

OSF-SA SPECIAL CALL FOR PROPOSALS

A comparative analysis of Anglo Gold Ashanti's human rights record in Southern Africa, West Africa and East Africa

29 January 2019

1. Project Objective

Investigating and documenting the human rights record of Anglo Gold Ashanti in Southern Africa, West Africa and East Africa with a view to understand entry points for civil society to initiate advocacy interventions and demand cross-border accountability for any violations at regional and continental levels.

2. Proposal Due Date

- 28 February 2019

3. Project Budget and Duration

- Budget: R750 000
- Duration: 24 months

4. Background and Context

Over the past two decades, South African corporations have increasingly expanded their footprint on the rest of the continent, seeking growth and development opportunities in emerging markets where there are signals of sustained economic growth and in some cases, political stability. Primarily, this expansion has been in the retail, telecoms, hospitality and mining sectors. In the mining industry, expansion has been driven by various factors beyond those mentioned above, including declining mineral corporations and increasing operational costs in South Africa, legislative uncertainty and comparably high profitability on the rest of the continent. Africa is well-endowed with mineral resources. However, as articulated in the Africa Mining Vision (AMV), this natural resource wealth has not translated into economic development in most countries. In the economic sector, mining is particularly important because of its potential to create employment and transform economies.

The mining sector can create opportunities for socio-economic development and for lifting people out of poverty. It can contribute to improved provision of social services such as healthcare, infrastructure development and increased skills levels for local communities. But the mining sector has been associated with human rights violations and poor environmental standards in Africa and elsewhere, which has negatively impacted the industry's reputation and led to some resistance to mining in many communities. These violations include sexual and other forms of violence, environmental harm, unsafe working conditions, displacements, health problems and death. In many cases, women and children suffer the most impact as a result of mining operations and bear the brunt of poor standards and inadequate compliance monitoring by the state. The externalisation of these costs is generally inadequately quantified and leads to a distorted view of the true cost of mining to society. The perpetration of these violations prevents local communities and other rights holders from enjoying their human rights and from deriving meaningful benefit from mineral resources that rightfully belong to them.

- In 2005, Human Rights Watch (HRW) found that gold mining was fuelling conflict in the northeast area of the Democratic Republic of Congo (DRC).¹
- In a case study undertaken in South Africa in 2016, the International Human Rights Clinic and Harvard Law School found that the gold mining industry had resulted in negative environmental and health impacts, which interfered with the realisation of other rights,² including pollution to rivers, forced resettlements, loss of agricultural land, silicosis and other respiratory diseases.
- In Ghana's Tarkwa mining region, a 2016 study shows that various drinking water bodies have been polluted by "uncontrolled" cyanide spillages and acid mine drainage attributable to gold mining.³
- Researchers have reported similar findings for Tanzania's Tarime District where human rights violations have been reported over years and seemingly little action has been taken by the government and/or the companies.

In 2011, after decades of global campaigning and pressure from various quarters, the United Nations published the *Guiding Principles on Business and Human Rights* (UN-GPBHR), to respond to high levels of human rights violations by multi-national corporations (MNCs) and in recognition of the responsibility of businesses to respect human rights where they operate. These large companies have, over the past few decades, rotated their operations across the world primarily based on the location of abundant mineral resources and cheap labour, therefore facilitating the establishment of

¹ See: <https://www.hrw.org/report/2005/06/01/curse-gold>.

² International Human Rights Clinic and Harvard Law School, 2016. The Cost of Gold: Environmental, Health, and Human Rights Consequences of Gold Mining in South Africa's West and Central Rand.

³ S Obiri et al. 2016. Assessing the Environmental and Socio-Economic Impacts of Artisanal Gold Mining on the Livelihoods of Communities in the Tarkwa Nsualem Municipality in Ghana. *International Journal of Environmental Research and Public Health*.

global value chains. Unfortunately, many countries have not managed to keep up with illicit capital flows and effective domestic regulation has been a casualty of rapid globalisation. The UN-GPBHR seek to address this lacuna by establishing a framework for the advancement of human rights that are applicable to all countries and corporations regardless of their size, sector or any other distinguishing criteria. Importantly, under the UN-GPBHR, countries have the duty to protect individuals within their territories against rights abuses and must take the necessary actions to do so, including establishing domestic legislation and standards to regulate and monitor corporate conduct, and outline remedies for such abuses. Currently, the UN is debating a binding treaty that will address the inherent weaknesses of the UN-GPBHR.

Disparities in how countries use the law to protect citizens against human rights violations as well as the non-binding nature of the UN-GPBHR have created loopholes that are often exploited by MNCs. It appears that, in some cases, a mining company operating in different jurisdictions adopts different human rights standards (in practice) in line with the prevailing laws. Where a state's legal architecture is strong, companies may be more stringent in their respect of human rights. Where the state is weak, non-compliance has a grave impact mainly on local communities.

While it is theoretically possible to hold MNCs accountable where they operate using domestic laws, this approach does not always provide adequate sanctions. This also does not provide insight into the extent to which these companies use their position, power and weak legal and institutional frameworks. Such a fragmented approach precludes the possibility of continent-wide advocacy against human rights violations at supranational structures such as the African Union (AU), Southern Africa Development Community (SADC), Economic Community of West African States (ECOWAS) and East African Community (EAC).

5. The Project

Part 1 -

The study must undertake a comparative assessment of Anglo Gold Ashanti's human rights impact across three mining operations in Southern Africa⁴, East Africa and West Africa (at least one project in each region) to assess the extent to which Anglo Gold Ashanti adheres to international and domestic human rights law in all three regions.

Part 2 –

The study must consider local and regional (or international) advocacy mechanisms aimed at addressing human rights violations by MNCs and to build greater momentum for accountability

⁴ South Africa must be one of the countries in the study.

enforcement monitoring. This must include developing targeted advocacy campaign strategies that respond to the needs of each region.

The study must at least consider the following:

- An assessment of the human rights obligations of Anglo Gold Ashanti in accordance with domestic, regional and international laws, as well as industry standards.
- Anglo Gold Ashanti's human rights record across three operations in the above-mentioned regions, and available mechanisms for human rights violations.
- South Africa's stock exchange listing rules related to human rights in South Africa's mining sector.

Research Methods

The study can be conducted using a mixed methods approach which could involve literature reviews, primary research through interviews (surveys optional) and any other method that will elicit the required information.

Partner Selection Criteria

- The primary project partner must be a non-government organisation (NGO) registered and located in South Africa.
- The research team relating to operations in Southern, West and East Africa should be led by NGOs based in the identified regions.
- Successful applicants will be contacted in April 2019.
- All proposals must be submitted to specialprojects@osfsa.org.za