitating sustainable community development? Please elaborate on your answer
5. Do you think sustainable community development is a human right?
6. What are some of the expectations mining communities have of GSR?
7. In your opinion, is GSR meeting these expectations? Please elaborate your answer with specific examples
8. Who should be responsible for penalising GSR when it violates the rights of community members?

B: EXPERIENCES OF MINING COMMUNITIES

1. Has the relationship between GSR and the community gotten better or worse over time? Please elaborate
2. What are some of the things that create conflicts between the mining community and the company?
3. Tell me about a time, if any, when the community had a conflict with GSR. What was the conflict about?
4. When GSR violates the right of community members, what do you do?
5. What are some of the strategies you use to ensure GSR does not violate the human rights of community members?
6. Which strategies are most effective and why? (Please provide concrete examples, if possible)
7. Why do you think these strategies are effective?

C: CHALLENGES AND PROSPECTS

1. What are some of the challenges that the community faces in making sure GSR responds to community demands (e.g. community-related, government-related and company-related challenges)?
2. What things does the community need to make sure GSR answers to community demands?
3. What can be done to improve the relationship between GSR and the community?
4. As we speak now, what are some of the benefits you think the community has derived from GRS's operations here?
5. Can you describe your specific activities in helping to bring these benefits to the community?

Appendix D: Interview guide for government officials

A: INSTITUTIONAL CONTEXT

1. What are some of the barriers that make it difficult to implement your mandate?
2. The Minerals and Mining Act, 2006 (703) centres on minerals ownership, royalties, mining lease and dispute resolution. In your opinion, does the act sufficiently address community rights?
3. Has the government enforced other policies to guarantee the rights of mining communities in Ghana?

C: UN GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS

11. The UN Guiding Principles on Business and Human Rights was introduced in 2011. Since then the UN Human Rights Commission has been encouraging countries to implement the principles on a national level. Has the Government of Ghana drafted a national action plan yet?
12. The Respect, Protect & Remedy Framework, assign state with the responsibility to protect against human rights abuses by third parties while businesses are expected to respect human rights through due diligence. What are your thoughts about this allocation of responsibilities?
13. Does the Government of Ghana have a system in place that allows mining communities to file a complaint?
14. What are some of the challenges that the government faces when trying to promote and protect the human rights of mining communities?
 - a. Government-related / internal challenges
 - b. Company-related challenges
 - c. Community-related challenges

Appendix E: Written informed consent

Date: February 25th, 2017

Study Name:

Doing Just Business: An Empirical Analysis of Mining Multinationals, Human Rights and Sustainable Community Development in Western Ghana

Researcher:

Masters Candidate

Graduate Program in Interdisciplinary Studies

Purpose of the Research: The purpose of the research is to (1) examine the extent to which the Canadian mining company, Golden Star Resources, is able to fulfill its human rights and social responsibilities and (2) investigate how host communities are able to hold Golden Star Resources accountable with respect to human rights and sustainable community development.

What You Will Be Asked to Do in the Research: As a participant, you will be asked to partake in a semi-structure in-depth interview/ questionnaire / focus group that will last thirty-minutes to an hour. During the interview/ questionnaire / focus group, you will be asked to share your experience and knowledge on the topic. You will be able to agree or decline the use of audio recording equipment.

Risks and Discomforts: Participants will be informed of their rights to decline participation and questions. In this regard, the researcher will inform the participants of his/her suitability and comfort about the interview process. At any instance, if a participant feels discomfort, the interviewing process will discontinue.

Benefits of the Research and Benefits to You: By participating in the interview / questionnaire / focus group you will be assisting the researcher in making important theoretical contribution to the academic literature on business, human rights and sustainable development. Insight gained from the interviews / questionnaire / focus group can be utilized to offer recommendations for improving corporate-community relations in Western Ghana where mining activities take place.

Voluntary Participation: I understand my participation in this project is strictly voluntary and involves less than two hours of my time. I have the right not to participate, not to answer any questions and my decisions to not participate in the research will not influence the treatment I may have with the researcher, or affect my relationship with York University either now, or in the future.

Withdrawal from the Study: You can stop participating in the study at any time, for any reason, if you so decide. I want to iterate that your decision to stop participating, or refusing to answer particular questions will not affect your relationship with the researcher, York University, or any other group associated with this project. In the event you withdraw from the study, all associated data collected will be immediately destroyed wherever possible and your anonymity and confidentiality will not be jeopardized.

Confidentiality: I understand that any information I provide during my participation in this project will remain anonymous, and confidential to the extent allowed by law. Projects, company employees, government officials, and community members will not be identified by name. Only the researcher and the supervisors will have access to the data for the duration of the study. I understand that my responses will be recorded for the purposes of data precision and accuracy, but that this recording will remain confidential and stored in a secured locked location on the primary researcher premises in Canada, for the duration of the study. I have the right to refuse to be recorded and or to request a copy of the transcript to check for accuracy. Recordings will be destroyed latest by April 30, 2018 once the data analysis is complete. Should I choose to withdrawal from the project, any and all data pertaining to me will be destroyed immediately; all participant data arising from the fieldwork will be destroyed on the conclusion of any publications from the fieldwork, including not limited to the researcher's thesis. I have had the project explained to me and I understand, and recognize that confidentiality will be provided to the fullest extent possible by law.

Questions About the Research? If you have questions about the research in general or about your role in the study, please feel free to contact my supervisor **xxx** either by telephone at **xxx** or by e-mail **xxx**. You can also contact my Program Assistant **xxx** at the Graduate Program of Interdisciplinary Studies by phone at **xxx** or via email **xxx**.

This research has been reviewed and approved by the Human Participants Review Sub-Committee, York University's Ethics Review Board and conforms to the standards of the Canadian Tri-Council Research Ethics guidelines. If you have any questions about this process, or about your rights as a participant in the study, you may contact the Senior Manager and Policy Advisor for the Office of Research Ethics, 5th Floor, York Research Tower, York University, telephone **xxx** or e-mail **xxx**.

Legal Rights and Signatures:

I _____ consent to participate in **Doing Just Business: An empirical analysis of mining multinationals, human rights and sustainable community development in Western Ghana**, conducted by **Cynthia Kwakyewah**. I have understood the nature of this project and wish to participate. I am not waiving any of my legal rights by signing this form. My signature below indicates my consent.

Signature _____
Participant

Date _____

Signature _____
Principal Investigator

Date _____